

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES : SMC : NEW DELHI  
BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA Nos.3499 & 3500/Del/2014  
Assessment Years : 1994-95 & 1995-96

Late Shri Banwari Lal, Vs. ITO,  
L/hs S/Shri Veer Singh, Nihal Ward-2,  
Singh, Phool Singh, Bhiwani.  
Satparkash & Munshi Ram,  
VPO Dhani Kushal,  
The. Bawani Khera,  
Bhiwani.

PAN: BNJPR7010J

ITA Nos.4769 & 4770/Del/2016  
Assessment Years : 1994-95 & 1995-96

Munshi Ram, Vs. ITO,  
L/h of Late Shri Banwari Lal Ward-2,  
(HUF), Bhiwani.  
VPO Dhani Kushal,  
Teh Bawani Khera,  
Distt. Bhiwani,  
Haryana.

PAN: BNJPR7010J

(Applicant)

(Respondent)

Assessee By : Shri M.L. Kataria, Advocate  
Department By : Ms Bedobani Chaudhuri, Sr. DR

Date of Hearing : 30.03.2017  
Date of Pronouncement : 30.03.2017

### ORDER

These four appeals by two different, but, connected assesseees involving the same subject matter relate to assessment years 1994-95 and 1995-96. I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. Two appeals have been filed belatedly. An application for condonation of delay has been filed. I am satisfied with the reasons for delay. As such, the delay is condoned and these appeals are admitted for disposal on merits.

3. Briefly stated, the facts for assessment year 1994-95 are that the Assessing Officer received some information about the assessee receiving enhanced compensation and/or interest on enhanced compensation amounting to Rs.7,43,140/- for the assessment year 1994-95. Action was taken u/s 147 by means of notice u/s 148. No return was filed in response to such notice. There was no appearance from the

side of the assessee as well. In view of these facts, the Assessing Officer opined that the assessee was not interested in completing the assessment proceedings. Acting u/s 144, the Assessing Officer brought to tax a sum of Rs.7,43,140/- treating half of the amount as enhanced compensation and the remaining half as interest thereon. Similar amount was added in the hands of HUF on protective basis. Thereafter, the assessee moved applications u/s 154 contending that the compensation arose on account of acquisition of HUF property. The Assessing Officer rejected such applications as being barred by time limit. The Id. CIT(A) dismissed the appeals.

4. The facts are similar for assessment year 1995-96 as well. For this year also, the Assessing Officer brought to tax a sum of Rs.2,42,510/- on account of enhanced compensation and interest thereon on substantive basis in the hands of individual and on protective basis in the hands of HUF. Similar applications moved u/s 154 for this year also met with the same fate and the appeals filed by the assessee also came to be dismissed by the Id. CIT(A).

5. I have heard the rival submissions and perused the relevant material on record. The ld. AR has placed on record certain material, namely, 'Intkal', which, *prima facie* shows that the property acquired was that of HUF and not individual. Because of the death of Shri Banwari Lal, the proceedings were not attended to on behalf of the assessee. The ld. AR submitted that the assessee was willing to pay tax on account of receipt of enhanced compensation and interest thereon for both the years if the same was rightly taxed in the hands of the HUF and the individual was relinquished of such burden. Since the Assessing Officer has not condoned the delay in filing the applications u/s 154 of the Act, I am of the considered opinion that the ends of justice would meet adequately if the impugned order is set aside and the matter is restored to the file of Assessing Officer. I order accordingly and direct him to decide the chargeability of enhanced compensation and interest thereon in the hands of the right person, after allowing due opportunity of hearing to the assessee. If the assessee's contention turns out to be correct that the property so acquired belonged to the HUF, then,

obviously, tax should be charged in the hands of the HUF alone and not the individual and *vice versa*.

6. In the result, all the appeals are allowed for statistical purposes.

The order pronounced in the open court on 30.03.2017.

Sd/-

[R.S. SYAL]  
ACCOUNTANT MEMBER

Dated, 30<sup>th</sup> March, 2017.

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Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.