

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER
AND SHRI A.T.VARKEY, JUDICIAL MEMBR**

**ITA No. 1836/Del/2011
AY: 2006-07**

ACIT, Circle Bulandshahr
Aayakar Bhavan
Teacher's Colony
Bulandshahr

vs. Sh. Ashok Kumar Singhal
244 A, Raje Babu Road
Bulandshahr

(Appellant)

(Respondent)

Appellant by : Sh. K.k.Jaiswal, D.R.

Respondent by : Sh. Rajiv Singhal, Adv.
and Shri Ramit Kakkar

ORDER

PER J. SUDHAKAR REDDY, ACCOUNTANT MEMBER

This is an appeal filed by the Revenue directed against the order of the Ld.Commissioner of Income Tax (Appeals), Meerut dated 31.1.2011 pertaining to the Assessment Year (A.Y.) 2006-07 on the following grounds.

The grounds have been modified as under.

- "1. That the Ld.CIT(A) has erred in law and on facts in deleting the addition of Rs.36,09,654/- which was made on account of compensation and interest thereon.*
- 2. That the Ld.CIT(A) has erred in law and on facts in holding that Section 60 of the Income Tax Act 1961 (the Act) has become infructuous because of settlement of title dispute by Civil Court.*
- 3. That the Ld.CIT(A) has erred in law and on facts by holding that interest component of the enhanced compensation is snot chargeable in Assessment Year 2006-07.*

4. *That the order of the Ld.CIT(A) being erroneous in law and on the facts deserved to be set aside and the order of the AO be restored.”*

2. Facts in brief:- The assessee is an Advocate. He filed his return of income on 13.09.2006 for the A.Y. 2006-07 declaring taxable income of Rs.12,35,596/-. The assessee and his son purchased rights to receive compensation from land owners, of the compensation receivable by them along with interest, from government, for land acquired from them, by paying them certain consideration. The dispute for enhanced compensation and interest thereon was in Court.

2.1. Later, enhanced compensation and interest thereon, was awarded on 22.2.2006 on the above acquisition of land, w.e.f. 28.12.1985 amounting to Rs.41,09,654.69. The assessee and his son filed returns of income for the A.Y. 2006-07 declaring equally the income by way of compensation from land and interest thereof respectively. The A.O. during the course of assessment proceedings raised a query, as to why under the facts and circumstances of the case, the compensation and interest received should not be taxed in the hands of Shri Ashok Kumar Singhal and Shri Varun Singhal in the status of their AOP at the maximum rate. The assessee replied that Mr.Ashok Kumar Singhal gifted half share of the rights purchased to receive compensation and interest thereof to his son Shri Varun Singhal. The A.O. rejected this submission of the assessee. He observed as follows.

- (a) The payment order made by the Court is based on self made agreements of the assessee,
- (b) The legal heirs of Late Sh. Ram Prasad have no right to decide as to what share to be given to each of the purchaser.
- (c) Shri Varun Singhal in reply to the question stated that he had not contributed any amount in the Rs.5 lakhs paid to land owners for receiving the said rights and that the entire amount was paid by the

- father Shri Ashok Kumar Singhal. That the father Shri Ashok Kumar Singhal has vide gift letter dt. 1.4.2003 gifted half share in the rights in the property to his son.
- (d) In a gift letter dt. 1.4.2003, it is not known as to how the name of Shri Varun Singhal appeared in the Hakuknama dated 19.6.2002.
- (e) The story of gift has been built up only during the course of proceedings. The gift has not been quantified in the gift letter.
- (f) The gift cannot be in any uncertain terms. When the assessee purchased right to receive compensation and interest thereon, it was not known as to how much amount he has actually received.

2.2. The Ld.AO concluded that the entire receipt of compensation and interest thereof is taxable in the hands of the assessee. The matter was carried in appeal. The First Appellate Authority relied on the order of the Civil Court and subsequently directed that the compensation is to be split between the assessee and his son equally in terms of the order of the Civil Court. On the issue of taxability of interest, he relied on the judgement of the Hon'ble Apex Court in the case of Rama Bai vs. CIT, 181 ITR 400(S.C.) and held that the interest has to be assessed on accrual basis only and as no interest accrued during the year the addition is to be deleted.

- 3.** Aggrieved the Revenue is in appeal before us on both the issues.
- 4.** We have heard Shri K.K.Jaiswal, Ld.D.R. on behalf of the Revenue and Shri Rajiv Singhal, the Ld.Counsel for the assessee.
- 5.** On a careful consideration of the facts and circumstances of the case, perusal of material on record, orders of lower authorities, case laws cited, we hold as follows.

6. The assessee has entered into a sale agreement dt. 19.6.2002 a copy of which is placed at pages 1 to 12 of the paper book. This agreement discloses that both Mr.Ashok Kumar Singhal as well as his son Shri Varun Kumar Singhal have acquired all the rights relating to the land belonging to the legal heir of Late Shri Ram Prasad. Just because Mr.Varun Singhal has not contributed any part of the consideration, it cannot be said he has no rights in this agreement. Be it as it may, the Court of the ADJ in LAR no.99/1988 has taken cognizance of this agreement and had decreed the issue in favour of the assessee. The decree stands in the name of both Shri Ashok Kumar Singhal and Shri Varun Kumar Singhal. The A.O. based his order on surmises. Hence we have no hesitation in upholding the order of the Ld.CIT(A) on this issue. Hence we dismiss this ground of appeal.

7. On the issue of taxability of interest the Ld.CIT(A) followed the decision of Hon'ble Supreme Court in the case of Rama Bai vs. CIT (supra) and in the case of CIT vs. Ghanshyam HUF reported in 315 ITR 1 (S.C.) The Ld.D.R. has not pointed out any contrary decision. Thus we uphold this order of the Ld.CIT(A) and dismiss the appeal of the Revenue.

8. In the result Revenue's appeal is dismissed.

Order pronounced in the Open Court on 29th January, 2016.

Sd/-
(A.T. VARKEY)
JUDICIAL MEMBER

Sd/-
(J. SUDHAKAR REDDY)
ACCOUNTANT MEMBER

Dated: the 29th January, 2016

- *Manga*

Copy forwarded to: -

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

By Order,

ASSISTANT REGISTRAR