

Interest awarded on enhanced compensation paid for compulsory acquisition of agriculture land not taxable

Summary – The Bangalore ITAT in a recent case of Basavaraj M Kudarikannur, (the Assessee) held that Interest awarded under section 28 of Land Acquisition Act, 1894, on enhanced compensation paid for compulsory acquisition of agricultural land, would be eligible for exemption under section 10(37)

Facts

- The assessee was co-owner of a piece of land which was compulsorily acquired by Land Acquisition Officer under the provisions of the Land Acquisition Act, 1894. Aggrieved by the award as originally passed awarding compensation for the land acquired by the Govt., the co-owners had filed reference for enhanced compensation. The Special Land Acquisition Officer (SLAO) awarded enhanced compensation along with interest. The assessee claimed that interest received by him was nothing but compensation and, therefore, even for the interest portion received, exemption under section 10(37) was applicable.
- The Assessing Officer, however, was of the view that interest on enhanced compensation was chargeable to tax.
- The contention of the assessee before the Commissioner (Appeals) was that interest on enhanced compensation awarded to the assessee was in terms of section 28 of the Land Acquisition Act, 1892 and such interest was in the nature of compensation falling within the ambit of section 10(37).
- The Commissioner (Appeals) accepted the plea of the assessee and held that interest awarded under section 28 of the Land Acquisition Act, 1894 partook the character of compensation for land acquired and fell within the ambit of section 10(37) and to that extent was exempt.
- On revenue's appeal:

Held

- It is not disputed by the Assessing Officer that the land acquired was agricultural land and the conditions laid down under section 10(37)(i) to (iv) are applicable to the land which is in question which was compulsorily acquired. It is also not in dispute that the interest in question was interest awarded under section 28 of the Land Acquisition Act, 1894. In the given circumstances, the decision of the Gujarat High Court in the case of *Movaliya Bhikhubhai Balabhai v. ITO* [\[2016\] 70 taxmann.com 45/388 ITR 343](#) will be applicable to the facts of the present case.
- In the light of the aforesaid decision of the High Court and in the light of the admitted factual position in the present case, the Commissioner (Appeals) is fully justified in allowing exemption under section 10(37) on the interest received by the assessee under section 28 of the Land Acquisition Act, 1894.
- In the result, the revenue's appeal is dismissed.