

Interest awarded under Land Acquisition Act forms part of compensation; not liable to tax

Summary – The Bangalore ITAT in a recent case of Vinayak Hari Palled., (the Assessee) held that Interest awarded on enhanced compensation paid by Government for acquisition of agricultural land of assessee under section 28 of Acquisition Act would partake of character of compensation and would be eligible for exemption under section 10(37)

Facts

- The assessee owned agricultural lands which was compulsorily acquired by the Special Land Acquisition Officer under the provisions of the Land Acquisition Act, 1894. The assessee had filed a reference for enhanced compensation before the Senior Civil Judge, who awarded enhanced compensation. He received enhanced compensation and interest on enhanced compensation under section 28 of the Land Acquisition Act, 1894. The assessee claimed that interest received by him on enhanced compensation was nothing but compensation and, therefore, even the interest portion was eligible for exemption under section 10(37).
- The Assessing Officer rejected the claim of exemption under section 10(37) and held that interest was chargeable to tax in the year of receipt, irrespective of the period for which the interest was calculated. The Assessing Officer held that as per the provisions of section 56(2)(viii), income by way of interest received on compensation or on enhanced compensation would be chargeable to tax under the head 'Income from other Sources' and clause (b) of section 145A specifies the year of accounting of this income as the year in which it is received. He concluded that the interest income in question could not be considered as compensation or enhanced compensation and was not eligible for exemption under section 10(37).
- The Commissioner (Appeals) accepted the plea of the assessee and held that interest partook of the character of compensation for land acquired and fell within the ambit of section 10(37) and, thus, was exempt.
- On appeal:

Held

- In *Movaliya Bhikhubhai Balabhai v. ITO* [\[2016\] 70 taxmann.com 45/388 ITR 343](#) the Gujarat High Court had to deal with the nature of the interest awarded under section 28 of the Land Acquisition Act, 1894. The Court held that since interest under section 28 of the Act of 1894, partakes of the character of compensation, it does not fall within the ambit of the expression 'interest' as contemplated in section 145A. The Income Tax Officer was, therefore, not justified in refusing to grant a certificate under section 197 to the assessee for non-deduction of tax at source, inasmuch as, the assessee is not liable to pay any tax under the head 'Income from other sources' on the interest paid to it under section 28.

- Thus, Commissioner (Appeals) was 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.