

Interest received on enhanced compensation for acquisition of agricultural land is exempt u/s 10(37)

Summary – The Delhi ITAT in a recent case of Opinder Singh Virk Pravesh Kumar Sharma, (the Assessee) held that where Interest received by assessee on enhanced compensation for acquisition of agricultural land by Government was exempt from tax under section 10(37)

Facts

- The assessee was an agriculturist and inherited land from his parents as an agricultural property. Such land was acquired by the Government and the assessee had received enhanced compensation of including interest thereon and claimed exemption under section 10(37).
- The Assessing Officer held that the interest received by the assessee on compensation or enhanced compensation amount was to be regarded as income in year in which it was been received, irrespective of the method of accounting followed by the assessee subject to deduction 50 per cent under section 57(iv) of such interest income referred to in clause (viii) of sub-section (2) of section 56.
- The Commissioner (Appeals) confirmed said addition.
- On second appeal:

Held

- In the case of *CIT v. Ghanshyam (HUF)* [[2009\] 182 Taxman 368 /315 ITR 1](#), the Supreme Court held in unequivocal terms that the additional amount under section 23(1A), solatium under section 23(2) and interest on excess compensation under section 28 of the Land Acquisition Act form part of enhanced compensation under section 45(5)(b) and, therefore, is subject to tax under section 45(5) in the year of receipt. No contrary view is taken by the Supreme Court in the subsequent judgments and as on the date, law is fairly settled that the amount of interest received under section 28 of the land Acquisition Act is in the nature of capital gain.
- In this set of circumstances, it does not admit of any doubt as to the nature of receipt by way of interest under section 28 of the Land Acquisition Act in the hands of the assessee or the applicability of the Act to such amount.
- It could be noted that section 45(5) makes no reference to the nature of property that is acquired but it deals with the category of cases which falls in the description of 'capital assets'. However, section 10(37) exempts specifically an income chargeable under the head 'capital gains' arising from the transfer of agricultural land. It is, therefore, clear that once the Supreme court directed the Assessing Officer in the case of *Union of India v. Hari Singh* [[2018\] 91 taxmann.com 20/254 Taxman 126 \(SC\)](#) that after examining the facts to apply the provisions contained in the Act with a specific reference to the agricultural land stating that in case if it is found that the compensation was

received in respect of the agricultural land, the tax deposited with the Department shall be refunded to these depositors.

- In this matter, what was acquired by the Government was an agricultural land and such a fact is well evident from the assessment order itself. As a matter of fact, Assessing Officer, by granting exemption under section 10(37) of the Act, refunded a sum of Rs. 1,22,01,723/-. Only question is whether the interest received under section 28 of the Act assumes the character of enhanced compensation and consequently it is exempt under section 10(37) of the Act. In view of the decisions of the Supreme Court referred to above, the Assessing Officer is directed to refund the TDS amount that was deducted on account of the interest received under section 28 of the Land Acquisition Act Also. With these directions, the appeal of the assessee is allowed.