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The Income- Tax Act, 1995

The Land Acquisition Act, 1894

Section 10 in The Income- Tax Act, 1995

Section 56(2) in The Income- Tax Act, 1995

N Baskar, Chennai vs Ito, Corporate Ward-3(2), ... on 20 December, 2017

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Income Tax Appellate Tribunal - Chennai

Acit Corporate Circle-6(2), ... vs S V Global Mill Ltd, Chennai on 28 January, 2021

आयकर अपीलीय अधिकरण, 'बी' यायपीठ, चे ई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

ी महावीर सिंह, उपा य एवं ी जी. मंजुनाथ, लेखा सद य के सम
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.: 2684/CHNY/2019
निधारण वर्ष / Assessment Year: 2016-17

The ACIT,
Corporate Circle 6(2),
Chennai.

M/s. SV Global Mill Ltd.,
v. New No.5/1, Old No.3/1,
6th Cross Street, CIT Colony,
Mylapore, Chennai - 600
004.
PAN: AA0CS2500E

(अपीलाथ /Appellant)

(यथ /Respondent)

अपीलाथ क ओर से/Appellant by : Shri Suresh Periasamy,JCIT यथ क ओर से/Respondent by : Shri B. Ramakrishnan, FCA सन ु वाई क तार ख/Date of Hearing : 30.12.2020 घोषणा क तार ख/Date of Pronouncement : 28.01.2021 आदेश /O R D E R Per G. MANJUNATHA, AM:

This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals)-15, Chennai, dated 31.07.2019 and pertains to the assessment year 2016-17.

2. The Revenue has raised the following grounds of appeal:-

1. The order of the Ld. CIT(A) is contrary to the law and facts of the case.

2. The Ld. CIT(A) failed to note that interest payable as used in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (RFCTLARR Act), 2013 is used in the context of cost of acquisition, which has no bearing on the issue under consideration.

3. For these and other grounds that may be added at the time of hearing, it is prayed that the order of the Ld. CIT(A) be set aside and that of the Assessing Officer be restored.

3. The brief facts of the case are that the appellant M/s. SV Global Mill Ltd., is engaged in the business of real estate development, filed its return of income for the assessment year 2016-17 on 16.10.2016 admitting total income of Rs.2,24,20,210/-. During the year under consideration, the assessee company has received interest on delayed payment of compensation for compulsory acquisition of land from Special Land Acquisition Officer, Bangalore under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2003 (hereinafter the 'RFCTLARR Act, 2013') amounting to Rs.12,25,98,815/-. The assessee has credited interest income in to the profit & loss account but while filing return of income in the statement of total income claimed exempt from tax towards interest received under RFCTLARR Act 2013, on the ground that as per Section 96 of the said Act, any compensation or award for compulsory acquisition of land including interest if any is not liable to tax. The case was taken up for scrutiny and during the course of assessment proceedings, the AO on the basis of information furnished by the assessee was of the opinion that, any interest received by the assessee from the Special Land Acquisition Officer under RFCTLARR Act 2013, is not compensation paid for acquisition of land but interest for delayed payment of said compensation which is in the nature of interest liable to be taxed u/s.56(2)(viii) r.w.s. 145A(b) of the [Income Tax Act, 1961](#) (hereinafter the '[IT Act](#)') and hence, there is no merit in the arguments taken by the assessee, that as per RFCTLARR Act 2013, any compensation or award received for compulsory acquisition of land is exempt from tax. Further, the AO has also rejected arguments of the assessee in light of CBDT Circular No.36 of 2016 on the ground that said circular deals with only compensation received for compulsory acquisition of land. In this case, the amount received by the assessee is only interest on belated payment of compensation and hence claim of the assessee that interest received form part of compensation and compensation is exempt u/s.10(37) of the [IT Act](#) is misplaced. The AO has also distinguished the case law relied upon by the assessee by the Hon'ble Supreme Court in the case of [CIT vs. Ghanshyamdas](#), 315 ITR 1, wherein the court observed that interest paid u/s.28 of the [Land Acquisition Act](#) forms part of compensation and is a part of enhanced value of the land on the ground that said judgement was delivered on 16th July, 2009, whereas the [Finance No.2 Act, 2009](#) has amended the provisions of [Section 56\(2\)](#) to bring to tax interest received on compensation or enhanced compensation in the year of receipt. Further, the AO taken support from the decision of ITAT, Chennai Benches in the case of [Shri N. Baskar vs. ITO](#) in ITA No.2202/Mds/2017 to held that interest on delayed payment of enhanced compensation in respect of acquisition of immovable property is a Revenue receipt and has to be taxed and cannot be exempt u/s.10(37) of the [IT Act](#). Therefore, he was of the opinion that interest received under RFCTLARR Act 2013, is taxable u/s.56(2)(viii) of the [IT Act](#) and hence, after allowing adhoc deduction towards expenses in relation to earning of interest income, made addition of Rs.8,59,67,120/-.

4. Being aggrieved by the assessment order, the assessee preferred an appeal before the CIT(A). Before the CIT(A), the assessee has filed detailed written submissions which shall be reproduced at para 4.2 on page 4 to 14 of Id.CIT(A)'s order. The sum and substance of the arguments of the assessee before the Id.CIT(A) are that the Id.AO has erred in taxing interest on compensation within the ambit of [Section 56\(2\)\(viii\)](#) of the Act, brushing aside the overriding provisions of RFCTLARR Act 2013 over the [IT Act](#) by virtue of [Section 96](#) of said RFCTLARR Act 2013 and consequently grossly erred in bringing to tax, interest received for compulsory acquisition of land. The Id.CIT(A) after considering relevant submissions of the assessee and also by relying upon various provisions of RFCTLARR Act 2013, including Section 3(i) of RFCTLARR Act 2013, which deals with the term 'cost of acquisition', held that interest received for delayed payment of compensation falls under the definition of compensation for acquisition of land, which is specifically exempted as per [Section 96](#) of said act and consequently it cannot be brought to tax u/s.56(2)(viii) of the [IT Act](#). He further held that as per the

relevant provisions of new [Land Acquisition Act](#), called RFCTLARR Act 2013, interest received by the assessee towards delayed compensation for compulsory acquisition of land is exempt from Income Tax as per [Section 96](#) of the said Act. Therefore, [Section 10\(37\)](#) of IT Act is not relevant to the assessee's case, as the assessee has received interest under the new [Land Acquisition Act](#). He further held that although Special Land Acquisition Officer had deducted TDS u/s.194LA of the Act, but as per the CBDT Circular No. 36 of 2016 dated 25.10.2016, compensation or enhanced compensation is exempt, irrespective of whether the land acquired was agricultural land or not and consequentially any compensation or award passed under the said RFCTLARR Act 2013 is outside the purview of [IT Act](#). He further observed that interest received by the assessee company is not to be assessed u/s.56(2)(viii) r.w.s. 145A(b) of the [IT Act](#) and therefore the computation of deduction on notional basis u/s.57(iv) of the [IT Act](#) is not relevant. The CIT(A) finally hold that the reliance of the decision of ITAT, Chennai Benches in the case of [Shri N. Baskar vs. ITO](#) is misplaced because the said decision was rendered as per the provisions of [Section 56\(2\)\(viii\)](#) r.w.s. 145A(b) of the [IT Act](#) and prior to new [Land Acquisition Act](#), which came into effect from 01.04.2014. The relevant findings of the Id.CIT(A) are as under:-

4.3. CIT(A)'s remarks and decision:

I have carefully gone through the observation of the AO in the assessment order as mentioned above under para 4.1, and the appellant's submission before the CIT(A) under para 4.2.

4.3.1. There are two issues contested in this appeal. The first issue is related to the AO's addition of interest on compensation received for compulsory acquisition of land. The background facts on this issue are briefly mentioned below:

The appellant company got compensation for compulsory acquisition of its land measuring 3 Acres 16 Gunta located in Bengaluru. Initially, the appellant received a compensation of Rs. 143 Crores which was claimed as exemption in AY 2015-16. There was no scrutiny assessment in AY 2015-16 and therefore, this issue was not taken up by the AO. In this relevant AY 20 16-17, the appellant received interest on delayed compensation Of Rs. 12.25 Crores which the appellant company claimed as exempt.

4.3.2. The MD's observations and decisions taken in the assessment order are briefly summarized as under:

As per the letter issued by the 0 / o the Special Land Acquisition dated 12-2-20 16, the land which has been compulsorily acquired is referred to as a factory land and therefore, is not entitled to claim exemption u/s 10(37). Besides, the Special Land Acquisition Officer has deducted TDS of Rs. 1.22 ,Crores u/s 194LA at the rate of 10% on the interest paid of Rs. 12.25 Crores. The CBDT Circular No.36 of 2016 referred to by the appellant company is only for compensation and not for interest. The case laws relied on by the appellant company are not applicable to the facts and circumstances of the appellant's case as per the observations on Page4 of the assessment order. The AO has relied on the decision of Hon'ble ITAT, Chennai. The AO has further referred to the amended [Section 194LA](#). Finally, the AO has assessed the interest on compensation for compulsory acquisition of land u/s 56(2) (viii) r.w. [Section 145A\(b\)](#) as per which the AO has observed that interest received on compensation or enhanced compensation is taxable as Income from Other Sources. After assessing the same u/s 56(2), the AO has notionally determined the expenditure to the tune of Rs.2.46 Crores and has allowed the deduction u/s 57(iv) [towards expenditure corresponding to the income assessed u/s 56(2)] to Rs.3.66 Crores. The AO has concluded the assessment of taxable interest received on compulsory acquisition of land as under: 4.3.3. Thus, the AO has made an addition u/s 56(2)(viii) r.w.s. 145A(b) of

Rs.8,59,67,120/- after allowing notional expenditure u/s 57(iv) adjusted proportionately to the tune of estimated expenditure that could have been incurred.

4.3.4. Before the CIT(A), the appellant's AR has strongly contended against the AO's aforesaid addition. The AO's contentions on the AO's observations are rebutted by the appellant's AR which are discussed in the following paragraphs point by point.

4.3.5. The AR has contended against the AO's observations that, since the land sold was a factory land, the appellant company is not eligible for exemption u/s 10(37). I have perused the relevant Section which is reproduced hereunder for ready reference:

Section 10(37): In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included -

"In the case of the assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where --

(i). Such land is situate in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of [section 2](#);

(ii). Such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

(iii). Such transfer is by way of compulsory acquisition under any law or a transfer consideration for which is determined or approved by the Central Government or the Reserve Bank of India;

(iv). Such income has arisen from the compensation or consideration for such transfer received by the such assessee on or after the 1st day of April 2004.

Explanation -- For the purpose of this clause, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority;"

4.3.6. The AR has contended that the interest has been sanctioned as per the provision of new [Land Acquisition Act](#) called Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 [hereafter referred to as RFCTLARRJ which came into existence, much after the introduction of [Section 10\(37\)](#) and therefore, it has over-riding effect on the provision existing in the [Income Tax Act](#) earlier. In this regard, the AR has relied on the Circular of CBDT No.36/ 2016 dated 25-10-2016 as per which the AR has argued that there is no distinguishment between the agricultural and non-agricultural land when it comes to exemption of compensation received by the land owners for the land acquired under the new [Land Acquisition Act](#), called the RFCTLARR Act. I have perused the said circular which is reproduced hereunder for ready reference:

Circular No. 36 of 2016 F.No. 225/S8/201 6-ITA.II Government of India Ministry of Finance Department of Revenue Central Board of Direct Taxes Dated: 25th October, 2016 Subject: Taxability of the compensation received by the land owners for the land acquired under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLAAR Act)-reg.

1. Under the existing provisions of the [Income-tax Act](#) 1961 ('the Act'), an agricultural land which is not situated in specified urban area, is not regarded as a capital asset Hence, capital gains arising from the transfer (including compulsory acquisition) of such agricultural land is not taxable. Finance (No, 2] Act, 2004 inserted [section 10\(37\)](#) in the Act from 01.04.2005 to provide specific exemption to the

capital gains arising to an Individual or a HUF from compulsory acquisition of an agricultural land situated in specified urban limit, subject to fulfilment of certain conditions. Therefore, compensation received from compulsory acquisition of an agricultural land is not taxable under the Act (subject to fulfilment of certain conditions for specified urban land).

2. The RFCTLARJ? Act which came into effect from 1st January, 2014, in [section 96](#), inter alia provides that income-tax shall not be levied on any award or agreement made [except those made under section

46) under the RFCTLARR Act Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFCTLARR Act), is exempted from the levy of income-tax.

3. As no distinction has been made between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing exemption from income-tax under the RFCTLARR Act, the exemption provided under section 96 of the RFCTLARR Act is wider in scope than the tax-exemption provided under the existing provisions of [Income-tax Act, 1961](#). This has created uncertainty in the matter of taxability of compensation received on compulsory acquisition of land, especially those relating to acquisition of non-agricultural land. The matter has been examined by the Board and it is hereby clarified that compensation received in respect of award or agreement which has been exempted from levy of income-tax vide section 96 of the RFCTLARR Act shall also not be taxable under the provisions of income-tax Act, 1961 even if there is no specific provision of exemption for such compensation in the [Income-tax Act, 1961](#).

4. The above may be brought to the notice of all concerned.

5. Hindi version of the order shall follow.

(Rohit Garg) Deputy Secretary to the Govt. of India"

4.3.7. After perusal of [Section 10\(37\)](#) and after referring to the CBDT's No. circular 36 of 2016 dated 25-10-2016, I am convinced that the appellant's contention that the interest received on compulsory acquisition under the new RFCTLARR Act, 2013 is exempt irrespective of whether the land acquired is agricultural or factory land. 4.3.8. Now, I deal with the ARs contention that just because, the Special Land Acquisition Officer effected TDS at the rate of 10% on the interest paid to the appellant company, the AO ought not to have come to a conclusion that the said interest is taxable. The AR has further contended that [Section 19LA](#) came into existence with effect from 1-10-2004 and was relevant to the old [Land Acquisition Act](#) prior to the introduction of new RFCTLARR Act. I have perused [Section 194LA](#) which has been reproduced hereunder for ready reference: [Section 194LA](#): Payment of compensation on acquisition of certain immovable property:

"Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed two lakh and fifty thousand rupees:

Provided further that no deduction shall be made under this section where such payment is made in respect of ant,' award or agreement which has been exempted from levy of income-tax under [section 96](#) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) Explanation.--For the purposes of this section,--

(i) "agricultural land" means agricultural land in India including land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of [section 2](#);

(ii) "immovable property" means any land (other than agricultural land) or any building or part of a building."

4.3.9. From the perusal of [Section 194LA](#), it is clear that the said Section was introduced from 1-10-2004 much prior to the introduction of the new RFCTLARR Act, 2013. As per the provision of the said section, any person responsible for paying to a resident any sum being in the nature of compensation or enhanced compensation on account of compulsory acquisition, any immovable property other than agricultural land shall effect TDS at the rate of 10%. The AR has contended that, first of all, [Section 194LA](#) is not applicable to the appellant's case, who is covered under the new RFCTLARR Act, and as per the CBDT Circular No. 36/2016, the compensation or enhanced compensation received by an assessee under the said Act is specifically exempt. The AR has further drawn my attention to the amendment to [Section 194LA](#) in the form of second proviso w.e.f. 1-4-2017, as per which TDS is not required if compensation is paid under the RFCTLAERR Act, 2013. He has further submitted that since this amendment is clarificatory in nature, it should be retrospectively applicable to AY 2016-17. After considering the appellant's submission, I am convinced that [Section 194LA](#) is not applicable to the appellant's case as the appellant received interest towards compulsory acquisition of land under the new [Land Acquisition Act](#) called the RFCTLARR Act, 2013 and as per the CBDT's Circular No. 36 of 2016, any compensation or enhanced compensation received under the said Act is exempt from taxation.

4.3.10. Now I deal with the AO's reliance of the decision of Hon'ble ITAT, Chennai in the case of N.Bhaskar Vs. ITO vide ITA No. 2202/Mds/2012 for AY 2012-13 dated 20-12-2017, as per which interest on delayed payment of enhanced compensation in respect of immovable property is held a revenue receipt and is not exempt u/s 10(37) of the [IT Act](#). I have perused the relevant portion of the ITAT's decision which is reproduced hereunder:

"In my opinion, the argument of the Id.A.R is having no merit. Interest on delayed payment of enhanced compensation in respect of acquisition of immovable property is a revenue receipt and it is to be taxed and cannot be exempted u/s. 10(37) of the Act and it cannot be considered as a part of consideration received in respect of agricultural land specified us.2(14)(iv) of the Act" 4.3.11. The AR has contended that the aforesaid decision is not applicable to the appellant's case as it was related to interest received under the old [Land Acquisition Act](#), under which there was no provision for exemption. However, under the new RFCTLARR Act, 2013 followed by CBDT Circular No.36/2016; the compensation or enhanced compensation received by an assessee irrespective of whether the land acquired was agricultural or not is exempt. After perusal of the appellant's contention and the ITAT's decision, I am convinced that the aforesaid decision relied on by the AC is not applicable to the appellant's case for the above reasons.

4.3.12. The AR has drawn attention to the relevant sections of the new [Acquisition Act](#) called -- The Right to Acquire Compensation and Transparency in land Acquisition Rehabilitation and Restructuring Act, (RFCTLARR) 2013 notified on 26-09-2013. I have perused the relevant sections under the said Act which are reproduced hereunder: "The new land acquisition act has been titled as The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

(RFCTLARR Act, 2013) The preamble of the Act reads as follows and the relevant portions are highlighted **An Act** to ensure, in consultation with institutions of local self- government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory,' acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

Date of coming into force The Central Government, in exercise of the power conferred by subsection (3) of Section of the RFCTLARR Act, 2013 vide notification published on 19.12.2013 in the Gazette of India Official appointed 01.01.2014 as the date on which the Act shall come into force. Section 1 of the RFCTLARR Act, 2013 reads as follows -- (1) **This Act** may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (2) It extends to whole of India except the state of Jammu and Kashmir (3) It shall come into force on such dates as the Central Government may, by notification in the Official Gazette, appoint: Provided that the Central Government shall appoint such date within three months from the date on which the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 receives the assent of the President. Section 3 of the RFCTLARR Act, 2013 In this Act, unless the context otherwise requires, --

- (a)
- (b)
- (c)
- (d)
- (e) (I)
- (h) ---

FnIT2stof acquisition" includes -

I

- (i). amount of compensation which includes solatium, any enhanced compensation ordered by the Land Acquisition and Rehabilitation / and Resettlement Authority or the Court and interest payable thereon and any other amount determined as payable to the affected families by such Authority or Court;
- ii.). demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;
- (iii). cost of acquisition of land and building for settlement of displaced or adversely affected families
- (iv). cost of development of infrastructure and amenities at the resettlement areas;
- (v). cost of rehabilitation and resettlement as determined in accordance with the provisions of this Act;

(vi). administrative cost (B). for acquisition of land including both in the project site and out of project area lands, not exceeding such percentage of the cost of compensation as may be specified by the appropriate Government; (C). for rehabilitation and resettlement of the owners of the land and other affected families whose land has been acquired or proposed to be acquired or other families affected by such acquisition;

(vii). cost of undertaking 'Social impact Assessment study' (ze) , , but more than the holding of a marginal farmer Section 23 of the RFCTLARR Act, 2013 On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (f any) which any person interested has stated pursuant to a notice given under section 21, to the measurement made under section 20, and into the value of the land at the date of the publication of the notification, and resettlement shall make an award under his hand of-

- (a) the true area of the land
- (b) the compensation as determined under section 27 along with Rehabilitation and Resettlement Award as determined under section 31 and which in his opinion should be allowed for the land; and
- (c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Section 27 of the RFCTLARR Act, 2013 The Collector having determined the market value of the land to be acquired shall calculate the total amount of compensation to be paid to the land owner (whose land has been acquired) by including all assets attached to the land Section 80 of the RFCTLARR Act, 2013 When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent per annum from the time of so taking possession until it shall have been so paid or deposited:

Provided that if such compensation or any pan there of is paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent, per annum shall be payable from the dale or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.

Section 96 of the RFCTLARR Act, 2013 No income tax or stamp dut shall be levied on ant,' award or agreement made under this Act except under [section 46](#) and no person claiming under any such award or agreement shall be liable to pat,' ant,' fee for a copy of the same".

4.3.13. After perusal of the new [Land Acquisition Act](#) called RFCTLARR Act, 2013, particularly [Section 96](#) under the said Act, I am convinced that the interest received by the appellant company for the delayed compensation falls under the said Act as it has been specifically mentioned in the order awarding interest dated 12-2-20 16. It can be inferred from [Section 3\(f\)](#) of the said Act that compensation includes interest for belated compensation.

4.3.14. Now, I deal with the AO's decision to assess the interest u/s 56(2)(viii) after allowing deduction u/s 57(iv). The AR has contended that the [Section 56\(2\) \(viii\)](#) is not applicable to the appellant's case as the said provision was introduced much prior to the enactment of the new [Land Acquisition Act](#) called RFCTLARR Act, 2013. Further, the AR has contended that the AO has notionally allowed 50% of interest as deduction u/s 57(iv) and has allowed proportionate expenses on a notional basis. The AR has argued that when the interest is not to be assessed u/s 56(2), the AO's deductions on estimated basis only prove the point that there is no specific provision u/ s 56(2) to assess the interest received under the new [Land Acquisition Act](#) as mentioned above. After perusal of the appellant's contention, I am

convinced that the interest received by the appellant towards delayed compensation for compulsory acquisition of land under the new [Land Acquisition Act](#), 2013 is not to be assessed u/s 56(2). Since the AO's decision of assessing interest u/s 56(2) is not acceptable, it is not necessary to deal with the deductions allowed by the AO on notional and estimated basis u/s 57.

4.3.15. From the discussion in the foregoing paras, I have come to the following conclusion:

(a) As per the relevant provisions of the new [Land Acquisition Act](#) called RFCTLARR Act, 2013, the interest received by the appellant towards delayed compensation for compulsory acquisition of land by the Karnataka State Government is exempt from Income Tax as per [Section 96](#) of the said Act.

(b) [Section 10\(37\)](#) is not relevant to the appellant's case as the appellant has received interest under the new [Land Acquisition Act](#) as mentioned above,

(c) [Section 194LA](#) is not applicable to the appellant as the appellant has received interest under the new [Land Acquisition Act](#), 2013 as mentioned above.

(d) As per the CBJDT Circular No.36 of 2016 dated 25-10-2016, compensation or enhanced compensation is exempt irrespective of whether the land acquired was agricultural land or not. (e) The interest received by the appellant company is not to be assessed u/s 56(2)(viii) rws 145A(b). Therefore, the AO's deduction on notional and estimated basis u/s 57(iv) is not relevant.

(f) The decision of Hon'ble ITAT, Chennai in the case of Bhaskar Vs. ITO cited supra is not relevant to the appellant's case. 4.3.16. In view of the above remarks, I am of the considered opinion that the interest received by the appellant company towards delayed compensation for compulsory acquisition of land to the extent of 12.25 Acres is exempt and therefore, the AO's addition of Rs.8.59 Crores u/s 56 after allowing deduction u/s 57 on notional and estimated basis, is deleted.

5. The Id.DR submitted that the Id.CIT(A) had failed to note that interest payable as used in the RFCTLARR Act 2013, in the context of cost of acquisition, which has no bearing on the issue under consideration. The Id.DR further submitted that as per the provisions of [Section 56\(2\)\(viii\)](#) r.w.s. 145A(b) of the [IT Act](#), interest received by an assessee on compensation or enhanced compensation shall be deemed to be the income of the year under which it is received and hence such interest is taxable in the year of receipt. The Id.CIT(A) without appreciating the facts, simply deleted the additions made by the AO.

6. The Id.AR for the assessee referring to the provisions of [Section 96](#) of RFCTLARR Act 2013, submitted that no income tax or stamp duty shall be levied on any award or agreement made under this Act, except u/s.46 and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same. He further submitted that provisions of [Section 46](#) deals with acquisition of land in a case of certain persons other than specified persons, where the District Collector while notifying the acquisition of land shall determine the compensation payable under the Act. Further [Section 3\(i\)](#) of the said Act defines the term, 'cost of acquisition' with reference to [Section 46](#) of the RFCTLARR Act 2013, which includes amount of compensation including solatium, any enhanced compensation and interest payable thereon and any other amount determined as payable to the affected families by such authority or court. From the above, it is very clear that compensation includes interest if any, payable under the Act and hence once compensation is exempt from tax by virtue of [section 96](#) of the said Act, then interest received for delayed payment of such compensation cannot be brought to tax u/s.56(2)(viii) of the [IT Act](#). The Id.AR further referring to the provisions of [Section 194LA](#) of the [IT Act](#), submitted that as per said section TDS is required to be deducted in case of purchase and sale of immovable properties but when compensation is paid for compulsory acquisition of land, then such compensation is outside the purview of TDS provisions u/s.194LA of the

IT Act. In this case, although the Special Land Acquisition Officer has deducted TDS, but the CBDT Circular No. 36 of 2016 dated 25.10.2016, has very clearly emphasized on non- deduction of tax at source on any compensation or award paid under new [Land Acquisition Act](#). Therefore, it is very clear that compensation or any other amount determined and payable under the new [Land Acquisition Act](#) is outside the scope of the [IT Act](#) and accordingly the assessee has rightly claimed exemption from tax towards interest received for compulsory acquisition of land.

7. The Id.AR further submitted that the case law relied upon by the Id.AO in the case of [Shri N.Baskar vs. ITO](#), supra, had no application to facts of present case because the said judgement was rendered prior to 01.04.2014, when the new [Land Acquisition Act](#) was not come into force. Therefore, the provisions of income tax which deals with taxability of compensation or interest on delayed payment of compensation and relevant case laws has no application once the [Land Acquisition Act](#) has been come in to operation from 01.04.2014 onwards. He further submitted that on the other hand, the Hon'ble Supreme Court in the case of [CIT vs. Ghanshyamdas](#), supra, clearly held that interest paid u/s.28 of the [Land Acquisition Act](#) forms part of compensation and is a part of enhanced value of land. The Hon'ble Gujarat High Court in the case of [Movaliya Bhikhubhai Balabhai v. ITO](#), 388 ITR 343 has also held that interest forms part of compensation and the same is not taxable. Therefore, the Id.AR submitted that the AO has completely erred in taxing interest received for delayed payment of compensation for compulsory acquisition of land u/s.56(2)(viii) of the [IT Act](#).

8. We have heard both the parties, perused the materials available on record and gone through orders of the authorities below. The facts borne out from record indicate that the land parcel owned by the assessee at Bangalore had been compulsorily acquired for Railway project by the Special Land Acquisition Officer. During the year under consideration, the assessee has received interest of Rs.12,25,98,815/- for delayed payment of compensation under the [Land Acquisition Act](#). The assessee has claimed exempt from tax towards interest received on compensation for compulsory acquisition of land on the ground that as per new Land Acquisition RFCTLARR Act 2013, the provisions of [Section 96](#) overrides all provisions of Income Tax relating to taxation of compensation or any award payable under the Act and consequently interest if any received towards delayed payment of compensation is exempt from tax. The provisions of new [Land Acquisition Act](#) came into effect from 01.04.2014. Prior to this, any compensation received for compulsory acquisition of agricultural land was exempt u/s.10(37) of the [IT Act](#). After the new [Land Acquisition Act](#), came into force from 01.04.2014, there is no distinction made between compulsory acquisition of agricultural land and non-agricultural land. As per the said RFCTLARR Act 2013, any compensation or award payable under the said Act is exempt from Income Tax or any other taxes as per [Section 96](#) of the said Act. Further, provisions of [Section 3\(i\)](#) of said Act deals with the term 'cost of acquisition' in connection with section 46 of RFCTLARR Act 2013, which deals with compensation or any award payable for compulsory acquisition of land by persons other than specified persons. In that context, 'cost of acquisition' includes solatium, any enhanced compensation or interest thereon by such authority or court. Therefore, as per Section 3(i) of RFCTLARR Act 2013, the term compensation includes interest if any, payable under the Act. Therefore, once compensation is exempt from tax by virtue of [Section 96](#) of the said Act, then any enhanced compensation or interest payable on such enhanced compensation cannot be brought to tax as interest income, which is taxable u/s.56(2)(viii) of the [IT Act](#). We, further noted that this position has been clarified by CBDT vide Circular No.36 of 2016, where it has been clearly explained that the exemption provided u/s.96 of RFCTLARR Act 2013, is wider in scope than the tax exemption provided under the existing provisions of [IT Act](#). To dispense with the anomalies in existing provisions of [IT Act](#) in the matter of taxability of compensation received on compulsory acquisition of land, especially this relating to acquisition of non-agricultural land, a clarification has been issued by way of Circular No.36 of 2016 and clarified that compensation received in respect of award or agreement which has been exempted from levy of Income Tax vide section 96 of RFCTLARR Act

2013, shall also not to be taxable under the provisions of [IT Act](#), even there is no specific provision of exemption for such compensation in [IT Act](#). Further, the benefit of exemption from Income Tax in respect of the amounts paid under new [Land Acquisition Act](#), 2013 pursuant to Circular No.36 of 2016 was inserted by way of a clarification amendment by [Finance Act](#), 2017 in [Section 10\(37\)](#) and [Section 194LA](#) of [IT Act](#). A second proviso was inserted to [Section 194LA](#) of the [IT Act](#), which states that no deduction shall be made under this section, where such payment is made in respect of any award or agreement which has been exempted from levy of income tax u/s.96 of [RFCTLARR Act 2013](#). From the above, it is very that TDS is also not required to be deducted in respect of amount paid under new [Land Acquisition Act](#). It may be noted that the Special Land Acquisition Officer has deducted tax u/s.194LA of [IT Act](#), which makes it clear that the amounts paid are in the nature of compensation and hence it is exempt from the purview of Income Tax. Though tax was not required to be deducted at source, the Special Land Acquisition Officer had deducted TDS by way of abundant caution in the absence of corresponding enactment under income tax, which was not made under this juncture. But, in our view, it does not make any difference with regard to non-taxability of compensation or award including interest if any payable under the new [Land Acquisition Act](#), 2013. Therefore, we are of the considered view that the Id.AO has grossly erred in bringing to tax interest received by the assessee for delayed payment of compensation under New Land Acquisition Act for compulsory acquisition of land.

9. Coming back to the case laws cited by the assessee and distinguished by the Id.AO and also the case law relied upon by the Id.AO to support his findings. The Id.AO has relied upon the decision of ITAT, Chennai Benches in the case of [Shri N.Bhaskar vs. ITO](#) in ITA No.2202/Mds/2012 for assessment year 2012-13. We find that the Tribunal in the context of [Section 10\(37\)](#) of [IT Act](#), held that interest received for delayed payment of enhanced compensation in respect of acquisition of immovable property is in the nature of interest liable to be taxed u/s.56(2)(viii) r.w.s. 145A(b) of [IT Act](#). We further note that under the provisions of [Section 10\(37\)](#) of [IT Act](#), compensation received by an individual or HUF for compulsory acquisition of agricultural land was exempt from tax and there was no separate provisions of taxing or exempting interest received on enhanced compensation or interest paid on such compensation u/s. 10(37) of [IT Act](#). However, provisions of [section 56\(2\)\(viii\)](#) of [IT Act](#) has been amended by the [Finance Act](#), 2009 w.e.f. 01.04.2010 to bring into tax interest received on compensation or enhanced compensation in the year of receipt. Under those facts, the Tribunal came to the conclusion that by virtue of specific provisions of [Section 56\(2\)\(viii\)](#) r.w.s. 145A(b) of [IT Act](#), interest received on compensation or enhanced compensation referred to in clause (b) of [section 145A\(b\)](#) of [IT Act](#) is not exempt u/s.10(37) of the [IT Act](#). In this case, interest has been received under new [Land Acquisition Act](#), which came in to existence from 01.04.2014 onwards. Under the new [Land Acquisition Act](#), 2013, more particularly as per [Section 96](#) of [RFCTLARR Act 2013](#), no income tax or stamp duty shall be levied on any award or agreement made under the new Act except u/s.46 of the said Act. Therefore, after a new [Land Acquisition Act](#), 2013, the law has been changed in as much as any compensation or enhanced compensation including interest if any, is completely exempt from Income Tax by virtue of [section 96](#) of [RFCTLARR Act 2013](#). Therefore, we are of the considered view that by virtue of overriding nature of the new [Land Acquisition Act](#), 2013, the provisions of Income Tax if any which deals with taxability of compensation or interest if any received by an assessee for compulsory acquisition of land becomes redundant and has no application. Further, the assessee has relied upon the decision of Hon'ble Supreme Court in the case of [CIT vs. Ghanshyamdas](#), 315 ITR 1, where the Hon'ble Supreme Court held that interest paid u/s.28 of the [Land Acquisition Act](#) forms part of compensation and is a part of enhanced value of land. The Hon'ble Gujarat High Court in the case of [Movaliya Bhikhubhai Balabhai v. ITO](#), 388 ITR 343, held that interest forms part of compensation and the same is not taxable. The said two judgments rendered by Hon'ble Supreme Court and Gujarat High Court are in consonance with the provisions of [Section 3\(i\)](#) of new [RFCTLARR Act 2013](#), which

defines the terms compensation which includes interest if any payable under said Act. Therefore, we are of the considered view, the case laws relied upon by the assessee in the above two cases are squarely applicable to the facts of the present case.

10. In this view of the matter and by respectfully following the case laws discussed hereinabove, we are of the considered view that interest received by the assessee towards delayed payment of compensation for compulsory acquisition of land is akin to compensation for compulsory acquisition of land, which is exempt from Income Tax by virtue of Section 96 of RFCTLARR Act 2013. The Id.CIT(A) after considering relevant facts has rightly deleted additions made by the AO towards interest u/s.56(2)(viii) of the [IT Act](#). There is no error in the finding recorded by the Id.CIT(A) and hence, we are inclined to uphold the order of the CIT(A) and dismiss the appeal filed by the Revenue.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 28th January, 2021 at Chennai.

Sd/-
(महावीर सह)
(MAHAVIR SINGH)
उपा य /VICE PRESIDENT

Sd/-
(जी. मंजुनाथ)
(G. MANJUNATHA)
लेखा सद य /ACCOUNTANT MEMBER

चे ई/Chennai,
दनांक/Dated, the 28th January, 2021

RSR

आदेश क ितिलिप अ िषत/Copy to:

1. अपीलाथ /Appellant
2. यथ /Respondent
3. आयकर आयु (अपील)/CIT(A)
4. आयकर आयु /CIT
5. िवभागीय ितिनिध/DR
6. गाड फाईल/GF.