

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.13053/2017

[@ SLP (C) No.751/2009]

COMMISSIONER OF INCOME TAX
FARIDABAD COMMISSIONER

Petitioner(s)

VERSUS

CHET RAM (HUF)

Respondent(s)

WITH

CIVIL APPEAL NO.13054/2017
[@SLP(C) No.752/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13055/2017
[@ SLP(C) No.761/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13056/2017
[@ SLP(C) No.759/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13057/2017
[@ SLP(C) No.756/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13058/2017
[@ SLP(C) No.753/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13059/2017
[@ SLP(C) No.754/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13060/2017
[@ SLP(C) No.757/2009 (IV-B)]

WITH

CIVIL APPEAL NO.13061/2017
[@ SLP(C) No.755/2009 (IV-B)]

O R D E R

Leave granted.

In the present appeals, the only question that arises for consideration is as to whether the respondents-assessees who have received some amount of enhanced compensation as also interest thereon under an interim order passed by the High Court in pending appeals relating to land acquisition matter are liable to be assessed for income tax in the year in which

it has been received or not.

We have heard Ms. Pinky Anand, learned Additional Solicitor General appearing for the appellant herein. She has brought the attention of this Court to the decision in the case of *Commissioner of Income Tax, Faridabad v. Ghanshyam (HUF)* reported in (2009) 8 SCC 412 wherein the provisions of Section 45(5) of the Income Tax Act, 1961 were considered and this Court in paragraphs 53 to 56 has held that in view of the Amendment in the Income Tax Act, the person who has received enhanced compensation and interest thereon even by an interim order passed by the Court would be assessed to tax for that enhanced compensation.

Paragraphs 53 to 56 of the above judgment read as under:

"53. The scheme of Section 45 (5) of the 1961 Act was inserted w.e.f. 1-4-1988 as an overriding provision. As stated above, compensation under the LA Act, 1894, arises and is payable in multiple stages which does not happen in cases of transfers by sale, etc. Hence, the legislature had to step in and say that as and when the assessee claimant is in receipt of enhanced compensation it shall be treated as "deemed income" and taxed on receipt basis. Our above understanding is supported by insertion of clause (c) in Section 45 (5) w.e.f. 1-4-2004 and Section 155(16) which refers to a situation of a subsequent reduction by the Court, tribunal or other authority and recomputation/amendment of the assessment order.

54. Section 45(5) read as a whole [including

clause (c)] not only deals with reworking as urged on behalf of the assessee but also with the change in the full value of the consideration (computation) and since the enhanced compensation/consideration (including interest under Section 28 of the 1894 Act) becomes payable/paid under the 1894 Act at different stages, the receipt of such enhanced compensation/consideration is to be taxed in the year of receipt subject to adjustment, if any, under Section 155 (16) of the 1961 Act, later on. Hence, the year in which enhanced compensation is received is the year of taxability. Consequently, even in cases where pending appeal, the Court/tribunal/authority before which appeal is pending, permits the claimant to withdraw against security or otherwise the enhanced compensation (which is in dispute) the same is liable to be taxed under Section 45(5) of the 1961 Act. This is the scheme of Section 45(5) and Section 155 (16) of the 1961 Act. We may clarify that even before the insertion of Section 45(5)(c) and Section 155(16) w.e.f. 1-4-2004, the receipt of enhanced compensation under Section 45(5)(b) was taxable in the year of receipt which is only reinforced by insertion of clause (c) because the right to receive payment under the 1894 Act is not in doubt.

55. It is important to note that compensation, including enhanced compensation/consideration under the 1894 Act, is based on the full value of property as on the date of notification under Section 4 of that Act. When the court/tribunal directs payment of enhanced

compensation under Section 23(I-A), or Section 23(2) or under Section 28 of the 1894 Act it is on the basis that award of the Collector or the Court, under reference, has not compensated the owner for the full value of the property as on date of notification.

56. Having settled the controversy going on for the last two decades, we are of the view that in this batch of cases which relate back to Assessment Years 1991-1992 and 1992-1993, possibly the proceedings under the LA Act, 1894 would have ended. In a number of cases we find that proceedings under the 1894 Act have been concluded and taxes have been paid."

Respectfully following the above decision, we allow these Civil Appeals, set aside the orders of the High Court as also the Income Tax Appellate Tribunal and hold that the respondents are liable to pay tax on the enhanced amount of compensation and interest received by them during the year in question.

The Civil Appeals are allowed in the above terms.

Parties to bear their own costs.

.....J.
[R.K. AGRAWAL]

.....J.
[DR. D.Y. CHANDRACHUD]

NEW DELHI;
SEPTEMBER 12, 2017.

ITEM NO.12

COURT NO.8

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.751/2009

(Arising out of impugned final judgment and order dated 16-05-2007 in ITA No.361/2005 passed by the High Court Of Punjab & Haryana At Chandigarh)

COMMISSIONER OF INCOME TAX
FARIDABAD COMMISSIONER

Petitioner(s)

VERSUS

CHET RAM (HUF)

Respondent(s)

WITH

SLP (C) No. 752/2009 (IV-B)
SLP (C) No. 761/2009 (IV-B)
SLP (C) No. 759/2009 (IV-B)
SLP (C) No. 756/2009 (IV-B)
SLP (C) No. 753/2009 (IV-B)
SLP (C) No. 754/2009 (IV-B)
SLP (C) No. 757/2009 (IV-B)
SLP (C) No. 755/2009 (IV-B)

Date : 12-09-2017 These appeals were called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Ms. Pinky Anand, ASG
Mr. Arijit Prasad, Adv.
Mrs. Anil Katiyar, AOR

For Respondent(s) Dr. Kailash Chand, AOR

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The Civil Appeals are allowed in the above terms.

Pending application(s) stand(s) disposed of.

(ASHA SUNDRIYAL)
COURT MASTER

(CHANDER BALA)
COURT MASTER

(Signed order is placed on the file)

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