IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

TAX APPEAL NO.13 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.6 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.7 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.8 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.9 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.10 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.11 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

WITH

TAX APPEAL NO.12 OF 2006

The Commissioner of Income Tax-II,
Kendriya Rajaswa Bhavan, Gadkari Chowk,
Old Agra Road, Nashik-422002.

...APPELLANT

VERSUS

Shri Ramsing Ishram Pawar,
R/o- and Post at Jinshi,
Tq-Raver, Dist-Jalgaon.

...RESPONDENT

...
Mr.Alok Sharma, Standing Counsel for Appellant.
None present for Respondent.
...

CORAM: S.V. GANGAPURWALA AND A.I.S. CHEEMA, JJ.

DATE : 23RD MARCH, 2015

ORDER :

1. In all these Appeals, Mr. Sharma, the learned counsel submits that the Tribunal has committed error in holding that the interest on the enhanced compensation amount in proceedings arising under the Land Acquisition Act is not taxable. The learned counsel submits that the same is taxable. The learned counsel relies on the Judgment of the Apex Court in the case of **Bikram Singh vs. Land Acquisition Collector, reported in 1996-EQ(S.C.)-0-1408.**

2. The contention of Mr. Sharma, the learned counsel that interest on enhanced amount of compensation in proceedings under the Land

Acquisition Act is taxable, is settled proposition in view of the Judgment of the Hon'ble Supreme Court in the case of **Bikram Singh vs. Land Acquisition Collector,** referred supra. However, the Respondent relies on the Circular i.e. Instruction No.1979 dated 27th March 2000, which states that the Department should not file Appeals before the High Court when the tax effect is below Rs.2,00,000/-(Rupees Two Lakh).

3. Mr. Sharma, learned counsel for Appellant submits that if it is pertaining to question of law, the same can be raised and the Circular will not come in the way. The counsel submits that in such a case the Circular would not apply.

4. The Division Bench of this Court in a case of **Commissioner of Income Tax vs. Zoeb Y. Topiwala, (2005) 199 C.T.R. (Bom.) 656,** has observed in Para 5 as under:-

"5. The above instructions dt. 27th March, 2000, reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigations before High Courts and Supreme Court. The circular is binding on the Revenue. There is no justification to proceed with the appeal having tax effect less than Rs.7000."

5. In the present matters also the interest liability is in the range of Rs.61,000/- to Rs.63,000/-.

6. Even if the matters are considered on merits, the principle of 'spreading over the income' will have to be applied as is held by the Apex Court in the case of **Bikram Singh vs. Land Acquisition Collector**, referred supra. If the principle of 'spreading over the income' is applied, the amount would not come within the taxable limits.

7. Considering the aforesaid aspects of the matters, all the Appeals are dismissed. No costs.

[A.I.S.CHEEMA,J.] **[S.V.GANGAPURWALA,J.]**

asb/MAR15