IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

TAX APPEAL NO.51 OF 2005

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

...APPELLANT

VERSUS

Komalsingh s/o Ramu Patil,
R/o & Post at-Khadegaon,
Tq-Pachora, Dist-Jalgaon

...RESPONDENT

WITH

TAX APPEAL NO.52 OF 2005

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

...APPELLANT

VERSUS

Komalsingh s/o Ramu Patil,
R/o & Post at-Khadegaon,
Tq-Pachora, Dist-Jalgaon

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Tq-Pachora, Dist-Jalgaon

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TAX APPEAL NO.54 OF 2005

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

...APPELLANT

VERSUS

Komalsingh s/o Ramu Patil,
R/o & Post at-Khadegaon,
Tq-Pachora, Dist-Jalgaon

...RESPONDENT

...

Mr.Alok Sharma, Standing Counsel for Appellant.
Mr.P.R. Katneshwarkar Advocate for Respondent.

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

DATE : 23RD MARCH, 2015

ORDER :

1. Mr. Sharma, learned counsel for Appellant strenuously contends that interest on enhanced amount of compensation is a receipt and is

taxable. The Tribunal committed an error in disallowing the said contention of the Department. 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** and another Judgment of the Apex Court in the case of **Sham Lal Narula vs. Commissioner of Income Tax, Punjab, Jammu and Kashmir, Himachal Pradesh and Patiala, reported in 1964-EQ(S.C.)-0-125.**

2. Mr. Katneshwarkar, learned counsel for Respondent submits that the Tribunal has not held that the interest amount received on compensation is not susceptible to income tax, however it has held that the compensation amount is for the year 1978 to 1991 and after spreading over the said amount and also considering that it was a case of larger HUF, interest on enhanced amount of compensation does not come within the ambit of taxable income.

3. We have considered submissions of the respective parties. The Apex Court in a case of **Bikram Singh**, referred supra, has held that interest on enhanced amount of compensation is a revenue receipt and is taxable. However, the Apex Court has also held that the assessee is entitled to spread over the income for the period in respect of payment to be made. Here period is from 1978 to 1991. The Authorities have considered the said aspect. The Income Tax Officer, on consideration of the same, has held that after spreading over the said income of interest on the amount of compensation pursuant to the land acquired under the provisions of Land Acquisition Act would not come within the purview of taxable income. Though he has held that such an interest is taxable, however, considering factual aspect of the matter, said amount would not come within the ambit of tax and had negatived the claim of the present Appellant.

4. The Commissioner of Income Tax had allowed the Appeal filed by the Department and thereafter the Tribunal has allowed the Appeal filed by the assessee. The interest amount received on account of enhanced compensation pursuant to the acquisition of land under the provisions of the Land Acquisition Act is taxable. However, the assessee is entitled to spread over the said income for the period in respect of payment to be made. In the present case after spreading over the interest amount the same comes below taxable limit as held by Tribunal. Considering the said aspect, no error has been committed by the Tribunal while passing the impugned order.

5. In light of above, all the Appeals are dismissed. However, there is no order as to costs.

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

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