THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL REVISION PETITION No.2987 OF 2010

ORDER:

The challenge in this Civil Revision Petition (CRP) is to the docket order, dated 01.02.2010, passed by the learned I Additional Chief Judge, City Civil Court, Secunderabad (for short 'the Court below'), in E.P. No.63 of 2009 in MVOP No.207 of 2005.

2. No representation for the revision petitioner.

3. For convenience sake, the parties are referred to as they were arrayed in the E.P.

4. The subject matter is regarding the amount deducted towards TDS by judgment debtor No.2 from the compensation payable by it to the Decree Holders, as awarded by the Court below in the aforesaid MVOP. The Court below, after considering the rulings relied upon by the learned counsel for either parties in **Hansaguri Prafulchandra Ladhani v. Oriental Insurance Company**[1], **Oriental Insurance Co.Ltd., Sec.bad v. G.S. Diwakar**[2], arrived at the finding that judgment debtor No.2 has not spread over the interest for the relevant financial years and that if the interest amount was spread over for the relevant financial years, it will not exceed Rs.50,000/-. Accordingly, the Court below directed judgment debtor No.2 to calculate the interest year-wise from 2005 to 2009 and deduct the TDS, if it

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1. 2007 ACJ 1897
2. 2009 ACJ 1937

exceeds Rs.50,000/-, failing which the decree holders were held entitled to receive the entire interest amount. This order has been under challenge by judgment debtor No.2.

5. Though, there is no representation for judgment debtor No.2 (revision petitioner) and no arguments are advanced on its behalf, a learned single Judge of Kerala High Court in **National Insurance Company Limited, Thodupuzha represented by its Branch Manager v. President, Consumer Disputes Redressal Forum, Thodupuzha**[3], had the occasion to decide the same issue though, arising out of the order passed by the concerned Consumer Dispute Redressal Forum. While concluding, the learned single Judge held in paragraph Nos.21 to 25 thus:

> “21. In answering the claimants' contention, Hansaguri, followed the Supreme Court's Rama Bai v. Commissioner of Income Tax, AP: Interest on enhanced compensation for land compulsorily acquired has to be taken to have accrued not on the date of the order of the Court granting enhanced compensation but as having accrued year after year from the date the possession of the land had been delivered till the date the court granted enhanced compensation. The interest could not be assessed to Income Tax in a lump sum only in the year in which the order was made.
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> 22. As a corollary to the above proposition, Hansaguri has held that the claimants will have to pay tax on the interest accrued if that income together with the

[3].

claimant's other income in the financial year concerned exceeds the chargeable limit, as specified in the provisions of the Income Tax Act, 1961.

Directions:

23. Hansaguri, therefore, issued these directions on how to apportion the accrued interest on an annual basis and on how the insurer could deduct income tax:

> (a) first spread the interest amount over to the relevant financial years for the period from the date of filing the claim petition till the date of deposit.
>
> (b) thereafter, if the interest for any particular financial year exceeds Rs. 50,000/-, separately deposit before the Tribunal the amount liable to be deducted at source under the provisions of Section 194A (3)(ix) of the Income Tax Act, 1961. Such amount shall not, however, straightaway, be paid over to the Income Tax department.
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> (c) produce before the Tribunal a statement of the computed interest by spreading the amount over the relevant years from the date of claim petition till the date of deposit if the interest for any particular financial year exceeds Rs. 50,000/- and also request the Tribunal to treat the amount as a separate deposit.

24. Factually, as is the case here, in Hansaguri, too, the insurer had deducted tax on compensation under Section 194A(3)(ix) of the Act by treating the entire interest amount as one lump sum. So, a similar direction as given in Hansaguri would meet the ends of justice:

> First, the insurer should give the claimants the details of the amounts of interest spread over the relevant financial years and the break-up amongst several claimants;
>
> second, within one month from the date of receipt of a certified copy of this order, the insurer shall furnish to the claimants the certificate indicating the interest amounts computed for each year. The statement should also contain the break-up of the

> interest amounts payable to each claimant in each of those years as per their apportionment.
>
> Thereafter, the claimants may apply to the appropriate Income Tax authority which shall decide the claimant's plea for exemption and refund within six months from the date of its receiving the representation.

25. To conclude, the Court holds that interest accrued on an awarded compensation is a revenue receipt, subject to tax deduction under Section 194A(3)(ix) of the Act. But the computation of the interest should not be lump sum in the year the tax paid; rather, it should be spread even across the years from the year the claim till the year the compensation paid."

6. Thus, in the present Civil Revision Petition also, the interest should be spread over even across the year they claimed till the year compensation paid. Judgement Debtor No.2 is, therefore, directed to follow the directions contained in paragraph Nos.23 and 24 in **Smt. Hansaguri Prafulchandra**[1] and **National Insurance Company Limited, Thodupuzha represented by its Branch Manager**[3].

Accordingly, the Civil Revision Petition is dismissed.

As a sequel, interim order, dated 16.07.2010, is vacated and CRP MP No.3977 of 2010 is disposed of as infructuous.

A. SHANKAR NARAYANA, J

14th June, 2018
Lur/Mgr