IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-11920-2018

Date of Decision: 21.5.2018

Randhir Singh and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE.**

**HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

PRESENT: Mr. Gurinder Pal Singh, Advocate for the petitioners.

**AJAY KUMAR MITTAL, ACJ.**

1. The petitioners in the instant writ petition are seeking a writ of mandamus directing the respondents to refund the amount of Tax Deducted at Source (TDS) under Section 194LA of the Income Tax Act, 1961 (in short "the Act") along with interest from the amount of enhanced compensation of acquisition of agricultural land payable to them.

2. Briefly stated, the facts necessary for adjudication of the present petition as narrated therein are that Government of Haryana, Industries Department vide notification dated 11.7.2007 issued under Section 4 of the Land Acquisition Act, 1894 (in short "the Act") followed by notification dated 10.7.2008 under Section 6 of the Act acquired the land situated within the revenue estate of village Udhamgarh, Teshil and District Yamuna Nagar including the agricultural land of the petitioners at public expenses for setting up of Industrial Estate Phase II, Manakpur. The

award in respect thereof was passed on 10.7.2009 assessing the valuation of the land at the rate of ₹ 8 lakhs per acre. Being dissatisfied, the petitioners and other similarly situated persons preferred references under Section 18 of the 1894 Act before the Additional District Judge, Yamuna Nagar at Jagadhri who vide a common award dated 20.4.2015 (Annexure P-1) enhanced the compensation. When respondent No.2 failed to make the payment of enhanced compensation, the petitioners and other persons filed execution, but to no effect. Similarly situated person, namely, Shri Jaspal Singh filed CR-1630-2016 and this Court vide order dated 19.7.2017 (Annexure P-2) disposed of the said revision petition on the undertaking given by respondent No.2 to make payment of compensation along with interest and other benefits. Thereafter, the petitioners were awarded the enhanced compensation for their acquired land after deducting TDS. However, the petitioners failed to understand as to why a substantial amount out of enhanced compensation had been deducted by way of tax deducted at source by respondent No.2. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners were entitled to refund of the deduction of tax at source in respect of the amount received by them on account of enhanced compensation on acquisition of the agricultural land. Reliance was placed upon the Division Bench judgment of this Court in **Risal Singh and another v. The Union of India and others, 2011 (3) RCR(Civil) 268** and Single Bench judgment in **Haryana Urban Development Authority v. Mandir Nar Singh Puri and others 2014(3) PLR 611** (Annexures P-3 and P-4, respectively).

4. After hearing the learned counsel for the petitioners, we do not

find any merit in the writ petition. The petitioners had received the amount of enhanced compensation and interest thereon. Learned counsel could not dispute that on the element of interest income, income tax was payable by the petitioners as it was taxable under Section 56 of the Act as income from other sources.

5. This Court in **Sarti v. Haryana State Industrial and Infrastructure Development Corporation Ltd. and others, CWP No. 9739 of 2011** decided on 30.5.2011 dealing with identical issue had recorded as under:-

> "8. This Court, in **Income Tax Appeal No. 209 of 2004, decided on 27.10.2010 (Commissioner of Income Tax, Faridabad v. Bir Singh (HUF), Ballabgarh**) had held that interest paid to the assessee under Section 28 of the Land Acquisition Act, 1894 (for brevity, "1894 Act") on enhanced amount of compensation in respect of the acquired land falls for taxation under Section 56 of the Act as "income from other sources" and is exigible to tax in the year of receipt under cash system of accountancy. It had also been observed that where the assessee is not maintaining books of account by adopting any specific method, it shall be treated to be cash system of accountancy. In the present case, the interest received by the petitioner was on account of delay in making the payment of enhanced compensation and, therefore, would fall under Section 28 of the 1894 Act. Such payment could not par-take the character of

> compensation for acquisition of agricultural land and, thus, was not exempt under the Act. Once that was so, the tax at source had been rightly deducted by the payer."

6. Learned counsel for the petitioners was unable to substantiate with reference to any document on record that the tax was being deducted from the amount of compensation and not interest income as claimed by the petitioners. Moreover, it shall be open for the petitioners to claim refund of the amount of tax deducted in case their taxable income is less by filing the income tax returns in accordance with law.

7. In all fairness, we refer to Division Bench judgment in **Risal Singh's case (supra)** and Single Bench judgment in **Mandir Nar Singh Puri's case (supra)** on which reliance has been placed by learned counsel for the petitioners. Suffice to notice that these cases were relating to receipt of enhanced compensation only and there was no element of interest income in those cases and, therefore, the petitioners cannot derive any advantage or help therefrom.

8. In view of the above, we do not find any merit in the writ petition and the same is hereby dismissed.

**(AJAY KUMAR MITTAL)**
**ACTING CHIEF JUSTICE**

**May 21, 2018** **(TEJINDER SINGH DHINDSA)**
gbs **JUDGE**

**Whether Speaking/Reasoned** **Yes**

**Whether Reportable** **Yes**