IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH "DB", PANAJI

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.350 & 351/PAN/2025
निर्धारण वर्ष / Assessment Years : 2019-20

Wilson Rodrigues, 6th Cross, Bundar Road, Hanuman Nagar, Bhatkal, Uttara Kannada- 581320. PAN : AYDPR1683F	Vs.	ITO, Ward-1, Sirsi.
Appellant		Respondent

Assessee by	:	Shri Omkar Godbole
Revenue by	:	Shri Mayur Kamble
Date of hearing	:	21.08.2026
Date of pronouncement	:	30.10.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

These appeals filed by the assessee are directed against the separate orders dated 19.08.2025 passed by Ld. CIT(A)/NFAC for the assessment year 2019-20 respectively.

2. Since the facts are identical and both the above captioned appeals were heard together, therefore, we proceed to dispose of the same by this common order.

ITA No.350/PAN/2025 :

3. The appellant has raised the following grounds of appeal :-

> *"1. That the order of First Appellate Authority upholding the assessment order is bad in facts.*
>
> *2. That the order of First Appellate Authority upholding the assessment order is bad in law.*
>
> *3. The Learned First Appellate Authority has erred in law, by considering the interest on enhanced compensation received towards compulsory acquisition of agricultural land, under the head "Income from other Source" and allowing only 50 percent deduction under section 57(iv) of the Act. However agricultural land which is located beyond 8 Kilometers range from the Municipality consisting of population of more than Ten Lakhs, does not form part of capital asset as per section 2(14) (iii) of the Act.*
>
> *4. The Learned First Appellate Authority, failed to recognize the exemption of Rural Agricultural Land from the definition of "Capital Asset" under Section 2(14) of the Act, and consequently erred in taxing the interest on Enhanced compensation under "Income from other Source.*
>
> *5. That any compensation awarded as per section 28(A) of Land Acquisition Act 1894, even though it is uploaded under section 194A, it forms part of sale consideration for compulsory acquisition of agricultural land which is wholly exempt under income tax act. Interest awarded on enhanced compensation paid by Government for acquisition of agricultural land under Section 28A of Land Acquisition Act 1894, would partake the character of compensation and would be eligible for exemption.*
>
> *6. That on the facts and circumstances of the case the learned First Appellate Authority has erred, by upholding the decision of AO in allowing only 50 percent as deduction. (i.e. Rs. 1,08,17,790/-).*
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> *7. That the appellant craves to add to alter amend modify substitute delete and or rescind all or any of the grounds of appeal on or before the final hearing if necessity so arises."*

4. Facts of the case, in brief, are that the assessee is an individual and has furnished his return of income on 07.01.2020 by declaring

income of Rs.7,23,830/- which was processed u/s 143(3) of the IT Act. The case was selected for complete scrutiny through CASS. Subsequently, notices u/s 143(2) and 142(1) respectively were issued to the assessee. During course of assessment proceedings, the Assessing Officer found that the assessee has received an amount of Rs.2,16,35,580/- from the special land acquisition seabird on which TDS u/s 194A has been deducted and the assessee has not shown any income after claiming deduction u/s 57 of the IT Act. It was claimed before the Assessing Officer that the ancestral agricultural land of the assessee was acquired by the Government for public purposes and the interest on enhanced compensation was paid u/s 28 of the Land Acquisition Act which is not taxable. After considering the reply and submissions of the assessee, the Assessing Officer vide order dated 22.09.2021 completed the assessment proceedings u/s 143(3) r.w.s. 144B of the IT Act by determining the income of the assessee at Rs.1,15,41,620/- as against the income of Rs.7,23,830/- returned by the assessee. The above assessed income includes addition of Rs.1,08,17,790/- being 50% of Rs.2,16,35,580/- interest on compensation.

5. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A)/NFAC. After considering the reply and submissions of the assessee, Ld. CIT(A)/NFAC dismissed the appeal and confirmed the order passed by the Assessing Officer.

6. It is the above order against which the assessee is in appeal before this Tribunal.

7. We have heard Ld. Counsels from both the sides and perused the material available on record including the paper book, copy of case laws and written submission furnished by the assessee. In this regard, we find that the assessee is in receipt of interest on compensation which is awarded u/s 28 of the Land Acquisition Act and according to judgement passed by Hon'ble High Court of Karnataka in the case of The Defense Estate Officer Karnataka and Goa Circle vs. Mita Ripa Naik since deceased by her LRS Smt. Radha Mita Naik and others in Writ Petition No.102891 of 2025 dated 20.08.2025 the interest received u/s 28 of the Land Acquisition Act, 1894 would also form part of the compensation amount and therefore, forming part of the capital receipt at the hands of the land loser this interest being paid on account of the

delay in the acquiring authority in paying the amount of compensation and not an income from other sources as sought to be contended by learned counsel for the petitioner. Apart from above judgement, coordinate benches of this Tribunal are consistently of the view that the interest received u/s 28 of the Land Acquisition Act on compensation or on enhanced compensation is part of compensation and therefore, exempted in the hands of the recipient. In this regard, we find support from coordinate bench decision passed in the case of Dharmaraj Kashinath Mhatre vs. NFAC, Delhi in ITA No.3207/PUN/2026 order dated 22.10.2026 wherein the Tribunal treated the interest on enhanced compensation as exempted and allowed the appeal of the assessee by observing as under :-

> *"4. The only issue before us is as to whether the interest received on enhanced compensation is exempt or taxable. In this context, the Hon'ble High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhaiv.Income-tax Officer-TDS-1- Surat [2016] 388 ITR 343 (Gujarat) held as under :*
>
> > *Quote," 8. The above referred decision in the case of Ghanshyam (HUF) (supra) came to be followed by the Supreme Court in the case of CIT v. Govindbhai Mamaiya [2014] 52 taxmann.com 270/367 ITR 498/[2015] 229 Taxman 138, wherein the court after referring to the above decision in the case of Ghanshyam (HUF) (supra) held that it is clear that whereas interest under section 34 of the Act of 1894 is not treated as a part of income subject to tax, the interest earned under section 28, which is on enhanced compensation, is treated as an accretion to the value and, therefore, part of the enhanced compensation or consideration making it exigible to tax under section 45(5) of the Income Tax Act.*

9. Thus, the Supreme Court in the case of Ghanshyam (HUF) (supra) has held that the interest under section 28 of the Act of 1894 unlike interest under section 34 is an accretion to the value and hence, it is a part of the enhanced compensation or consideration which is not the case with interest under section 34 of the 1894 Act. Therefore, interest under section 28 of the Act of 1894 would form part of the enhanced compensation and would be exigible to capital gains under section 45(5) of the I.T. Act. In other words, in case of a transaction which is otherwise exigible to capital gains tax under section 45 of the I.T. Act, the interest received under section 28 of the Act of 1894 being an accretion to the value, would form part of the compensation and would be exigible to tax under section 45(5) of the I.T. Act, whereas the interest received under section 34 of the Act of 1894 would be "interest" within the meaning of such expression as envisaged under section 145A of the I.T. Act and would be deemed to be the income of the year under consideration, chargeable to tax as income from other sources under section 56 of the I.T. Act.

10. In the facts of the present case, it is an admitted position……Thus, it is clear that the Supreme Court after considering the scheme of section 45(5) of the I.T. Act has categorically held that payment made under section 28 of the Act of 1894 is enhanced compensation, as a necessary corollary, therefore, the contention that payment made under section 28 of the Act of 1894 is interest as envisaged under section 145A of the I.T. Act and has to be treated as income from other sources, deserves to be rejected.

11. It has been vehemently contended on behalf of the first respondent that the above decision has been rendered prior to the substitution of section 145A of the I.T. Act by Finance (No. 2) Act, 2009 with effect from 1st April, 2010, and hence, would have no applicability to the facts of the present case. The scope and effect of the substitution (with effect from 1st April, 2010) of section 145A, as also amendment made in section 56(2) by Act 33 of 2009 have been elaborated in the following portion of the departmental circular No. 5/2010, dated 3.6.2010, as follows:

> *"Rationalizing the provisions for taxation of interest received on delayed compensation or on enhanced compensation.- 46.1 The existing provisions of Income Tax Act, 1961, provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further the Hon'ble Supreme Court in the case of Smt. Rama Bai v. CIT (1990)*

84 CTR (SC) 164 :(1990) 181 ITR 400 (SC) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to the taxpayers. 46.2 With a view to mitigate the hardship, section 145A is amended to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it was received, irrespective of the method of accounting followed by the assessee. 46.3 Further, clause (viii) is inserted in subsection (2) of the section 56 so as to provide that income by way of interest received on compensation or enhanced compensation referred to in clause (b) of section 145A shall be assessed as "income from other sources" in the year in which it is received. 46.4 Applicability. - This amendment has been made applicable with effect from 1st April, 2010, and it will accordingly apply in relation to assessment year 2010-11 and subsequent assessment years."

Thus, the substitution of section 145A by Finance (No. 2) Act, 2009 was not in connection with the decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) but was brought in to mitigate the

hardship caused to the assessee on account of the decision of the Supreme Court in Rama Bai v. CIT [1990] 181 ITR 400/[1991] 54 Taxman 496 whereby it was held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. Therefore, when one reads the words "interest received on compensation or enhanced compensation" in section 145A of the I.T. Act, the same have to be construed in the manner interpreted by the Supreme Court in Ghanshyam (HUF)'s case (supra).

12. On behalf of the first respondent, reliance has been placed upon decisions of different High Courts taking a different view. This court is not in agreement with the view adopted by the other High Courts which are not consistent with the law laid down in the case of Ghanshyam (HUF) (supra). In Manjet Singh (HUF) Karta Manjeet Singh's case (supra), the Punjab and Haryana High Court has chosen to place reliance upon various decisions of the Supreme Court rendered during the period 1964 to 1997 and has chosen to brush aside the subsequent decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) which is directly on the issue by observing that the assessee cannot derive any benefit from the observations made by the Supreme Court as quoted therein. In Hari Kishan's case (supra), the Punjab and Haryana High Court has placed reliance upon its earlier decision in the case of Manjet Singh (HUF) Karta Manjeet Singh (supra). In Bir Singh

(HUF)'s case (supra), the Punjab and Haryana High Court has held that under the scheme of the 1894 Act, interest under section 34 is part of compensation while interest under section 28 is not the interest which partakes the character of compensation and is treated differently. In the opinion of this court, the above view of the Punjab and Haryana High Court is contrary to what has been held in the decision of the Supreme Court in Ghanshyam (HUF)'s case (supra) wherein it has been held that interest under section 28 unlike interest under section 34 is an accretion to the value, hence it is a part of enhanced compensation or consideration which is not the case with interest under section 34 of the 1894 Act. This court is in agreement with the view adopted by the Punjab and Haryana High Court in Jagmal Singh's case (supra), which has been extensively referred to in paragraph 4.1 above. The decision of the Delhi High Court in Sharda Kochhar's case (supra), having been rendered in the context of a different controversy would have no applicability to the facts of the present case.

13. The upshot of the above discussion is that since interest under section 28 of the Act of 1894, partakes the character of compensation, it does not fall within the ambit of the expression "interest" as contemplated in section 145A of the I.T. Act……" Unquote. (emphasis supplied)

4.1 Thus, the Hon'ble Gujarat High Court (supra) considered the amendment and explained the law that Interest paid on enhanced compensation part takes the character of compensation. The Hon'ble Gujarat High Court held that even after amendment, interest received on compensation or enhanced compensation" in section 145A of the I.T. Act, have to be construed in the manner interpreted by the Supreme Court in CIT v. Ghanshyam (HUF) case.

5. The Ld. DR pleaded that after amendment introduced by the Finance Act, 2009, the decision of Hon'ble Supreme Court is not applicable. However, the Hon'ble Gujarat High Court (supra) has discussed the amendment and held that even after the amendment decision of the Hon'ble Supreme Court in the case of Ghanshyam (HUF) is applicable. Hence, arguments of the Ld. DR are rejected.

6. Similar view has been taken by the Pune Tribunal in the case of Sanjay Bhimrao Patil Vs. ITO, 200 ITD 575 (Pune-Trib.). The relevant paragraphs of the said are reproduced here as under :

> *Quote, "20. Having referred to the various case laws placed reliance by the Id.AR and ld. DR, as discussed by us in the above referred paragraphs of this order, we find the Hon'ble Jurisdictional High Court of Bombay in the case of Rupesh Rashmikant Shah (supra) discussed the issue in detail with reference to effect of substitution of section 145A with effect from 1-04-2010 read with amendment by inserting clause (viii) in*

section 56(2) of the Act, as the AO in the present case proceeded to allow 50% deduction u/s. 57(iv) and brought to tax remaining 50% u/s. 56(2)(viii) of the Act which is evident from the computation made in para 3.10 of the assessment order. The Hon'ble High Court was pleased to agree with the ratio laid down by the Hon'ble High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai (supra), where, it held, the ratio of Hon'ble Supreme Court in the case of Ghanshyam (HUF) (supra) would continue to apply post amendment in section 145A by virtue of Finance Act, 2009. We note that the Hon'ble High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai (supra) held the substitution of section 145A by Finance (No. 2) Act, 2009 was not in connection with the decision of Hon'ble Supreme Court in the case of Ghanshyam (HUF) (supra), but was brought into with a view to mitigate the hardship caused to the assessee on account of the decision of Hon'ble Supreme Court in the case of Rama Bai v. CIT [1991] 54 Taxman 496/[1990] 181 ITR 400, taking into account Circular No. 5/2010 dated 3-06-2010 issued by the CBDT. It is pertinent to note the law laid down by the Hon'ble Supreme Court in the case of Ghanshyam (HUF) (supra) held, interest u/s. 28 is not like interest granted u/s. 34, the interest granted u/s. 28 is an accretion to the value of land and is a part of enhanced compensation. Further, it also held additional amount granted u/s. 23(1A) and solatium u/s. 23(2) of the Land Acquisition Act is also forms part of enhanced compensation. The Hon'ble High Court of Bombay in view of law laid down by the Hon'ble Supreme Court in the case of Ghanshyam (HUF) (supra) which was followed by the Hon'ble High Court of Gujarat in the case of Movaliya Bhikhubhai Balabhai (supra) observed there are three crucial dates in the context of determination of interest under motor accident claims i.e. date of accident, date of filing of the claim petition and date of passing of the award by Claims Tribunal, while observing so, held the AO had committed an error in levying tax on the interest components of the compensation awarded to the claimant till the date of judgment of the High Court, further held, any interest paid to the claimant post the judgment tax had to be collected as income from other sources. Therefore, it is clear from the judgment of Hon'ble Jurisdictional High Court that no interest could be brought to tax from the date of claim petition till the judgment of High Court. Applying the same principle to the present facts of the case that the interest granted u/s. 28 of Land Acquisition Act on enhanced compensation/compensation by the reference court u/s. 18 of Land Acquisition Act, from the date of possession of land

and till the judgment of High Court, is part of compensation, could not be taxed in view of amendments by substitution of section 145A read with clause (iii) of section 56(2) of the Act.

21. In the present case, the AO simply proceeded on the premise that the amendments to provisions u/s. 145A which bears the heading method of accounting in certain cases, section 145A(b) provides that notwithstanding anything to the contrary contained in section 145, interest received by an assessee on compensation or on enhanced compensation shall be deemed to be the income of the year in which it is received read with section 56(2)(viii) of the Act which provides income by way of interest on compensation or on enhanced compensation referred to in sub-section (1) of section 145B of the Act shall be chargeable to income tax under the head "Income from other sources". Therefore, we hold that the interest granted by the reference Court u/s. 28 of the Land Acquisition Act from the date of possession of land till the date of judgment of High Court is an accretion of the value of the land acquired. Thus, we reject the arguments of ld. DR, Shri M.G. Jasnani that the principle laid down by the Hon'ble Jurisdictional High Court of Bombay in the context of motor accident claims is not applicable to the present facts of the case. Admittedly, the Learned Civil Judge, S.D., Ahmedpur at Udgir passed decree on 22-04-2008 in L.A.R. No. 2 of 2004, a reference court, granted enhanced amount of Rs. 71,84,186/- to the assessee which is evident from the execution petition filed to realize the decree amount which is on record, clearly shows the interest of Rs. 6,46,577/- on enhanced compensation amount of Rs. 71,84,186/- u/s. 28 of the Land Acquisition Act @ 9% from 17-06-1992 to 16-06-2000 (for one year). Further, interest of Rs. 92,29,639/- u/s. 28 of the Land Acquisition Act @ 15% from 17-06-2002 to 21-02-2009 (for 103 months). Therefore, respectfully following the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Rupesh Rashmikant Shah (supra), we hold the interest received u/s. 28 of the Land Acquisition Act would not fall within the ambit of the expression interest as envisaged u/s. 145A(b) of the Act, further, hold that the amendment by way of substitution of section 145A by Finance (No. 2) Act, 2009 w.e.f. 1-04- 2010 and amendment by way of insertion of clause (iii) in section 56(2) by Finance Act, 2009 would have no applicability to the facts of the present case and in view of the same the order of CIT(A) in confirming the order of AO is not justified. Thus, ground Nos. 1 and 2 raised by the assessee are allowed." Unquote.

7. No contrary decision of the Hon'ble Jurisdictional High Court has been brought to our notice. Respectfully following the above referred

> *decisions (supra), we hold that the interest on enhanced compensation is not taxable u/s 56(2)(viii) of the Act. Accordingly, we direct the AO to delete the addition. Thus, the grounds raised by the assessee are allowed."*

8. Respectfully following the above decision in the case of Dharmaraj Kashinath Mhatre (supra), we are of the view that the interest of Rs.2,16,35,584/- received on enhanced compensation u/s 28 of the Land Acquisition Act is not taxable u/s 56(2)(viii) r.w.s. 57(iv) of the IT Act. Accordingly, we direct the Assessing Officer to delete the addition of Rs.1,08,17,790/-. Thus, the grounds raised by the assessee are allowed.

9. In the result, the appeal filed by the assessee in ITA No.350/PAN/2025 is allowed.

ITA No.351/PAN/2025 :

10. This appeal is directed against the order dated 19.08.2025 passed by Ld. CIT(A) u/s 270A of the IT Act for assessment year.

11. Since we have deleted the addition in quantum appeal by allowing, this being the consequential penalty order also needs to be deleted accordingly, we delete the penalty levied u/s 270A of the IT Act. Thus, the grounds raised by the assessee in the instant appeal are allowed.

12. In the result, the appeal filed by the assessee in ITA No.351/PUN/2025 is allowed.

13. To sum up, both the above captioned appeals filed by the assessee are allowed, as indicated above.

Order pronounced on this 30th day of October, 2026.

Sd/-	**Sd/-**
(MANISH BORAD)	**(VINAY BHAMORE)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Pune / Dated : 30th October, 2026.

Sujeet/DOC Sujeet Kumar Sharma

Digitally signed by Sujeet Kumar Sharma
Date: 2026.10.30 13:16:47 +05'30'

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. DR, ITAT, Panaji.
5. गार्ड फ़ाइल / Guard File.

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Assistant Registrar
ITAT, Pune.