(2014) 02 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2752 of 2014

Gurdev Singh and Others APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 13-02-2014

Acts Referred:

Income Tax Act, 1961 — Section 194LA, 56
Land Acquisition Act, 1894 — Section 18, 28, 4

Citation : (2014) 176 PLR 15

Hon'ble Judges : Anita Chaudhary, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : Deepak Arora, Advocates for the Appellant

Judgement

Ajay Kumar Mittal, J.—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 and deposited with respondent No. 2. Briefly stated, the facts necessary for adjudication of the present petition as narrated therein are that the petitioners'' agricultural land situated in the revenue estate of village Ramgarh, Tehsil and District Panchkula was acquired by the State of Haryana for the purpose of development of Panchkula. A notification dated 26.6.1989 under Section 4 of the Land Acquisition Act, 1894 (in short "the 1894 Act") was issued and published by the State Government. The award in respect thereof was passed on 17.6.1992. Being dissatisfied, the petitioners and other similarly ''Situated persons made references under Section 18 of the 1894 Act before the Additional District Judge, Panchkula who vide a common award dated 24.8.2009 enhanced the compensation. The petitioners were awarded the enhanced compensation for their acquired land after deducting 20% as 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. 1 and deposited with respondent No. 2. Thereafter, the petitioners sent various representations including representation dated 27.9.2013 (Annexure P-5) to the Land Acquisition Collector, Panchkula to refund the amount of TDS deducted in pursuance to Section 194LA of the Act. But no action has so far been taken thereon. Hence, the present writ petition.

2. 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 judgments of this Court in C.W.P. No. 9912 of 2009 (Risal Singh and another v. The Union of India and others,) decided on 11.1.2010 (Annexure P-3) and C.W.P. No. 16549 of 2010 (Bikramjeet Sood v. State of Punjab and others,) decided on 15.9.2010 (Annexure P-4).

3. 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.

4. This Court in Sarti v. Haryana State Industrial and Infrastructure Development Corporation Ltd. and others, C.W.P. 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 eligible 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 accounts 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."

5. The reliance upon the Division Bench judgments in Risal Singh and Bikramjeet Sood''s cases (supra), which were relating to receipt of enhanced compensation only and there was no element of interest income in those cases, is, thus, of no help to him. Further, a perusal of Annexure P-2 shows that the petitioners have filed the present writ petition seeking refund of tax deducted at source which was made on 31.8.2010 after a lapse of more than three years. In view of the above, we do not find any merit in the writ petition and the same is hereby dismissed. No costs.