(1998) 09 DEL CK 0029

In the Delhi High Court

Case No : Civil Writ No. 272 of 1997

Nathi APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 22-09-1998

Acts Referred:

Income Tax Act, 1961 — Section 194A, 4
Land Acquisition Act, 1894 — Section 28, 34

Citation : (1999) 102 TAXMAN 633

Hon'ble Judges : R.C. Lahoti, J;C.K. Mahajan, J

Bench : Division Bench

Advocate : L.C. Chechi, for the Appellant; R.D. Jolly and Prem Lata Bansal, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard finally.

Rule DB.

The petitioner seeks a direction to the Land Acquisition Collector to refund the amount of tax deducted from the amount of interest awarded to them under sections 28 and 34 of the Land Acquisition Act, 1894. The tax was deducted at source consistently with the obligation of the Land Acquisition Collector created by section 194A of the income tax Act, 1961. According to the petitioners, the amount of interest being not liable to tax the Land Acquisition Collector was not justified in deducting the tax at source.

The issue is no more res integra in view of the same pronouncement of the Supreme Court in Bikram Singh and Others Vs. Land Acquisition Collector and Others, wherein their Lordships have held that such an amount of interest on delayed payment of compensation determined under the Land Acquisition Act was a revenue receipt exigible to income tax u/s 4 of the Act. However, the claimant would be entitled to spread over the income for the period for which payment came to be made so as to compute the income for assessing tax for the relevant accounting year. In view of the law so laid down the petitioner is not entitled to the relief prayed for.

2. However, the learned counsel for the petitioner relied on Satinder Singh and Others Vs. Amrao Singh and Others, to submit that compensation would not be treated as income. The learned counsel further submitted that the decision of the Supreme. Court in Satender Singh s case (supra) was not brought to the notice of the Supreme Court when Bikram Singh''s case (supra) was decided. It is also submitted that the reasoning on which their Lordships have proceeded in the case of Satender Singh (supra) was also not argued before the Supreme Court in Bikram Singh s case (supra). Not only we are not satisfied about the correctness of the submission so made, we are also of the opinion that such a plea is not open for consideration by us and Bikram Singh''s case (supra) being a later pronouncement of the Supreme Court by a Bench of co-equal strength it is binding on us.

3. The senior standing counsel for the revenue has pointed out that the definition of interest has undergone a change after the pronouncement of the Supreme Court in the case of Satender Singh (supra). He also submitted that in Satender Singh s case (supra), the interest paid was by way of compensation while in the case at hand interest has been allowed as interest on the amount of compensation in accordance with the statutory provisions. The petitioner is at liberty to have the income on account of interest assessed by seeking spread over consistently with the law laid down by the Supreme Court in the case of Bikram Singh (supra). So far as the present, petition is concerned, we hold the petitioner not entitled to any relief. Petition is dismissed. No order as to costs.