

(2002) 07 DEL CK 0103

In the Delhi High Court

Case No : Civil Writ Petition No. 398 of 1995 16 July 2002

Shankar and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 16-07-2002

Acts Referred:

Citation : (2002) 178 CTR 26

Hon'ble Judges : Sharda Aggarwal, J;Ms. Sharda Aggarwal, J;D.K. Jain, J

Bench : Full Bench

Advocate : Om Prakash, for the assessed R.C. Pandey and Ms. Premlata Bansal, for the Revenue, for the Appellant;

Judgement

D.K. Jain, J.

In this writ petition the petitioner seeks quashing of a circular issued by the Dy. Commissioner to the Land Acquisition Collector, directing him to deduct tax at source at the time of making payment of interest to the petitioner on account of enhancement of compensation. It is also prayed that the Collector may be restrained from deducting the tax at source in terms of said circular.

2. According to the petitioner, since the amount, of interest payable on account of delay in payment of enhanced compensation is not liable to be taxed, the Land Acquisition Collector cannot be asked to deduct tax at source.

3. The issue raised in the petition is no longer res integra. In Bikram Singh and Others Vs. Land Acquisition Collector and Others, the Supreme Court has held that the interest receipt on delayed payment of the compensation, determined under the Land Acquisition Act, 1894, is a revenue receipt exigible to tax u/s 4 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). It has also been held that section 194A of the Act had no application for the purpose of this case as it encompasses deduction of the Income Tax at source. However, the court observed that the persons entitled to compensation would be entitled to a spread over of 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 said authoritative pronouncement, no relief can be granted to the petitioner.

4. Accordingly, the writ petition is dismissed and the rule is discharged. The interim order stands vacated. However, the petitioner is granted liberty to approach the concerned authority for spreading over the income to the period for which payment came to be made so that the income for the purpose of assessing tax for the relevant assessment years could be computed. No order as to costs.