

Chandroji Rao

Vs

Commissioner Oo Income-Tax, M. P., Nagpur

Civil Appeals Nos. 505 to 508 of 1967

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

28.04.1970

JUDGMENT

GROVER, J. -

These appeals by special leave from a common judgment of the Madhya Pradesh High Court arises out of references made by the Income-tax Appellate Tribunal relating to the assessment years 1956-57, 1957-58, 1958-59 and 1961-62.

2. The appellant who is the assessee was a Jagirdar of the erstwhile Gwalior State. By the Madhya Bharat Abolition of Jagir Act 1951, hereinafter called the "Act", the Jagirs were abolished with effect from December 4, 1952. Under Section 8 of the Act compensation was payable to him in accordance with the principles laid down in Schedule I. Under sub-section (2) of that section the compensation payable became due as from the date of the resumption of the Jagir. Simple interest was payable at the rate of 2 1/2% per annum from that date up to the date of payment on the amount of compensation which was payable within a period of ten years in annual part of the compensation and constituted a capital receipt. The Income-tax Officer held against the assessee and included the interest in his income. The Appellate Assistant Commissioner took the same view. The Appellate Tribunal, however, held that the amount of interest was a capital receipt and could not be included in the assessee's income. The following question was referred to the high Court by the tribunal :

"Whether on the facts and in the circumstances of the case the interest that was received on the amount of compensation paid for resumption of the assessee's Jagir was a capital receipt ?"

The High Court answered the question in the negative and against the assessee.

3. The relevant provisions of the Act may be noticed. Section 3(1) provided that the Government shall, by notification, appoint a date for the resumption of all Jagir lands in the State. Section 4 gave the consequences of the resumption of Jagir land. Chapter III headed "Compensation" commenced with Section 8 which reads :

"Duty to pay compensation - (1) Subject to other provisions of this Act the Government shall be liable to pay to every Jagirdar whose Jagir land has been resumed under Section 3, such compensation as shall be determined in accordance with the principles laid down in Schedule I.

(2) Compensation payable under this section shall be due as from the date of

resumption and shall carry simple interest at the rate of 2 1/2% per annum from that date up to the date of payment :

Provided that no interest shall be payable on any amount of compensation which remains unpaid for any default of the Jagirdar, his Agent or his representative-in-interest."

Under Section 12 every Jagirdar whose Jagir land had been resumed under Section 3 had to file in the prescribed form a statement of claim for compensation before the Jagir Commissioner within two months from the date of resumption. On receipt of a statement of claim the Jagir Commissioner was to determine the amount of compensation payable to the Jagirdar under Section 8 as also the amounts recoverable from him under Section 4(1)(e) and other matters mentioned in Section 13. Under Section 14 the amount recoverable from a Jagirdar was to be deducted from the compensation payable to him under Section 8. Section 15 provided for payment of compensation money. According to sub-section (1) after the amount of compensation payable to a Jagirdar under Section 8 had been determined and the amount deducted from it under Section 14, the balance was to be payable in maximum ten annual instalments. Under sub-section (4) payment of compensation money to a Jagirdar, etc., was to be a full discharge of the Government from the liability to pay compensation in lieu of resumption of the Jagir lands.

4. The argument on behalf of the assessee was based principally on the marginal heading of Section 8 which is "Duty to pay compensation." It has been contended that the interest payable formed part of the compensation money. It has further been pointed out that Sections 13, 14 and 15 of the Act did not make any distinction between the payment dealt with by sub-section (1) and sub-section (2) of Section 8 and described both these payments as compensation payable of Jagirdar. Similarly under Section 15(4) it was the payment of compensation money which included interest that operated as a full discharge of the liability of the Government to pay compensation. In our opinion the High Court rightly rejected these contentions. Section 8(2) clearly provided that compensation shall be due as from the date of resumption. Thus the amount of compensation became ascertained and payable from the date of resumption. The provision for interest was made simply because the compensation was to be paid in ten annual instalments. A clear distinction has been made between the compensation payable under sub-section (1) and the interest which is payable under sub-section (2). The compensation has to be determined in accordance with the principles laid down in Schedule I. That Schedule indicates that the determination of compensation had nothing to do with the payment of interest. The marginal heading cannot control the interpretation of the words of the section particularly when the language of the section is clear and unambiguous. This Court has held in *Dr. Sham Lal Narula v. Commissioner of Income-tax, Punjab, Jammu and Kashmir, Himachal Pradesh and Patiala*, (53 ITR 151) that the statutory interest paid under Section 34 of the Land Acquisition Act, 1894 on the amount of compensation awarded for the period from the date the Collector has taken possession of the land compulsorily acquired is interest paid for the delayed payment of the compensation and is, therefore, a revenue receipt liable to tax under the Income-tax Act. As has been pointed out in that decision the Legislature has expressly used the word interest with its well-known connotation in the relevant statutory provision and it is therefore reasonable to give that expression the natural meaning it bears. The same principle would be applicable to the present case. It is apparent that under Section 8 of the Act the compensation amount as determined in accordance with the principles laid down in Schedule I became due to the Jagirdar from the date of resumption. Since the entire amount was not to be paid on the date of the resumption but was to be paid by installment extending over ten years a provision had to be made for the payment of interest in sub-section (2). The amount of interest was thus given to the Jagirdar for being kept out

of the compensation amount for the aforesaid period. The Legislature being well aware of the distinction between compensation and interest thereon employed clear language which leaves no room for doubt that under sub-section (2) interest was payable in its well-known and well-understood sense and it could never form a part of the compensation money.

5. There is no merit in these appeals which are dismissed with costs. One hearing fee.

</html