

Compulsory acquisition of Land by the National Highways Authority of India ('NHAI') would be outside the purview of S. 50C

The Calcutta High Court in its recent ruling¹ has held that the provisions of S. 50C would not apply on the compulsory acquisition of Land by the NHAI

Background

- i. The Durgapur Projects Ltd. (the "Company") has filed its income tax return declaring the loss of Rs. 581.04 Cr. The case was selected for scrutiny and assessment has been completed after making addition of Rs. 5.48 Cr under s. 50C for difference between the stamp duty value and compensation.
- ii. CIT(A) have held that the AO was not justified in invoking S. 50C on the Land which was compulsorily acquired by the NHAI and same was re-affirmed by the ITAT.

High Court decision

The High Court after examining the facts and representation from both the Company as well as the Revenue held as under:

- i. The transfer of Land was not on account of the agreement between the parties, but it was the case of compulsory acquisition. Therefore, the transaction cannot be treated to be a transaction between the two private parties where there may be possibility to suppress the sale consideration.
- ii. When the compensation is determined by the authorities it is invariably lesser than the market value of the property as determination is done in a particular manner by taking note of several factors.
- iii. In the instant case, it is an acquisition of the Land by way of compulsory acquisition, the department cannot say that there was suppression of the value and consequently the question of invoking S. 50C does not arise.
- iv. Further, as per CBDT Circular No. 36 of 2016 the compensation received on account of the compulsory acquisition of the Land is exempt from tax. Accordingly, the appeal filed by the revenue fails and substantial questions of law are answered against the revenue.

Key Takeaways

High Court decision has affirmed the position that the provisions of S. 50C are not applicable on the compulsory acquisition of Land by the NHAI.

¹ITAT No. 282 of 2022 in case of Principal Commissioner of Income, Asansol v/s M/s. The Durgapur Projects Limited

Cases referred by High Court in its decision:

- Sri Justice B. Subhashan Reddy (HUF) vs. ACIT (ITA. 1680/Hyd/2018)
- Smt. B. Ratna vs. ACIT (ITA. 1681/Hyd/2018)
- Ambattur Clothing Company Limited vs. ACIT [(2010) 326 ITR 245 (Mad)]
- ITO, Ward-3(3) Hyderabad vs Southern Steel Ltd. in (ITA No. 1220/Hyd/2016)

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