

**(2002) 07 DEL CK 0109****Delhi High Court****Case No:** CW 398 of 1995

Shankar

APPELLANT

Vs

Union of India

RESPONDENT

**Date of Decision:** July 16, 2002**Acts Referred:**

- Income Tax Act, 1961 - Section 194A, 4

**Citation:** (2002) 125 TAXMAN 588**Hon'ble Judges:** Sharda Aggarwal, J; D.K. Jain, J**Bench:** Division Bench**Advocate:** Om Prakash, for the Appellant; R.C. Pandey and Ms. Prem Lata Bansal, for the Respondent**Judgement**

D.K. Jain, J.

In this writ petition the petitioner seeks quashing of a circular issued by the Deputy Commissioner on income tax 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. 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.

2. The issue raised in the petition is no longer res intergra. In *Bikram Singh v. Land Acquisition Collector* [1997] 224 ITR 5511, 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 eligible to tax u/s 4 of the income tax Act, 1961 ("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. 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.