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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4489/2020 & CM APPLs.16188-16189/2020

M/S UMESH ATREE (HUF) Petitioner
 Through: Mr. Praveen Chauhan, Advocate with
 Mr. Shivankar Rao, Advocate.
 versus

COMMISSIONER OF INCOME TAX-11 Respondent
 Through: Ms. Vibhooti Malhotra, Advocate.

WITH

+ W.P.(C) 4490/2020 & CM APPLs.16190-16191/2020

MRS. USHA RANI (THROUGH LRS) Petitioner
 Through: Mr. Praveen Chauhan, Advocate with
 Mr. Shivankar Rao, Advocate.

versus

COMMISSIONER OF INCOME TAX-18 Respondent
 Through: Mr. Sunil Agarwal, Advocate.

WITH

+ W.P.(C) 4491/2020 & CM APPLs.16192-16193/2020

M/S MANOJ ATREE (HUF) Petitioner
 Through: Mr. Praveen Chauhan, Advocate with
 Mr. Shivankar Rao, Advocate.

versus

COMMISSIONER OF INCOME TAX-11 Respondent
 Through: Ms. Vibhooti Malhotra, Advocate.

**WITH**

+ W.P.(C) 4492/2020 & CM APPLs.16194-16195/2020

M/S MUKESH ATREE (HUF) Petitioner
Through: Mr. Praveen Chauhan, Advocate with
Mr. Shivankar Rao, Advocate.

versus

COMMISSIONER OF INCOME TAX-11 Respondent
Through: Ms. Vibhooti Malhotra, Advocate.

AND

+ W.P.(C) 4493/2020 & CM APPLs.16196-16197/2020

MR. MANOHAR LAL ATREE Petitioner
Through: Mr. Praveen Chauhan, Advocate with
Mr. Shivankar Rao, Advocate.

versus

COMMISSIONER OF INCOME TAX-18 Respondent
Through: Mr. Sunil Agarwal, Advocate.

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Date of Decision: 23rd July, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T**MANMOHAN, J: (Oral)**

1. The petitions have been listed before this Bench by the Registry in view of the urgency expressed therein.
2. The same have been heard by way of video conferencing.



3. Present writ petitions have been filed seeking a direction to respondent to decide the applications filed by the petitioners under Section 119(2)(b) of the Income Tax Act, 1961 for refund of income tax inadvertently paid on interest received under Section 28 of the Land Acquisition Act, 1894 for various assessment years.

4. Learned counsel for the petitioners submits that Supreme Court in *CIT Vs. Ghanshyam Dass HUF, (2009) 8 SCC 412* has held that income tax is not payable on such interest received, as it is not income. He further submits that an assessee even after making payment of tax either under a misrepresentation or mistake, can claim refund on income that was not taxable.

5. Learned counsel for the petitioners states that there has been an unreasonably long delay of nearly four years in deciding the applications. He submits that non adjudication of the applications filed by the petitioners is contrary to Circular dated 9th June, 2015 issued by the Central Board of Direct Taxes.

6. Issue notice.

7. Mr. Sunil Agarwal and Ms. Vibhooti Malhotra accept notice on behalf of the respondent. They state that different High Courts subsequent to the judgment of *CIT Vs. Ghanshyam Dass HUF* (supra) have held that tax is payable on the interest received under Section 28 of the Land Acquisition Act, under the head “income from other sources”.

8. They further state that most of the applications filed by the petitioners are barred by limitation under the same circular dated 9th June, 2015, relied upon by the learned counsel for the petitioners.



9. However, keeping in view the limited prayer sought in the writ petitions, the same are disposed of with a direction to the respondent to decide the applications filed by the petitioners within eight weeks in accordance with law. All the rights and contentions of the parties, including the plea of maintainability, are left open.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JULY 23, 2020

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