

(Tax Case No.176/2025)



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**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**TAXC No. 176 of 2025**

*{Arising out of order dated 18-6-2025 passed by the Income Tax  
Appellate Tribunal, Raipur Bench, Raipur in ITA No.57/RPR/2025}*

(Assessment Year 2017-18)

Judgment reserved on: 28-8-2025

Judgment delivered on: 15-9-2025

Sanjay Kumar Baid, Arihant Bearing & Mill Stores, Opp. Deshbandhu  
School, Station Road, Raipur, Chhattisgarh – 492001, PAN: ACIPJ2887L  
... **Appellant**

**versus**

Income Tax Officer, Ward–4(1), Aayakar Bhawan, Civil Lines, Raipur,  
Chhattisgarh – 492001  
... **Respondent**

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For Appellant : Mr. Apurv Goyal and Mr. Nikhilesh Begani,  
Advocates.

For Respondent : Mr. Ajay Kumrani, Advocate on behalf of Mr. Amit  
Chaudhari, Senior Standing Counsel for the Income  
Tax Department.

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**Division Bench: -**

**Hon'ble Shri Sanjay K. Agrawal and**  
**Hon'ble Shri Sanjay Kumar Jaiswal, JJ.**

**C.A.V. Judgment**

**Sanjay K. Agrawal, J.**

1. Invoking the appellate jurisdiction of this Court under Section  
260A of the Income Tax Act, 1961 (for short, 'the IT Act'), the  
assessee/appellant herein has preferred this appeal calling in

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question legality, validity and correctness of the impugned order dated 18-6-2025 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur (for short, 'the ITAT') in ITA No.57/RPR/2025, by which his appeal has been dismissed by the ITAT affirming the order of the Commissioner of Income Tax (Appeals) {for short, 'the CIT(A)'} finding no merit.

2. This appeal so preferred was admitted for hearing on 6-8-2025 by formulating the following substantial question of law: -

“Whether, on the facts and circumstances of the case and in law, the learned Income Tax Appellate Tribunal (ITAT) was justified in dismissing the appeal of the appellant by upholding an addition of Rs. 73,58,113/- received as compensation against the acquisition of land by National Highway Authority of India under the National Highways Act, 1956 as exigible to tax which is contrary to Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013?”

3. The aforesaid question of law arises in following factual backdrop: -
4. The assessee/appellant herein had received compensation of ₹ 73,58,113/- on account of compulsory acquisition of his land from National Highways Authority of India (NHAI) under the National Highways Act, 1956 (for short, 'the Act of 1956'). Thereafter, the assessee has filed his return of income for the assessment year 2017-18 on 7-11-2017 declaring his income as ₹ 87,94,860/- and shown the income of ₹ 73,58,113/- to be taxable income under the head of Short Term Capital Gains of ₹ 53,08,113/- pertaining to compensation received towards compulsory acquisition of his agricultural land under the Act of 1956 and paid tax to the tune of ₹

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24,30,521/- which was processed by the Central Processing Centre, Bengaluru and intimation order was issued exercising powers under Section 143(1)(a) of the IT Act wherein total income was assessed at ₹ 87,94,860/- determining the aggregate tax liability at ₹ 23,93,421/- and consequentially granted a refund of ₹ 37,100/-. It is the further case of the appellant that realising that the agricultural land having been acquired under the Act of 1956, the compensation so paid was liable to be exempted from payment of income tax in light of Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the RFCTLARR Act'), the appellant moved a rectification application before the Income Tax Officer on 12-10-2021 and sought refund of ₹ 17,07,340/-. The said request was reiterated on 4-9-2023. The rectification application was rejected by the Assessing Officer on 24-1-2024 holding that (i) the issue relating to taxability of compensation cannot be rectified as the same does not constitute mistake apparent on the face of record; and (ii) the land has been acquired by the NHAI under the Act of 1956 and the Act of 1956 being falling under the list of enactments specified in the Fourth Schedule, the same would be precluded from the RFCTLARR Act as per the provisions of Section 105(1) of the RFCTLARR Act and therefore the compensation received by the assessee from the NHAI would not be exempted from taxation under the provisions of Section 96 of the RFCTLARR Act.

5. Feeling aggrieved against the order dated 24-1-2024 passed by the Assessing Officer, the appellant herein/assessee preferred an appeal before the CIT(A) challenging the said order and the CIT(A) by order dated 29-11-2024 dismissed the appeal of the assessee relying upon the decision of the ITAT, Raipur in the matter of **Heritage Buildcon Pvt. Ltd. v. Principal Commissioner of Income Tax**<sup>1</sup> and on further appeal preferred by the assessee before the ITAT, the ITAT relying upon its earlier decision in **Heritage Buildcon Pvt. Ltd.** (supra) dismissed the appeal upholding the view of the CIT(A) ascribing the reasoning that the issue involved, viz., whether the land acquisitions under the Act of 1956 being enactments specified in the Fourth Schedule to the RFCTLARR Act are precluded from the operation of the RFCTLARR Act by virtue of the provisions contained in Section 105(1) of the RFCTLARR Act and accordingly, the exemption prescribed under the provisions of Section 96 of the RFCTLARR Act would not apply, is squarely covered against the assessee in light of its earlier decision in **Heritage Buildcon Pvt. Ltd.** (supra).
6. Feeling aggrieved and dissatisfied against the order of the ITAT affirming the order of the CIT(A), the assessee has preferred this appeal in which substantial question of law has been formulated which has been catalogued in the opening paragraph of this judgment.

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<sup>1</sup> 2023 SCC OnLine ITAT 1285

7. Mr. Nikhilesh Begani, learned counsel appearing on behalf of the appellant herein/assessee, would submit that the ITAT is absolutely unjustified in dismissing the appeal relying upon its own decision in **Heritage Buildcon Pvt. Ltd.** (supra) holding that the provision contained in Section 105(1) of the RFCTLARR Act makes all the provisions of the Act inapplicable to the land acquisitions made under the enactments specified in the Fourth Schedule of the said Act, as the ITAT has clearly disregarded the notification dated 28-8-2015 issued by the Ministry of Rural Development, Government of India invoking the powers bestowed under the provisions contained in Section 113(1) of the RFCTLARR Act, wherein it has been specified that the provisions of the RFCTLARR Act shall apply in relation to compensation to all cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act including the Act of 1956 (specified at S.No.7 of the Fourth Schedule). Mr. Begani would further submit that the ITAT has grossly failed to appreciate the legislative intendment of the Government of India in introducing the said notification dated 28-8-2015 in exercising the powers under the provisions of Section 113(1) of the RFCTLARR Act and also ignored the backdrop in which such order was notified, as the notification/order dated 28-8-2015 was issued to remove the difficulty so as to circumvent the discrimination created between the land owners whose lands are acquired under the Fourth Schedule vis-a-vis the others and accordingly, to confer equal rights on such land owners. He would

rely upon the decision of the Supreme Court in the matter of **Union of India and another v. Tarsem Singh and others**<sup>2</sup> and also upon the another decision of the Supreme Court in the matter of **National Highways Authority of India v. P. Nagaraju alias Cheluvaiah and another**<sup>3</sup> and finally also rely upon the further decision of the Supreme Court in the matter of **Union of India and another v. Tarsem Singh and others**<sup>4</sup>, by which the Supreme Court has reaffirmed the principles laid down in **Tarsem Singh's (1)** case (supra). According to Mr. Begani, Section 96 of the RFCTLARR would be applicable to the compensation paid under the Act of 1956, therefore, the appeal be allowed and the impugned order passed by the ITAT affirming the order of the CIT(A) be set-aside and the Assessing Officer be directed to pass consequential order in favour of the assessee.

8. Mr. Ajay Kumrani, Advocate, appearing on behalf of Mr. Amit Chaudhari, learned Senior Standing Counsel for the Income Tax Department/Revenue/respondent herein, would submit that Section 105(1) of the RFCTLARR Act clearly provides that the provisions of the Act shall not apply to enactments specified in the Fourth Schedule to the RFCTLARR Act and the Act of 1956 is included in the Fourth Schedule. He would further submit that as per Section 105(3) of the RFCTLARR Act, only the provisions relating to determination of compensation (First Schedule),

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<sup>2</sup> (2019) 9 SCC 304

<sup>3</sup> (2022) 15 SCC 1

<sup>4</sup> 2025 SCC OnLine SC 235

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rehabilitation and resettlement (Second & Third Schedules) apply to acquisitions under such Acts and exemption under Section 96 does not extend to them. He would also submit that the Central Board of Direct Taxes (CBDT) issued Office Memorandum dated 6-6-2019 clarifying the position that for land acquisition under enactments in the Fourth Schedule (including the Act of 1956), only the First, Second & Third Schedules of the RFCTLARR Act apply and exemption under Section 96 does not apply, as such, the CBDT has categorically clarified that compensation received for land acquisition under the Act of 1956 is taxable. He would lastly submit that the assessee's land was acquired under the Act of 1956, which is a special enactment specifically excluded from the general exemption under Section 96 of the RFCTLARR Act and as such, Section 96 would not apply to such acquisitions and if the assessee's claim is accepted, it would render the express exclusion under Section 105 otiose, which is impermissible in law. In that view of the matter, the ITAT was correct in holding that the compensation of ₹ 73,58,113/- received under the Act of 1956 is exigible to income tax and as such, Section 96 has no application to such cases. Therefore, the appeal deserves to be dismissed.

9. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record meticulously.
10. The assessee's land was subjected to compulsory acquisition by the NHAI under the Act of 1956 and compensation of ₹ 73,58,113/- was

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paid to him. In the return of income filed by the assessee on 7-11-2017 for the assessment year 2017-18, the assessee has declared total income of ₹ 87,94,860/- including inter alia Short Term Capital Gains of ₹ 53,08,113/- pertaining to compensation received towards compulsory acquisition of his agricultural land and paid taxes to the tune of ₹ 24,30,521/-. The income tax return of the assessee was processed on 3-1-2021 by the Central Processing Centre, Bengaluru and intimation order was issued exercising powers under Section 143(1)(a) of the IT Act wherein total income was assessed at ₹ 87,94,860/- determining the aggregate tax liability at ₹ 23,93,421/- and consequently refund of ₹ 37,100/- was granted to the assessee. Later on, noticing the correct legal position, the assessee filed an application for rectification on 12-10-2021 seeking refund of ₹ 17,07,340/- and on 4-9-2023, the assessee again filed rectification application through e-mail before the Assessing Officer reiterating his request to effectuate the rectification and to grant the refund of taxes. The Assessing Officer rejected the rectification application holding that compensation received from the NHAI under the Act of 1956 would not be exempted from taxation under the provisions of Section 96 of the RFCTLARR Act which has been affirmed by the CIT(A) as well as by the ITAT.

11. At this stage, it would be appropriate to notice the relevant provisions contained in the RFCTLARR Act existing at the relevant time, which are as follows: -

**Section 96**

**“96. Exemption from income-tax, stamp duty and fees.—**No income-tax or stamp duty shall be levied on any award or agreement made under this Act, except under section 46 and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.”

**Section 103**

**“103. Provisions to be in addition to existing laws.—**The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force.”

**Section 105**

**“105. Provisions of this Act not to apply in certain cases or to apply with certain modifications.—(1)** Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106 the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any

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modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.”

**Section 113**

**“113. Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.”

**The Fourth Schedule**

*“THE FOURTH SCHEDULE*

*(See section 105)*

**LIST OF ENACTMENTS REGULATING LAND  
ACQUISITION AND REHABILITATION AND  
RESETTLEMENT**

- 1. to 6. xxx xxx    xxx
- 7. The National Highways Act, 1956 (48 of 1956).
- 8. to 13. xxx xxx    xxx”

12.As such, the RFCTLARR Act would not apply to the acquisition made under the Act of 1956. Section 105(3) of the RFCTLARR Act provided for issuing of notification to make the provisions of the Act relating to the determination of the compensation, rehabilitation and resettlement applicable to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act. Accordingly, the Central Government

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issued order dated 28-8-2015 holding that the provisions of the RFCTLARR Act relating to determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act. The order issued by the Ministry of Rural Development on 28-8-2015 states as under:

**“MINISTRY OF RURAL DEVELOPMENT**

**ORDER**

New Delhi, the 28<sup>th</sup> August, 2015

**S.O. 2368(E).**—Whereas, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) (hereinafter referred to as the RFCTLARR Act) came into effect from 1<sup>st</sup> January, 2014;

And whereas, sub-section (3) of Section 105 of the RFCTLARR Act provided for issuing of notification to make the provisions of the Act relating to the determination of the compensation, rehabilitation and resettlement applicable to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;

And whereas, the notification envisaged under sub-section (3) of Section 105 of the RFCTLARR Act was not issued, and the RFCTLARR (Amendment) Ordinance, 2014 (9 of 2014) was promulgated on 31<sup>st</sup> December, 2014, thereby, inter-alia, amending Section 105 of the RFCTLARR Act to extend the provisions of the Act relating to the determination of the compensation and rehabilitation and resettlement to cases of land acquisition under the enactments specified in the Fourth Schedule to the RFCTLARR Act;

And whereas, the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was promulgated on 3<sup>rd</sup> April,

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2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2014;

And whereas, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) was promulgated on 30<sup>th</sup> May, 2015 to give continuity to the provisions of the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015);

And whereas, the replacement Bill relating to the RFCTLARR (Amendment) Ordinance, 2015 (4 of 2015) was referred to the Joint Committee of the Houses for examination and report and the same is pending with the Joint Committee;

As whereas, as per the provisions of article 123 of the Constitution, the RFCTLARR (Amendment) Second Ordinance, 2015 (5 of 2015) shall lapse on the 31<sup>st</sup> day of August, 2015 and thereby placing the land owners at the disadvantageous position, resulting in denial of benefits of enhanced compensation and rehabilitation and resettlement to the cases of land acquisition under the 13 Acts specified in the Fourth Schedule to the RFCTLARR Act as extended to the land owners under the said Ordinance;

And whereas, the Central Government considers it necessary to extend the benefits available to the land owners under the RFCTLARR Act to similarly placed land owners whose lands are acquired under the 13 enactments specified in the Fourth Schedule; and accordingly the Central Government keeping in view the aforesaid difficulties has decided to extend the beneficial advantage to the land owners and uniformly apply the beneficial provisions of the RFCTLARR Act, relating to the determination of compensation and rehabilitation and resettlement as were made applicable to cases of land acquisition under the said enactments in the interest of the land owners;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 113 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:—

1. (1) This Order may be called the Right to Fair Compensation and Transparency in Land Acquisition,

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Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015.

(2) It shall come into force with effect from the 1<sup>st</sup> day of September. 2015.

2. The provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to all cases of land acquisition under the enactments specified in the Fourth Schedule to the said Act.

[F. No. 13011/01/2014-LRD]

K.P. KRISHNAN, Addl. Secy.”

13. A careful perusal of the order issued by the Ministry of Rural Development on 28-8-2015 would show that the Central Government has intended to ensure that the land owners who lost the lands not only under the RFCTLARR Act, but also under the enactments specified in the Fourth Schedule should have a uniform determination of compensation and the beneficial compensation under the RFCTLARR Act and thus made them applicable to all the enactments. It is, therefore, clear that the basic objective behind the issuance of the 2015 order was to ensure that even in cases of land acquisition specified under the Fourth Schedule, which had made the provisions of the RFCTLARR act inapplicable, were nevertheless, brought within the purview of the RFCTLARR Act insofar as it related to determination of compensation, rehabilitation and resettlement. Thus, the provisions of the RFCTLARR Act with regard to the determination of compensation

in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule are made applicable to the enactments specified in the Fourth Schedule and for the purposes of determining compensation, the RFCTLARR Act is applicable.

14. In this regard, the decision of the Supreme Court in **Tarsem Singh's (1)** case (supra) may be noticed herein in which their Lordships have held that the provision of Section 3-J of the Act of 1956 is unconstitutional on the aspect of solatium and interest and further, their Lordships were concerned about discrimination in determination of compensation under different enactments, and observed in paragraphs 29 to 31 as under: -

“29. Both, *P. Vajravelu Mudaliar*<sup>5</sup> and *Nagpur Improvement Trust*<sup>6</sup> clinch the issue in favour of the respondents, as has been correctly held by the Punjab and Haryana High Court in *Golden Iron and Steel Forging*<sup>7</sup>. First and foremost, it is important to note that, as has been seen hereinabove, the object of the 1997 Amendment was to speed up the process of acquiring lands for National Highways. This object has been achieved in the manner set out hereinabove. It will be noticed that the awarding of solatium and interest has nothing to do with achieving this object, as it is nobody's case that land acquisition for the purpose of National Highways slows down as a result of award of solatium and interest. Thus, a classification made between different sets of landowners whose lands happen to be acquired for the purpose of National Highways and landowners whose lands are acquired for other public purposes has no rational relation to the object sought to be achieved by the Amendment Act i.e. speedy acquisition of

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5 *P. Vajravelu Mudaliar v. LAO*, (1965) 1 SCR 614 : AIR 1965 SC 1017

6 *Nagpur Improvement Trust v. Vithal Rao*, (1973) 1 SCC 500

7 *Golden Iron and Steel Forging v. Union of India*, 2008 SCC OnLine P&H 498 : (2011) 4 RCR (Civil) 375

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lands for the purpose of National Highways. On this ground alone, the Amendment Act falls foul of Article 14.

30. Even otherwise, in *P. Vajravelu Mudaliar* (supra), despite the fact that the object of the Amendment Act was to acquire lands for housing schemes *at a low price*, yet the Amendment Act was struck down when it provided for solatium @ 5% instead of 15%, that was provided in the Land Acquisition Act, the Court holding that whether adjacent lands of the same quality and value are acquired for a housing scheme or some other public purpose such as a hospital is a differentiation between two sets of landowners having no reasonable relation to the object sought to be achieved. More pertinently, another example is given — out of two adjacent plots *belonging to the same individual* one may be acquired under the principal Act for a particular public purpose and one acquired under the amending Act for a housing scheme, which, when looked at from the point of view of the landowner, would be discriminatory, having no rational relation to the object sought to be achieved, which is compulsory acquisition of property for public purposes.

31. *Nagpur Improvement Trust* (supra) has clearly held that ordinarily a classification based on public purpose is not permissible under Article 14 for the purpose of determining compensation. Also, in para 30, the seven-Judge Bench unequivocally states that it is immaterial whether it is one Acquisition Act or another Acquisition Act under which the land is acquired, as, if the existence of these two Acts would enable the State to give one owner different treatment from another who is similarly situated, Article 14 would be infringed. In the facts of these cases, it is clear that from the point of view of the landowner it is immaterial that his land is acquired under the National Highways Act and not the Land Acquisition Act, as solatium cannot be denied on account of this fact alone.”

15. Thereafter, in **Tarsem Singh’s (2)** case (supra), their Lordships of the Supreme Court rejected the miscellaneous application filed by the Union of India stating that the benefit of **Tarsem Singh’s (1)** case (supra) would apply prospectively, and observed as under:-

**“17.** Regardless, the prayer in the instant Application expressly seeks clarification that the decision in [Tarsem Singh](#) (supra) should be deemed to operate prospectively only. However, in our considered view, granting such a clarification would effectively nullify the very relief that [Tarsem Singh](#) (supra) intended to provide, as the prospective operation of it would restore the state of affairs to the same position as it was before the decision was rendered.

**18.** We say so for the reason that the broader purpose behind [Tarsem Singh](#) (supra) was to resolve and put quietus upon the quagmire created by Section 3J of the NHAI Act, which led to the unequal treatment of similarly situated individuals. The impact of Section 3J was short-lived, owing to the applicability of the 2013 Act upon the NHAI Act from the date of 01.01.2015. As a result, two classes of landowners emerged, devoid of any intelligible differentia: those whose lands were acquired by the NHAI between 1997 and 2015, and those whose lands were acquired otherwise.

**19.** This must be viewed in the light of the principle that when a provision is declared unconstitutional, any continued disparity strikes at the core of [Article 14](#) and must be rectified, particularly when such disparity affects only a select group. To illustrate, rendering the decision in [Tarsem Singh](#) (supra) as prospective would create a situation where a landowner whose land was acquired on 31.12.2014 would be denied the benefit of ‘solatium’ and ‘interest’, whereas a landowner whose land was acquired the very next day, 01.01.2015—the date on which the Ordinance was promulgated, to read the 2013 Act into the NHAI Act, would be entitled to these statutory benefits.

**20.** Be that as it may, even if we were to assume that the decision in [Tarsem Singh](#) (supra) suffers from the vice of vagueness, the absence of a judicial directive or an explicit legislative mandate should not result in the creation of an artificial classification among a homogeneous group by the same State exercising powers under the same Statute. In this specific instance, the landowners have no discretion or choice regarding the date of land acquisition or the surrender of possession. Thus, both equity and equality demand that no such discrimination be permitted, as allowing it would be unjust.

**21.** That being so, the decision in [Tarsem Singh](#) (supra) also cannot be assailed on the grounds that it opens a

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Pandora's Box or contravenes the doctrine of immutability, as it merely allows for the grant of 'solatium' or 'interest', which are inherently embedded as compensatory benefits under an expropriating legislation. This exercise cannot be equated to reopening of cases or revisiting the decisions that have already attained finality. Similarly, the restoration of these twin benefits does not invite reconsideration of the merits of a decided case, re-evaluation of the compensation amount, or potentially declaring the acquisition process itself to be unlawful. Instead, the ultimate outcome of [Tarsem Singh](#) (supra) is limited to granting 'solatium' and 'interest' to aggrieved landowners whose lands were acquired by NHAI between 1997 and 2015. It does not, in any manner, direct the reopening of cases that have already attained finality.

**22.** On the contrary, modifying or clarifying the judgment in [Tarsem Singh](#) (supra) would lend itself to violating the doctrine of immutability, undermining the finality of the decision. In fact, what the Applicant seeks to achieve, indirectly, is to evade responsibility and further delay the resolution of a settled issue where the directions given are unequivocal—Quando aliquid prohibetur ex directo, prohibetur et per obliquum i.e. 'what cannot be done directly should also not be done indirectly'. This Court has, on several occasions, disapproved of the practice of filing Miscellaneous Applications as a strategic litigation tactic aimed at neutralising judicial decisions and seeking a second opportunity for relief.

**23.** In all fairness, the only defense that may perhaps seem appealing is the claim of a financial burden amounting to Rupees 100 crores. However, this argument does not persuade us for several reasons: *First*, if this burden has been borne by the NHAI in the case of thousands of other landowners, it stands to reason that it should also be shared by the NHAI in this instance, in order to eliminate discrimination. *Second*, the financial burden of acquiring land cannot be justified in the light of the Constitutional mandate of [Article 300A](#). *Third*, since most National Highways are being developed under the Public Private Partnership model, the financial burden will ultimately be passed on to the relevant Project Proponent. *Fourth*, even the Project Proponent would not have to bear the compensation costs out of pocket, as it is the commuters who will bear the actual brunt of this cost. Ultimately, the burden is likely to be saddled onto the middle or upper-middle-class segment of society, particularly those who can afford private

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vehicles or operate commercial ventures. We are thus not inclined to entertain the plea for prospectivity on this limited tenet.”

16. Furthermore, their Lordships of the Supreme Court in **P. Nagaraju alias Cheluvaiah’s** case (supra) have clearly held that the benefits available to the landowners under the RFCTLARR Act are to be also available to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule including the Act of 1956 and further held that all aspects contained in Sections 26 to 28 of the RFCTLARR Act for determination of compensation will also be applicable notwithstanding Sections 3-J and 3-G(7)(a) of the Act of 1956, and observed as under: -

“27. In that view of the matter, though Section 3-G(7)(a) of the NH Act provides the parameters to be taken into consideration, it only provides the basic parameters to be taken note of, for determining the amount payable as compensation. While applying the said parameters for determination of compensation, since the RFCTLARR Act, 2013 is also applicable as the NH Act is contained in the Fourth Schedule, the factors as provided under Sections 26 and 28 of the RFCTLARR Act, 2013 including the seventh factor will also be applicable in appropriate cases for the determination of the market value as fair compensation for the acquired land.

28. When land is acquired from a citizen, Articles 300-A and 31-A of the Constitution will have to be borne in mind since the deprivation of property should be with authority of law, after being duly compensated. Such law should provide for adequately compensating the landowner keeping in view

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the market value. Though each enactment may have a different procedure prescribed for the process of acquisition depending on the urgency, the method of determining the compensation cannot be different as the market value of the land and the hardship faced due to deprivation of the property would be the same irrespective of the Act under which it is acquired or the purpose for which it is acquired. In that light, if Section 28 of the RFCTLARR Act, 2013 is held not applicable in view of Section 3-J of the NH Act, the same will be violative of Article 14 of the Constitution. In that circumstance, the observation in *Tarsem Singh* {Union of India v. Tarsem Singh, (2019) 9 SCC 304 : (2019) 4 SCC (Civ) 364} that Section 3-J of the NH Act is unconstitutional to that extent though declared so while on the aspect of solatium and interest, it is held so on all aspects relating to determination of compensation.

29. In any event, the extracted portion of the Notification dated 28-8-2015 is explicit that the benefits available to the landowners under the RFCTLARR Act are to be also available to similarly placed landowners whose lands are acquired under the 13 enactments specified in the Fourth Schedule, among which the NH Act is one. Hence all aspects contained in Sections 26 to 28 of the RFCTLARR Act for determination of compensation will be applicable notwithstanding Sections 3-J and 3-G(7)(a) of the NH Act.”

17. As such, in **P. Nagaraju alias Cheluvaiah's** case (supra), their Lordships relying upon **Tarsem Singh's (1)** case (supra) have clearly held that the RFCTLARR Act would apply on all aspects relating to determination of compensation and further held that all aspects contained in Sections 26 to 28 of the RFCTLARR Act for determination of compensation will be applicable notwithstanding Sections 3-J and 3-G(7)(a) of the Act of 1956.

18. In view of the above-stated legal position, it is held that once compensation is determined under the provisions of the RFCTLARR Act, as a necessary corollary, the benefits flowing from the provisions of the said Act, including exemptions from income tax, stamp duty and fees contemplated under Section 96 of the RFCTLARR Act, would also have to be made applicable. If the benefit flowing from Section 96 is not given to the land-losers whose lands have been acquired under the Act of 1956, it would mean that the land-losers under the enactments specified in the Fourth Schedule are subjected to discrimination and this would be against the intent of the Union of India in issuing the 2015 Order and it would be contrary to the principles of law laid down by the Supreme Court in **Tarsem Singh's (1)** case (supra), **Tarsem Singh's (2)** case (supra) and **P. Nagaraju alias Cheluvaiah's** case (supra). More particularly, Section 103 of the RFCTLARR Act makes it clear that the provisions of the RFCTLARR Act are in addition to and not in derogation of any other law.

19. For the foregoing reasons, we are of the considered opinion that Section 96 of the RFCTLARR Act providing for exemption from income tax, stamp duty and fees would also be applicable to the land acquired under the Act of 1956 and to the compensation paid by the NHAI and consequently, the assessee would not be liable to pay income tax on the amount of compensation paid to him against the acquisition of his land under the Act of 1956. Consequently, the substantial question of law is answered in favour of the assessee

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and against the Revenue and it is held that the compensation received against acquisition of land from the NHAI is not exigible to tax under Section 96 of the RFCTLARR Act.

20. In view of the above, the Assessing Officer is directed to pass consequential order in light of the substantial question of law answered herein-above.

21. The tax appeal stands allowed to the extent sketched herein-above leaving the parties to bear their own cost(s).

Sd/-  
(Sanjay K. Agrawal)  
**Judge**

Sd/-  
(Sanjay Kumar Jaiswal)  
**Judge**