

## **Negotiated land acquisition for Bullet Train project retains character of compulsory acquisition: Bom HC**

Seema Jagdish Patil, Versus The National Hi-Speed Rail Corporation Ltd.( WP No 1049 of 2021)

Facts:

1. National Hi-Speed Rail Corporation Ltd (NHSRCL) acquired the petitioner's, Seema Patil's, land parcels in Thane through a negotiated agreement for the Mumbai-Ahmedabad bullet train project.
2. TDS was deducted before compensation was given by NHSRCL in 2019 and 2020, due to re-negotiations. NHSRCL refused to refund the TDS amount and said it was deposited with the income tax department.
3. Section 96 read with Section 46 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act, 2013') specifically exempts payment of income tax on an amount of compensation paid under the award and/or agreement.
4. In fact, as per Sec 96, no distinction is made between the compulsory acquisition resorting to the provisions of the Act, 2013 by issuing notification or by an acquisition through a negotiated agreement.
5. NHSRCL however maintained that the acquisition is by an agreement between the parties and cannot be said to be compulsory acquisition under the Act, 2013.

Hon Bombay HC held as below:

1. The Act, 2013 also recognizes the acquisition through a negotiated agreement. The reference can be had to the judgment of the Apex Court in the matter of Balkrishnan Versus Union of India (2017) 80 taxmann 84 (SC).
2. CBDT Circular No.36 of 2016 dated 25th October 2016 also has clarified that compensation in respect of award or agreement which has been exempted

from levy of income tax vide Section 96 of the Act, 2013 shall also not be taxable.

3. The respondent shall therefore, file a correction statement as provided under provisio to Sub-Section (3) of Section 200 of the IT Act, 1961 within a period of one month from today to the effect that the TDS deducted by the respondent No.1 was not liable to be deducted.