

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH, KOLKATA**

[Before Shri J. Sudhakar Reddy, Accountant Member & Shri Aby T. Varkey, Judicial Member]

**I.T.A. Nos. 822 to 825/Kol/2017
Assessment Years: 2004-05 to 2005-06**

Capt. Vivek Anand Pandey.....Appellant
[PAN: AEJPP 0679 K]

Vs.

DCIT, Circle-16, Kolkata.....Respondent

Appearances by:

Sh. A.K. Tibrewal, FCA, appeared on behalf of the Assessee.

Sh. Supriyo Paul, JCIT, appeared on behalf of the Revenue.

Date of concluding the hearing : October 31st, 2019
Date of pronouncing the order : November 29th, 2019

ORDER

Per J. Sudhakar Reddy, AM :-

All these appeals were filed by the assessee directed against the separate orders of the Commissioner of Income Tax (Appeals)-XXIV, Kolkata ['CIT(A)' for short] and CIT(A)-19, Kolkata dated 07.07.2014 and 30.11.2016 for the AYs 2004-05 and 2005-06.

2. None appeared on behalf of the assessee despite of issue of notice. Under the circumstances we dispose off the cases *ex-parte* qua the assessee after hearing the Id. DR. The assessee had repeatedly stated before the AO that he resides in Bhavnagar (Gujarat) and that his case may be transferred from Kolkata to Bhavnagar (Gujarat). The record suggests that the transfer has not taken place despite several reminders. A perusal of the assessment order itself reveals that the AO knew that the assessee resides in Bhavnagar (Gujarat). The AO records that the file could not be transferred to Bhavnagar (Gujarat) as the assessee had not filed a return in compliance to the notice issued u/s 148 of the Income Tax Act, 1961 ('the Act' for short). Consequently *ex-parte* order was passed by the AO. The Id. CIT(A) also passed *ex-parte* order.

3. Aggrieved, the assessee is before us.

4. After hearing the ld. DR we are of the considered opinion that the jurisdiction of the assessee lies with the Income Tax Officer at Bhavnagar (Gujarat) and not with DCIT, Circle-16, Kolkata under Section 124 r.w.s. 127 of the Income Tax Act, 1961. When the assessee has been repeatedly pleading that the jurisdiction of his case is with ITO, Bhavnagar, Gujarat and when the A.O. has been sending all the notices to the Bhavnagar address and when the address mentioned in all the orders passed by the A.O. is Bhavnagar address, it is clear that the A.O. at Kolkata, has no jurisdiction over this case. All the impugned orders passed in this case are without jurisdiction. Hence order passed u/s 147/144 on 30.11.2009 for the AY 2004-05 in ITA No. 822/Kol/2017 and order passed u/s 271(1)(c) for the AY 2004-05 on 30.05.2010 and order passed u/s 143(3)/147 for the AY 2005-06 on 29.12.2008 and order passed u/s 271(1)(c) for the AY 2005-06 on 25.06.2009 are hereby quashed.

5. In the result, all the four appeals of the assessee are allowed.

Kolkata, the 29th November, 2019.

Sd/-
[Aby T. Varkey]
Judicial Member

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated: 29.11.2019
Bidhan

Copy of the order forwarded to:

- 1. Capt. Vivek Anand Pandey, 306, Golden Arc Atabhai Chawk, Bhavnagar-364 001.**
- 2. DCIT, Circle-16, Kolkata.**
- CIT(A)-XXIV, Kolkata. (sent through mail)
- CIT(A)-19, Kolkata. (sent through mail)
- CIT-
- CIT(DR), Kolkata Benches, Kolkata. (sent through mail)

True copy
By order

Assistant Registrar
ITAT, Kolkata Benches