

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1493/Del/2020  
Assessment Year: 2009-10

|  |           |  |
|--|-----------|--|
| <b>ITO<br/>Ward- 1 (3)<br/>Ghaziabad</b> | <b>Vs</b> | <b>Kishore Kumar,<br/>H. No.1166, Noor Nagar,<br/>Sihani Road, Ghaziabad<br/>PAN No.AWLPK6244P</b> |
| <b>(APPELLANT)</b>                       |           | <b>(RESPONDENT)</b>  |

|               |                                  |
|---------------|----------------------------------|
| Appellant by  | Mohd. Gaysuddin Ansari, CIT (DR) |
| Respondent by | None                             |

|                        |            |
|------------------------|------------|
| Date of hearing:       | 01/06/2023 |
| Date of Pronouncement: | 01/06/2023 |

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A), Noida dated 29.09.2018 pertaining to A.Y.2009-10.

2. Though the revenue has raised as many as 22 grounds of appeal but the substantive grievance can be understood from the following grounds :-

3. *Because the impugned order suffers from a jurisdictional defect since CIT(A)-1, Noida could not have decided the appeal of the assessee without having jurisdiction over the case when the assessee in this case filed the appeal with the CIT(A)-1, Noida whereas the same should have been filed with and decided by the jurisdictional CIT(A), Ghaziabad.*

4. *Because the jurisdiction to hear these appeals vested only with Commissioner*

*of Income Tax (Appeals), Ghaziabad and that Sh. Sanjay Kumar Srivastava was not holding the charge of Commissioner of Income Tax (Appeals), Ghaziabad in September, 2018 (when the appeal order is shown to have been passed) nor was this case ever assigned to him by the competent authority i.e. Principal Chief Commissioner of Income Tax, Kanpur.*

5. *Because the order of CIT(A)-1, Noida is illegal, bad in law and totally non-est being passed without jurisdiction in violation of CBDT's notification no.66/2014 dated 13.11.2014 r.w.s order no.G-03/2014-15 dated 15.11.2014 of Ld. Pr. CCIT (CCA), Kanpur (copies enclosed), assigning jurisdiction of CIT(A), Ghaziabad and other CIT(A)s of UP (West & Uttarakhand).*

3. The impugned quarrel was decided by this Tribunal in a bunch of appeals in ITA No.1185/Del/2020 and others. The most relevant finding of the coordinate Bench read as under :-

12. *"In view of what has been discussed above and following the decisions rendered by Hon'ble Supreme Court in case of Fatima Bibi (supra), United Commercial Bank (supra) and Kanwar Singh Saini (supra) without entering into the merits of the captioned appeals, we are of the considered view that the impugned orders suffer from jurisdictional defect which is not curable having been passed by Ld. CIT(A)-1 and 2 Noida after his compulsory retirements with effect from 11.06,2019, when he was functus officio, are not sustainable in the eyes of law, hence, nullities. So question framed is answered in affirmative.*

13. *Consequently, impugned orders passed in the captioned appeals by CIT(A)-1 and 2 Noida are set aside*

*to the files of the respective jurisdictional CIT(A)-1 and 2 Noida and CIT(A) Ghaziabad to decide afresh in accordance with law by providing an opportunity of being heard to the assessee / revenue. Consequently aforesaid appeals / cross objections are allowed for statistical purposes.”*

4. Respectfully following the decision of the Coordinate Bench we restore this appeal to the jurisdictional CIT(A) to be decided afresh in accordance with law by providing an opportunity of being heard to the assessee / revenue consequently the appeal is allowed for statistical purpose.

5. Decision announced in the open court on 01.06.2023.

Sd/-  
**[ANUBHAV SHARMA]**  
**JUDICIAL MEMBER**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: .05.2023

\*Neha\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Asst. Registrar  
 ITAT, New Delhi