

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.441/Bang/2023
Assessment Year : 2017-18

DCIT, Bengaluru.	Vs.	Shri Vinod Kashyap, Room 308, CR Building, Queens Road, Bengaluru – 560 001. PAN : AGDPK 0398 Q
APPELLANT		RESPONDENT

Revenue by	:	Shri. Veera Raghavan, JCIT(DR), ITAT, Bengaluru.
Assessee by	:	Shri. Saurav Rohatgi, CA

Date of hearing	:	03.08.2023
Date of Pronouncement	:	03.08.2023

ORDER

Per George George K, Vice President:

This appeal at the instance of the Revenue is directed against CIT(A)'s order dated 03.03.2023.

2. At the outset, we notice that the Bangalore Bench of the Tribunal does have jurisdiction to entertain this appeal since the Situs of the AO who passed the order is in Delhi. The Hon'ble Apex Court's judgment in the case of ABC Papers Ltd., (reported in 447 ITR 1) and MSPL Ltd., (reported in 454 ITR 280) had categorically held that jurisdiction of the Tribunal and / or jurisdiction of the Hon'ble High Court would depend upon the Situs of the AO who passed the Assessment Order and same is unaffected by the transfer of jurisdiction under

section 127 of the Income Tax Act, 1961. The gist of the judgment of the Hon'ble Apex Court and the relevant paras are as under:

Decision	Relevant Para	Summary
<p>Hon'ble Supreme Court in ABC Papers Ltd., (reported in 447 ITR 1)</p>	<p>Para 31 and 33</p>	<p>Order u/s 127 since it is relatable only to the jurisdiction of the Income-tax Authorities and has no bearing on the ITAT and High Court. As a matter of principle, transfer of a case from one judicial forum to another judicial forum, without the intervention of a Court of law is against the independence of judiciary.</p> <p>Accordingly, appeals against every decision of the ITAT shall lie only before the High Court within whose jurisdiction the AO who passed the assessment order is situated. Even if the case or cases of an assessee are transferred in exercise of power under section 127 of the Act, the High Court/ ITAT within whose jurisdiction the Assessing Officer has passed the order, shall continue to exercise the jurisdiction of appeal. This principle is applicable even if the transfer is under section 127 for the same assessment year(s).</p>
<p>Hon'ble Supreme Court in MSPL Ltd. (reported in 454 ITR 280)</p>	<p>Para 3 and 6</p>	<p>Relying upon decision of Hon'ble SC in ABC Papers Ltd. (supra), the Hon'ble SC held that jurisdiction of ITAT and/or jurisdiction of the concerned High Court would depend upon the situs of AO who passed the assessment order.</p>

3. In light of the above judgment of the Hon'ble Apex Court, since the Assessment Order has been passed by the AO at Delhi, the Revenue ought to have filed appeal before the Delhi Benches of the Tribunal. Therefore, appeal filed by the Revenue before the Bangalore Benches of the Tribunal is dismissed and liberty is granted to the Revenue to file fresh appeal before the appropriate forum. It is ordered accordingly.

4. In the result, appeal filed by the Revenue is dismissed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(LAXMI PRASAD SAHU)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 03.08.2023.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.