

आयकर अपीलीय अधिकरण न्यायपीठ नागपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH : : NAGPUR

[VIRTUAL HEARING AT PUNE]

BEFORE SHRI PARTHA SARATHI CHAUDHURY,
JUDICIAL MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.301/NAG/2019

निर्धारण वर्ष / Assessment Year : 2010-11

The Income Tax Officer, Ward-1(4), Nagpur.	Vs	Shri Prenish Umakant Pachabhaiye, Plot No.185, Shastri Layout, Saikrupa Apartment, Khamla, Nagpur – 440025. PAN: ANJPP 4784 G
Appellant / Revenue		Respondent / Assessee

Assessee by	Shri Dilip Lohiya – AR
Revenue by	Shri Kailash Kanojiya – Sr.DR
Date of hearing	25/08/2023
Date of pronouncement	01/09/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Revenue against the order of ld.CIT(A)-1, Nagpur dated 18.07.2019 for A.Y.2010-11 emanating from assessment order passed by the ITO, Ward-25(3)(2), Mumbai dated 30.06.2017 under section 147 r.w.s 144 of the Income Tax Act, 1961.

2. It is observed that the assessment order was passed by the ITO, Ward-25(3)(2), Mumbai. The assessee had filed an appeal against the order of the Assessing Officer(AO) i.e. ITO, Ward-25(3)(2), Mumbai, before the Id.CIT(A)-1, Nagpur. It is mentioned in the order of the Id.CIT(A) that the Permanent Account Number(PAN) of the assessee was received on transfer from ITO, Ward-25(3)(2), Mumbai to ITO, Nagpur.

3. The clause 4 of the Standing Orders of Income-tax (Appellate Tribunal) Rules, 1963 is as under:-

“4. The ordinary jurisdiction of the Bench will be determined not by the place of business or residence of the assessee but by the location of the office of the Assessing Officer.”

4. Thus, as per the Clause 4, the jurisdiction of the ITAT Bench depends on location of the Assessing Officer. In this case, the Assessing Officer, i.e. ITO, Ward-25(3)(2), Mumbai, who passed the impugned assessment order is situated in Mumbai. Therefore, as per Clause 4 of the standing order of Income Tax Appellate Tribunal Rules, 1963, the appeal lies before the Mumbai Bench of the ITAT.

5. Recently, the Hon'ble Supreme Court, in the case of PCIT, Chandigarh vs. M/s.ABC Papers Limited in Civil Appeal No. 4252 of 2022 has held that citus of Assessing Officer decides the jurisdiction of ITAT.

5.1 The ITAT Lucknow Bench in the case of Assistant Commissioner of Income-tax versus Smt. Lata Jain Income Tax Appeal Nos. 742 & 743 (Lkw.) of 2011 held as under :

“Turning to the cases in hand, undisputedly the office of the Assessing Officer who passed the assessment orders is located in Delhi, over which the Delhi Benches of the Tribunal has jurisdiction. The order under section 127 of the Act was passed by the ld. Commissioner of Income-tax on 12.8.2011 w.e.f. 23.8.2011, which was passed after passing the assessment order and even after filing of the first appeal. Therefore, the Delhi Benches of the Tribunal have the jurisdiction over the assessee to hear the appeals and not the Lucknow Benches of the Tribunal. Therefore, we are of the considered view that these appeals were wrongly filed before the Lucknow Benches of the Tribunal and the Lucknow Benches have no jurisdiction to adjudicate these appeals. Therefore, these appeals are dismissed being not admitted. We, however, give liberty to the Revenue to file these appeals before the Delhi Benches of the Tribunal in accordance with law.”

6. In the present case, the AO is situated in Mumbai. Therefore, the Revenue should have filed an appeal before the Mumbai Bench of the ITAT. However, the Revenue filed an appeal before the Nagpur Bench of ITAT. The appeal filed before Nagpur Bench of ITAT is invalid. Therefore, the appeal of the Revenue is dismissed as not admitted.

6.1 The Revenue is given liberty to file the appeal before Mumbai Bench of ITAT if deemed fit as per law. Accordingly, appeal of the Revenue is dismissed for want of jurisdiction.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 1st September, 2023.

Sd/- Sd/-
(PARTHA SARATHI CHAUDHURY) (DR. DIPAK P. RIPOTE)
JUDICIAL MEMBER ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 1st Sep, 2023/ SGR*

आदेश की प्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर बेंच,
नागपुर/ DR, ITAT, Bench, Nagpur.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.