

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

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT**

ITA No.1361/Del/2018
Assessment Year: 2009-10
With
ITA No.1362/Del/2018
Assessment Year: 2011-12
With
ITA No.1363/Del/2018
Assessment Year: 2012-13
With
ITA No.1364/Del/2018
Assessment Year: 2013-14.

JCIT (OSD), Central Circle-31, New Delhi	Vs.	RSWM Ltd., Post Box No.28, Kharigram, Gulabpura, Bhilwara, Rajasthan
PAN :AAACR9700M		
(Appellant)		(Respondent)

Assessee by	Sh. S.S. Nagar, CA
Department by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	25.08.2023
Date of pronouncement	25.08.2023

ORDER

Captioned appeals by the Revenue arise out of separate orders of learned Commissioner of Income Tax (Appeals) for the assessment years 2009-10, 2011-12, 2012-13 and 2013-14.

2. We have heard Sh. S.S. Nagar, learned counsel appearing for the assessee and Sh. Sanjay Kumar, learned Departmental Representative.

3. The preliminary issue which arises for consideration is regarding maintainability of the present appeals in Delhi Benches of Income Tax Appellate Tribunal (ITAT)

4. As could be seen from the facts on record, the Assessing Officer, who passed the impugned assessment orders under section 143(3) of the Income-tax Act, 1961 (in short 'the Act') was located at Bhilwara, Rajasthan. Against the assessment orders so passed, the assessee preferred appeals before learned Commissioner (Appeals), Ajmer. Still not satisfied with the relief granted by learned Commissioner (Appeals), the assessee preferred further appeals before the Jodhpur Bench of ITAT. In the meanwhile, consequent to search and seizure operation, all assessments relating to the assessee were centralized at Central Circle, New Delhi. As a result, all the assessment records of the assessee were also transferred from Bhilwara to New Delhi.

5. Due to transfer of jurisdiction of the Assessing Officer from Bhilwara to New Delhi, the Department filed appeals against the orders of learned first appellate authority in Delhi Benches of

ITAT. The issue which arises for consideration is, whether the appeals filed by the Department in Delhi Benches, when the Assessing Officer who passed the assessment orders was located at Bhilwara, Rajasthan, are maintainable. As per clause (4) of the Standing Orders of the Income Tax (Appellate Tribunal) Rules, 1963 issued vide Notification No.63-Ad(AT)97, dated 16.09.1997, the ordinary jurisdiction of the Bench has to be determined by location of the office of the Assessing Officer, who has passed the assessment order.

6. In the facts of the present appeals, undisputedly, the Assessing Officer, who has passed the assessment orders, was located at Bhilwara, Rajasthan. Therefore, the Bench of ITAT having jurisdiction over assessee's appeal will be Jodhpur Bench and not Delhi Benches of ITAT. The ratio laid down by Hon'ble Supreme Court in case of *PCIT Vs. ABC Papers Ltd. (2022) 289 Taxman 150 (SC)* supports our view.

7. In view of the aforesaid, we hold that the present appeals filed by the Department are not maintainable due to lack of jurisdiction. However, keeping in view the fact that the department has filed the appeals under *bona fide* belief that due to transfer of jurisdiction of the Assessing Officer, appeals are

maintainable in Delhi Benches, we grant liberty to the Department to file fresh appeals before the Jodhpur Bench of the Tribunal along with applications seeking condonation of delay in filing the appeals. In case, the Department files fresh appeals at Jodhpur Bench along the prayer for condonation of delay, the Bench shall consider the issue of condonation of delay sympathetically. With the aforesaid observations, the appeals are dismissed for statistical purposes and consigned to record.

8. In the result, all the appeals are dismissed.

Order pronounced in the open court on 25th August, 2023

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Dated: 25th August, 2023.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi