

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. Nos. 544 to 547/Asr/2009 A.Y.: 2003-04 to 2006-07
I.T.A. Nos. 727 to 730/Asr/2013 A.Y.: 2007-08 to 2010-11
I.T.A. Nos. 558/Asr/2015 A.Y.:1994-95
I.T.A. Nos. 95 to 99/Asr/2016 A.Y.:1999-00 to 2002-03 & 2011-12
I.T.A. Nos. 152 to 153/Asr/2017 A.Y.: 2012-13 to 2013-14
M.A. Nos. 09 to 11/Asr/2008 A.Ys.: 1995-96, 1997-98 & 1998-99
(in ITA Nos. 189 to 191/Asr/2000 A.Ys. 1995-96, 1997-98 & 1998-99**

Maharawal Khewaji Trust Faridkot Through Its Chief Executive, Faridkot. [PAN: AAATM2875R] (Appellant)	Vs.	Asstt. Commissioner of Income Tax, Circle-III, Ferozepur. (Respondent)
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**I.T.A. Nos. 13 to 16/Asr/2010 A.Y.: 2003-04 to 2006-07
I.T.A. Nos. 723 to 726/Asr/2013 A.Y.: 2007-08 to 2010-11
M.A. Nos. 101 to 103/Asr/2008 A.Ys.: 1999-00 & 2000-01
(in ITA 158/Asr/2007, ITA 52/Asr/2006 and ITA 44/Asr/2006)
M.A. Nos. 69 to 71 & 113/Asr/2009 A.Ys.: 2000-01 to 2002-03
(in ITA 44/Asr/2006, ITA 204/Asr/2005, ITA 45/Asr/2006 & ITA 53/Asr/2006)**

Asstt. Commissioner of Income Tax, Circle-III, Ferozepur. (Appellant)	Vs.	M/s Maharawal Khewaji Trust Faridkot Through Its Chief Executive, Faridkot. [PAN: AAATR0783P] (Respondent)
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Appellant by	None
Respondent by	Sh. Ravinder Mittal, Sr.D. R.

Date of Hearing	01.11.2023
Date of Pronouncement	09.11.2023

ORDER

Per: Bench:

A batch of twenty four (24) appeals were filed by both assessee and revenue against the order of the Id. Commissioner of Income Tax (Appeal) Bhatinda [in brevity 'the CIT (A)'] order passed u/s 250(6) of the Income Tax Act 1961, [in brevity 'the Act'] for A.Ys. 1994-95. 1999-2000 to 2013-14. The impugned orders were emanated from the order of the Id. Income Tax Officer- Ward-III(3), Faridkot (in brevity the AO) order passed u/s 143(3) of the Act.

Also a batch of ten (10) Miscellaneous Applications (in brevity MA) were filed by both assessee and revenue against the order of the ITAT-Amritsar Bench for AYs 1995-96, 1997-98 to 2002-03 bearing ITA Nos. 189 to 191/Asr/2000, ITA No. 158/Asr/2007, ITA No. 52/Asr/2006, ITA No.44/Asr/2006, ITA 204/Asr/2005, ITA No. 45/Asr/2006 and ITA No 53/Asr/2006.

2. When the appeals & MAs are called for a hearing, Mr. J.K.Gupta, Advocate, appeared on behalf of the assessee and had filed a petition with prayer for changing

of jurisdiction of appeals from ITAT-Amritsar Bench to ITAT-Chandigarh Bench. Mr. Gupta, Advocate placed that he was carrying POA in earlier. But the process of appointment of receiver was in progress. The fresh POA is in process, Mr. Gupta engaged day to day work of these appeals filed before the ITAT. With consent of the revenue we hear the submission of Mr. Gupta, the letter is reproduced as below:

“Sir,

That the aforesaid appeals were fixed for hearing before the Hon’ble Bench on 26.09.2023 at Amritsar and the same were adjourned to 17.10.2023 and are now fixed for hearing on 01.11.2023.

That the facts of case are that Hon’ble Punjab and Haryana High Court in its order Dated 01.06.2020 has declared that the trust created through will Dated 01.06.1982 is proved to be a forged fabricated and shrouded with suspicious circumstances as per para 166 of the judgment. Accordingly, the trust is no more in existence as the trust was created through will Dated 01.06.1982.

The SLP of the trust was dismissed on 07.09.2022 by the Hon’ble Supreme Court and the Hon’ble Court ordered as per

para 28 of SLP Dated 07.09.2022 that the trust to run its activities up to 30.09.2022 where after all the aspects of management finance and other control including the need for appointment of a Receiver shall be subject to such orders as may be passed by the court executing the decree in the instant matters.

That in pursuance of aforesaid judgment of the Hon'ble Supreme Court Trust activities have been closed down and the appointment of receiver is under progress of the Lower Judicial Courts. Due to non appointment of receiver the agricultural land was left vacant as there were no funds to buy seeds and fertilizers. Even the management of day to day affairs and maintenance has become difficult for non appointment of Receiver. Now, no activity is undertaken by the trust and any amount received in bank account directly is attached and credit statement by bank is sent to the Hon'ble Supreme Court even month and no amount can be withdrawn until the appointment of receiver.

That the registration u/s 12A of the Income tax Act, 1961 of the trust was cancelled against which appeal of the assessee is pending before the Honable Punjab and Haryana High Court, Chandigarh and fixed for hearing on 22.11.2023.

Furthermore the jurisdiction of appeals lies with ITAT, Chandigarh Bench, Chandigarh as the assessment for assessment year 2013-14 and 2014-15 has been framed by DCIT (Exemption), Circle 1, Chandigarh as the receipts of the trust were more than Rs. 5 crore. So, the territorial jurisdiction lies with ITAT, Chandigarh Bench, Chandigarh as the Present AO of trust is also DOT (Exemption), Circle 1, Chandigarh. So, these appeals may be transferred to ITAT, Chandigarh Bench, Chandigarh. Even the appeal for assessment year 2015-16 is lying pending with ITAT, Chandigarh Bench, Chandigarh fixed for hearing on 09.11.2023.

That reliance is placed on the decision of Chandigarh Bench of ITAT in the case of The DCIT, Circle 1 (Exemptions), Chandigarh vs Maharawal Khewaji Trust, Fardikot with ITA No. 1709 to 1712/CHD/2017 Assessment Year 2007-08 to 2010-11 Dated 15.06.2018 in para 4 where in it was contended by DR that the jurisdiction of the assessee has been transferred from ITO 111, Ferozepur to DOT (Exemptions), Chandigarh in pursuance of the orders of the Addl. CIT (Exemptions), Range-I, Chandigarh dated 15.11.2014. So, the territorial jurisdiction to hear appeals lie with Chandigarh Bench of ITAT. So, all appeals/Miscellaneous Applications pending with Amritsar Bench of ITAT be transferred to the Chandigarh Bench of ITAT.

It is, therefore, requested that the appeals/ Miscellaneous Applications of the assessee may kindly be transferred to Chandigarh Bench of ITAT on account of territorial jurisdiction as well as financial jurisdiction which lies with DCIT (Exemption), Circle 1, Chandigarh.

It is further requested to direct Amritsar Bench to keep the appeals in abeyance till the appeals are transferred to Chandigarh Bench of ITAT.”

3. It is informed that the said trust created through Will dated 01/06/1982 is proved to be forged as per order of the High Court of Punjab and Haryana at Chandigarh, RSA No. 2006 of 2018 (O & M), Date of Decision 01/06/2020. The same order is upheld by the order of the Hon'ble Apex Court. Mr. Gupta invited our attention in the order of Hon'ble **Supreme Court of India** in the case of **Maharani Deepinder Kaur (Since Deceased) Through LRS and ORS vs. Rajkumari Amrit Kaur And Ors. SLP (Civil) Nos. 9151-9153 of 2020 Date of order 07/09/2022**. The relevant paragraph is reproduced as below: -

16. Aggrieved by the decision of the Trial Court, Rajkumari Deepinder Kaur, the Trust and the other Trustees filed C.A.

Nos.1046 of 2013 and 480 of 2017 while Bharat Inder Singh son of Kanwar Manjit Inder Singh preferred C.A. Nos.1054 of 2013 and 1062 of 2013 in the court of Additional District Judge, Chandigarh. Said appeals were heard together and disposed of by a common judgment dated 05.02.2018 by the Lower Appellate Court which did not find any ground to interfere with the findings recorded by the Trial Court. It, therefore, dismissed the appeals as well as cross-objections preferred by the concerned parties. 17. The parties being aggrieved, preferred RSA No.2006 of 2018 (O&M), RSA No.1418 of 2018 (O&M) and RSA No.2176 of 2018 (O&M) in the High Court which were dealt with by the High Court by its common judgment and order, which is presently under challenge. 18. The High Court framed following points for deciding the appeals preferred before it. “35. Before deliberating upon the controversy involved in these appeals, I would like to consider the following points for deciding the appeals finally:- (1) Whether The Raja of Faridkot' Estate Act 1948 is a valid enactment and is applicable for succession to the Estate of Raja by the plaintiff (Rajkumari Amrit Kaur)? (2) Whether Law of Primogeniture is applicable in the succession of Estate of deceased Raja Harinder Singh?

(3) Whether Raja Harinder Singh executed a valid Will dated 01.06.1982 and Maharwal Khewaji Trust constituted thereunder is a legally constituted Trust? (4) Whether Civil Suit No.4193 dated 21.08.2010/04.04.1992 titled 'Kanwar Manjit Inder Singh through LR vs. Maharani Deepinder Kaur and others' is maintainable? (5). Whether Civil Suit No.437 dated 23.07.2010/15.10.1992 titled 'Rajkumari Amrit Kaur vs. Maharani Deepinder Kaur and others is maintainable?'"

19. The High Court held that the Raja of Faridkot's Estate Act, 1948 was not a valid enactment and would not be applicable for succession to the estate of the Ruler. It was also held that the Rule of Primogeniture as pleaded by Kanwar Manjit Inder Singh had no application in the present case and that the succession to the properties left behind by the Ruler would be governed by the personal law of succession. On the question regarding validity of Third Will, the matter was considered extensively under eight different heads and it was concluded that the Third Will was a fabricated document which was shrouded with suspicious circumstances and that the succession to the properties left behind by the Ruler would, therefore, be by intestate succession. The issues concerning the maintainability of the Suit were also decided in favour of Rajkumari Amrit Kaur."

4. It is mentioned that for AY 2007-08 to 2010-11 the ITAT- Chandigarh had delivered the order against the appeal of the assessee bearing **ITA No. 1709 to 1712/Chd/2017** date of pronouncement **15/06/2018**. The copy of the order is annexed in **APB pages 29 to 33**.

4.1 Mr. Gupta, confirmed that the jurisdiction of assessee is changed from ITO III, Ferozpur to DCIT (Exemption), Chandigarh in pursuance of the order of Addl. CIT (Exmption), Range-I, Chandigarh dated 15/11/2014, So, the territorial jurisdiction to hear appeals lie with Chandigarh Bench of ITAT.

5. The Id. DR also accepted the submission and has not made any objection against transfer of jurisdiction of the appeals and MAs.

6. It is evident from the record that the assessee has submitted prayer for change of jurisdiction to the Hon'ble Vice President of ITAT, Chandigarh Zone. We respectfully consider the orders of the Hon'ble High Court of Punjab & Haryana and Hon'ble Apex Court. We are bound by the order of Hon'ble Apex Court. But Mr. Gupta prayed for a reasonable opportunity to hear the matter in appropriate jurisdiction. We consider the prayer in view of natural justice to assessee. In our considered view, the issue for changing of jurisdiction is still

pending as per information from Registry. In our view the appeals and MAs filed by the assessee and revenue are liable to be abated with the liberty to the assessee and revenue to revive the appeal from the date of completion of pending action.

7. In the result, all the appeals and MAs filed by the assessee and revenue are dismissed as abated.

Order pronounced in the open court on 09.11.2023

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order