

IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI SANDEEP SINGH KARHAIL, JM

ITA No. 1675/Mum/2023

(Assessment Year: 2016-17)

M/s Union Bank of India
(Erstwhile Andhra Bank)
Central Accounts Dept.
6th Floor, Union Bank Bhavan, Vs.
239, Vidhan Bhavan Marg,
Nariman Point,
Mumbai-400 021
(Appellant)

DCIT-3(4)
29th Floor, Centre-1,
World Trade Centre,
Cuffe Parade,
Mumbai-400 005
(Respondent)

ITA No. 1720/Mum/2023

(Assessment Year: 2016-17)

DCIT-3(4)
29th Floor, Centre-1,
World Trade Centre,
Cuffe Parade,
Mumbai-400 005
(Appellant)

M/s Union Bank of India
(Erstwhile Andhra Bank)
Central Accounts Dept.
6th Floor, Union Bank Bhavan, Vs.
239, Vidhan Bhavan Marg,
Nariman Point,
Mumbai-400 021
(Respondent)

PAN No. AAACU0564G

Assessee by : Shri S Ananthan CA,
Mrs. Lalitha Rameswaran, ARs
Revenue by : Shri Ankush Kapoor, CIT DR

Date of hearing: 30.11.2023
Date of pronouncement 21.12.2023
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ORDER

PER PRASHANT MAHARISHI, AM:

01. ITA No.1675/Mum/2023, is filed by Union Bank of India (erstwhile Andhra Bank) for A.Y. 2016-17, against the appellate order passed by the National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 17th March, 2023, wherein the appeal filed against the assessment order passed under Section 143(3) of the Income-tax Act, 1961 (the Act) on 21st December, 2018, by the Asst. Commissioner of Income Tax, Circle 1(1), Hyderabad, (the learned Assessing Officer), was partly allowed.
02. The learned Assessing Officer is also aggrieved with the above appellate order and has filed an appeal in ITA No.1720/Mum/2023.
03. It is claim of both the parties that in this case the Assessing officer who passed the order is based at Hyderabad and therefore the jurisdiction of the Tribunal to hear these appeal is at Hyderabad benches. Therefore, same may be transferred to Hyderabad Bench. To show the jurisdiction of the learned Assessing Officer, it was stated that according to the return of income jurisdiction lies at ACIT, Circle 1(1), Hyderabad. It was further mentioned that assessment order is also passed by ACIT, Circle 1(1), Hyderabad, on 21st December, 2018.
04. The learned Authorized Representative also submitted that identical issue arose before the co-ordinate Bench at Kolkata, where the appeal arising out of the assessment order passed by the learned Assessing Officer at Indore,

was inadvertently filed at Kolkata Bench, though the jurisdiction was with Indore Bench, the co-ordinate Bench passed an order, the appeal of the learned Assessing Officer was not maintainable, however, assessee was granted a liberty to approach the Indore Bench and the period consumed in litigating at Kolkata Benches was excluded from the period of limitation.

05. Both the parties prayed that their appeal may be dismissed as not maintainable and directed to file the appeal at Hyderabad Benches with the condonation of delay to be excluded till the date of this order. In short, both the parties submit that these appeals may be transferred to Hyderabad Bench in substance.
06. We have carefully considered the rival contentions and perused the orders of the lower authorities.
07. Honourable Supreme court in Pr. Commissioner of Income Tax - I, Chandigarh Vs. ABC Papers Limited [Neutral Citation: 2022/INSC/844][in Civil Appeal No. 4252 of 2022 (Arising out of SLP (C) No. 23352 of 2019), Civil Appeal No. 4253 of 2022 (Arising out of SLP (C) No. 25541/2019) and Civil Appeal No. 3480 of 2022 (Arising out of SLP (C) No. 8146/2022)MANU/SC/1016/2022] has held that

"17. Keeping the above principle in mind, we will now return to the inquiry into the appropriate High Court for filing an appeal against an order of a bench of the ITAT exercising jurisdiction over more than one state. We notice that the issue has already fallen for consideration before a Division Bench of the High Court of Delhi way back in 1978 in the case of Seth Banarsi Dass Gupta. Having considered the matter in detail, the High Court of Delhi held that the "most



appropriate" High Court for filing an appeal would be the one where the Assessing Officer is located. The decision was followed in *Suresh Desai (supra)* by Justice Lahoti (as he then was) and provided additional reasons in support of the same view. The interpretative choices are based on the following reasons, which we have reformulated as under:

(I) As benches of the ITAT exercise jurisdiction over more than one state, Explanation to Standing Order No. 1 of 1954 and Standing Order No. 1 of 1967 issued under the Rules prescribe that, the jurisdiction of the ITAT should be based on the location of the Assessing Officer. The same principle should apply for determining the jurisdiction of the High Court for an appeal against the decision of the ITAT.

(II) It would be appropriate for the ITAT to refer a question of law to the High Court within whose jurisdiction the Assessing Officer or the CIT which has decided the case is located, as these authorities would be bound to follow the decision of the concerned High Court.

(III) This interpretation will also be in consonance with the expression "in relation with any State, the High Court of that State" provided in the definition of the "High Court" in Section 66(8) (under the present 1961 Act, it is Section 269).

(IV) The appeals and references cannot be made to a High Court only on the basis that a bench of the ITAT is located within the jurisdiction of the said High Court, as it will create an anomalous situation for that as well as other High Courts.

(V) In view of the doctrine of precedents and the Rule of binding efficacy of law laid down by a High Court within its territorial jurisdiction, a question of law arising for decision in a reference should be determined by the High Court which exercises territorial jurisdiction over the situs of the Assessing Officer (*Suresh Desai*).



08. In this case, the learned Assessing Officer who passed the assessment order is the Asst. Commissioner of Income Tax, Circle 1(1), Hyderabad. Both the parties have filed appeal against the order of the learned CIT (A) at Mumbai Benches. Therefore, these appeals are not maintainable here before the Bombay Benches. Accordingly, we 'return' both the appeals for statistical purposes as not maintainable here and direct both the parties to present this appeal before the Hyderabad Bench which may consider any delay, if any, in view of above findings, ignoring the time consumed in lying those appeal at Mumbai Jurisdiction.
09. In the result, appeals are returned and for statistical purposes are dismissed.

Order pronounced in the open court on 21.12. 2023.

Sd/-
(SANDEEP SINGH KARHAIL)
(JUDICIAL MEMBER)

Sd/-
(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.12. 2023

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai