

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, AM AND  
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2781/Mum/2024 (Assessment Year: 2017-18)

ITA No. 2782/Mum/2024 (Assessment Year: 2016-17)

ITA No. 2784/Mum/2024 (Assessment Year: 2010-11)

ACIT-2(1)(1) Room No. 575, 5 <sup>th</sup> Floor, Aayakar Bhawan, M. K. Road, Mumbai-400 020	V s.	Bank of Baroda (e-Vijaya Bank) C-26, 2 <sup>nd</sup> Floor, Baroda Corporate Centre, Bandra Kurla Complex, Bandra (E), Mumbai-400 051
PAN/GIR No. AAACV 4791 J		
<b>(Assessee)</b>	:	<b>(Respondent)</b>
<b>Assessee by</b>	:	Shri S. Ananthan & Ms. R. Lalitha
<b>Respondent by</b>	:	Shri R. A. Dhyani
<b>Date of Hearing</b>	:	15.07.2024
<b>Date of Pronouncement</b>	:	30.07.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

These appeals have been filed by the Revenue, challenging the order of the learned Commissioner of Income Tax (Appeals) (‘Id.CIT(A) for short), National Faceless Appeal Centre (‘NFAC’ for short) passed u/s.250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Years (‘A.Y.’ for short) 2010-11, 2016-17 and 2017-18.

2. As the facts are identical in all the three appeals, we hereby pass a consolidated order in all these appeals.

3. Briefly stated the assessee Bank of Baroda (erstwhile Vijaya Bank), is a public sector company, filed its return of income. The assessee’s case was selected for scrutiny

and the assessment order was passed by the Joint/Addl. Commissioner of Income Tax, Large Tax Payers Unit, Bangalore. The assessee was in appeal before the Id. CIT(A), challenging the additions made by the Id. A.O.

4. The Id. CIT(A) deleted the impugned additions made by the Id. A.O. and against which the Revenue is in appeal before us.

5. As this matter came up for hearing before us, the learned Authorised Representative (Id. AR for short) for the assessee submitted that since the assessment order was passed by the Id. A.O., situated at Bangalore, the jurisdiction of the Tribunal to decide this appeal would be the Bangalore Bench and not the Mumbai Bench in view of the decision of the Hon'ble Supreme Court in the case of *ABC Papers Ltd.* [2022] 447 ITR 1 (SC). The learned Departmental Representative (Id. DR for short) for the Revenue conceded to the same.

6. We have heard the rival submissions and perused the assessment order placed on record. It is observed that the original assessment order was passed by the Id. A.O. which Jurisdictional High Court would be the Hon'ble High Court of Karnataka. In view of the decision of the Hon'ble Apex Court in the case of *ABC Papers Ltd.* (supra), wherein it was held that appeal against every decision of the ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer passed the assessment order is situated, even if the case or the cases of assessee are transferred invoking power u/s. 127 of the Act, the High Court within whose jurisdiction the Assessing Officer has passed the

order, shall continue to exercise jurisdiction of the appeal. This would also be applicable to appeals that are filed before the Tribunal.

7. From the above, it is evident that the present appeal filed by the Revenue can be adjudicated only by the Bangalore bench, in view of the decision of the Hon'ble Apex Court in the case of *ABC Papers Ltd.* (supra) and in the subsequent decision of Hon'ble Apex Court in the case of *Pr. CIT vs. MSPL Ltd.* [2023] 150 taxmann.com 41 (SC) which has reiterated this proposition laid down by the Hon'ble Apex Court in the case of *ABC Papers Ltd.* (supra). The relevant extract of the said decision is cited hereunder for ease of reference:

3. *Learned Senior Advocate appearing on behalf of the Assessee has drawn out attention to the recent decision of this Court in Pr. CIT v. ABC Papers Ltd. [2022] 141 taxmann.com 332/289 Taxman 150/447 ITR1, more particularly paragraphs 24, 25, 42 and 45. It is submitted that in the said decision, it is observed and held by this Court that the seat of ITAT and/or jurisdiction of the concerned High Court would depend upon where the seat of Assessing Officer was and the Assessing Officer, who passed the order. It is submitted that in the present case, the Assessing Officer passed order in Bangalore. Even the CITA also passed order in Bangalore. It is submitted that, therefore, as observed and held by this Court, the appeal against the Assessment order/the order passed by the CITA would only lie before the ITAT, Bangalore.*

4. *The aforesaid factual aspects have not been disputed by Shri N Venkataraman, learned ASG appearing on behalf of the Revenue.*

5. *In paras 24, 25, 42 and 45 of the judgment and order in the case of ABC Papers Ltd. (supra), this Court has observed and held as under -*

*"24. 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:*

*24.1 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.*

*24.2 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.

24.3 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).

24.4 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.

24.5 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).

25. The principle laid in *Seth Banarasi Dass* is followed in *Suresh Desai & Associates v. Commissioner of Income Tax, Birla Cotton Spinning and Weaving Mills Ltd. v. Commissioner of Income Tax, Commissioner of Income-tax v. Digvijay Chemicals Ltd. and Commissioner of Income-tax v. Motorola India Ltd.* It is interesting to note that this basic principle is accepted and abided as a precedent even in the two subsequent judgments of the High Court of Delhi in *Sahara* and *Aar Bee*. Thus, it is well-settled that the appellate jurisdiction of a High Court under section 260A is exercisable by a High Court within whose territorial jurisdiction the assessing officer is located.

42. The power of transfer exercisable under section 127 is relatable only to the jurisdiction of the Income-tax Authorities. It has no bearing on the ITAT, much less on a High Court. If we accept the submission, it will have the effect of the executive having the power to determine the jurisdiction of a High Court. This can never be the intention of the Parliament. The jurisdiction of a High Court stands on its own footing by virtue of section 260A read with section 269 of the Act. While interpreting a judicial remedy, a Constitutional Court should not adopt an approach where the identity of the appellate forum would be contingent upon or vacillates subject to the exercise of some other power. Such an interpretation will clearly be against the interest of justice.

45. In conclusion, we hold that appeals against every decision of the ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer 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 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)."

6. In view of the above and for the reasons stated hereinabove, it cannot be said that the High Court has committed any error in setting aside the order passed by the President of the ITAT transferring the appeals from the Bangalore Bench to the Mumbai Bench. We are in complete agreement with the view taken by the High court. Therefore, now the appeals will be heard by the ITAT, Bangalore Bench.

In view of the above, the present Special Leave Petition deserves to be dismissed and is accordingly dismissed.

8. As it is now a settled proposition of law that the jurisdiction of the ITAT in adjudicating an appeal would lie within the jurisdiction of the Assessing Officer who had passed the assessment order which is the subject matter of appeal before the Tribunal, we,

therefore, are inclined to dismiss these appeals filed by the Revenue with the liberty to the Revenue to file these appeals before the ITAT having jurisdiction over the assessing officer who had passed the assessment order in these cases, i.e., the Bangalore Bench. The delay in filing the appeal shall be condoned as if the assessee has filed the appeal in the first instance within the period of limitation.

9. In the result, all the appeals filed by the Revenue are dismissed for statistical purpose.

*Order pronounced in the open court on 30.07.2024.*

Sd/-

(Narendra Kumar Billaiya)  
Accountant Member

Mumbai; Dated : 30.07.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT - concerned
4. DR, ITAT, Mumbai
5. Guard File

Sd/-

(Kavitha Rajagopal)  
Judicial Member

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai