



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "A", LUCKNOW**

**BEFORE SHRI. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER**

ITA No.376/LKW/2023
Assessment Year: 2005-06

Asstt. Commissioner of Income Tax Central Circle-1 Kanpur	v.	M/s Raghunath International Ltd. 6926, Jaipuria Mills Clock Tower Subji Mandi New Delhi 110 007
		TAN/PAN:AAACR4305G
(Appellant)		(Respondent)

Appellant by:	Smt. Namita S. Pandey, CIT (DR)		
Respondent by:	Shri Ashish Jaiswal, Advocate		
Date of hearing:	02	07	2024
Date of pronouncement:	27	09	2024

ORDER

PER SUDHANSHU SRIVASTAVA, J.M.:

This appeal has been preferred by the Revenue against the order dated 27.03.2024 passed by the learned Commissioner of Income Tax (Appeals) (hereinafter called 'the ld. CIT(A)') for assessment year 2005-06.

2. At the outset, the ld. authorized representative for the assessee submitted that in the case of the present assessee, the assessment order was passed by the Dy. Commissioner of Income Tax, Circle 15(1), New Delhi, who is the jurisdictional Assessing Officer of the assessee. Since the jurisdictional Assessing Officer of the assessee falls under Delhi, the appeal

against the impugned order of the Id. CIT(A) ought to have been filed by the Revenue in ITAT, Delhi and not in ITAT Lucknow. In this regard, he placed reliance on the decision of the Hon'ble Supreme Court in the case of Principal Commissioner of Income-tax vs. ABC Papers Ltd., 141 taxmann.com 32 (SC) and submitted that the appeal of the Revenue is liable to be dismissed as un-admitted.

3. The Id. D.R. did not oppose the aforesaid submissions of the Id. authorized representative for the assessee.

4. We have heard the rival submissions and have also perused the record. We find that the jurisdictional Assessing Officer in the case of the present assessee falls under Delhi. The Hon'ble Supreme Court in the case of Principal Commissioner of Income-tax vs. ABC Papers Ltd. (supra), held 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).

The relevant portion of the judgement of the Hon'ble Supreme Court is reproduced below:

“33. 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).”

5. Although the above judgment was rendered in the context of appeals against the orders of the ITAT, in our considered view, the same shall also apply to the cases where appeals are filed before the ITAT against the orders of the 1d. First Appellate Authority. Accordingly, applying judgment of the Hon'ble Supreme Court (supra), we hold that the appeal of the Revenue in the present case is not admissible before this Bench of the Tribunal and, therefore, the same is dismissed as unadmitted with the liberty to the Department to file appeal before the correct Bench of the Tribunal within whose jurisdiction the Assessing Officer has passed the order.

6. In the result, the appeal of the Revenue stands dismissed.

Order pronounced in the open Court on 27/09/2024.

Sd/-
[G. D. PADMAHSHALI]
ACCOUNTANT MEMBER

Sd/-
[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER

DATED:27/09/2024

JJ:

Copy forwarded to:

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

By order

Assistant Registrar