



**IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'B' PUNE**



**BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

**AND**

**SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No. 1062/PUN/2024**

Tooba Educational And Welfare Trust  
1528, Room No.-03, 1<sup>st</sup> Flr., Shanti Nagar Rd.,  
Nr. Salabuddin Ayyubi School, Dandekar Wadi,  
Bhiwandi, Thane-421302  
PAN: AAETT1317P

..... *Appellant*

**V/s**

The Commissioner of Income Tax,  
Exemption-Pune.

..... *Respondent*

**Appearances**

Assessee by : Ms Deepa Khare ['Ld. AR']

Revenue by : Mr Ajaykumar Kesari ['Ld. DR']

Date of conclusive Hearing : 26/09/2024

Date of Pronouncement : 01/10/2024

**ORDER**

**PER G. D. PADMAHSHALI, AM;**

This appeal of the assessee is instituted u/s 253(1) of the Income-tax Act, 1961 ['the Act' hereinafter] challenging the order of rejection passed vide DIN & Order No. ITBA/EXM/F/EXM45/2023-24/1062643777(1) dt. 14/03/2024 by Ld. Commissioner of Income Tax-Exemption, Pune ['Ld. CIT(E)' hereinafter] u/s 12AB of the Act.

2. It emerges at the very outset from the Ld. DR Mr Kesari's submission that; the assessee trust herein is based at Bhiwandi in the District of Thane,



Maharashtra and that it is assessed to tax at Thane. It is further submitted that, the situs of the assessing officer who exercises assessment jurisdiction over the assessee falls outside the jurisdiction of this Pune Bench; therefore present appeal of the assessee trust is not maintainable. To buttress this contention the Ld. DR beside pressing into service the standing order of ITAT issued in the year 1971 also relied on the recent judgement of Hon'ble Apex Court rendered in '*PCIT Vs ABC Paper Ltd.*' reported in [2022, 447 ITR 1 (SC) / 141 Taxmann.com 332 (SC)]. Per contra, the Ld. AR could hardly dismantle the Revenue's contention and dislodge the factual position with any deprecative material on record and prove the law otherwise.

3. We are mindful to state here that, although certain benches of the Tribunal exercise its jurisdiction over more than one state, however the explanation 4 to Standing Order dt. 01/10/1197 issued under rule 4(1) of Income Tax Appellate Tribunal Rules, 1963 categorically prescribes that; the ordinary jurisdiction of the Tribunal should be based on the location of the Jurisdictional Assessing Officer. Reinforcing the above principle, the Hon'ble Supreme court by its decision in '*PCIT Vs ABC Papers Ltd.*' (supra), has put the issue of jurisdiction of appellate forum to rest by holding that, the '*situs of the assessing officer*' is the only key factor for determining the jurisdiction of appellate forum irrespective of any administrative order passed u/s 127 of the Act in relation to transfer of cases.



4. In the instant case since the *situs* of the assessing officer who exercises assessment jurisdiction over the present appellant admittedly is beyond the territorial jurisdiction of this Pune Tribunal/Bench. This being the clinching factual position, we are of the view that this tribunal's Pune benches at Pune have no jurisdiction to entertain the instant appeal going by the Standing Order (supra) which notified the territorial jurisdiction of various benches in tribunal. As per the foregoing notification, the tribunal's Mumbai Benches, Mumbai only is vested with the territorial jurisdiction to entertain the appellant's instant appeal.

5. In view of aforestated discussion & judicial precedents without offering our comments on any issue, we therefore deem it fit to dismiss the present appeal of the appellant assessee as '*not maintainable*' but with leave to institute it before appropriate bench of the Tribunal which in law exercises the jurisdiction over the jurisdictional assessing officer of the appellant assessee, *ergo* ordered accordingly.

**6. The appeal of in result is DISMISSED in aforestated terms.**

In terms of rule 34 of ITAT Rules, orders pronounced in the open court on this Tuesday, 01st October, 2024.

**-S/d-**

**VINAY BHAMORE**  
**JUDICIAL MEMBER**

पुणे / PUNE ; दिनांक / Dated : 01st October, 2024

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.  
4. The CIT(A) Concerned.

2. प्रत्यर्थी / The Respondent.  
5. DR, ITAT, Bench 'B', Pune

**-S/d-**

**G. D. PADMAHALI**  
**ACCOUNTANT MEMBER**

3. The Pr. CIT Concerned.  
6. गार्डफाइल / Guard File.

आदेशानुसार / By Order  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलार्थी न्यायाधिकरण, पुणे / ITAT, Pune.