



**IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'B' PUNE
BEFORE HON'BLE SMT. ASTHA CHANDRA JUDICIAL MEMBER**



And

SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

**ITA No. 1487/PUN/2024
Assessment Year : 2010-11**

The Income Tax Officer,
Ward-7(1), Pune

..... *Appellant*

V/s

Regency Mahavir Properties,
A3-5th Floor, The Fifth Avenue,
Nr. Hotel Regency, Dhole Patil Rd.,
Pune-411001
PAN: AAJFR6383G

..... *Respondent*

Appearances

Assessee by : None for the assessee
Revenue by : Mr Arvind Desai ['Ld. DR']
Date of conclusive Hearing : 16/10/2024
Date of Pronouncement : 16/10/2024

ORDER

PER G. D. PADMAHSHALI, AM;

This appeal is instituted by the Revenue u/s 253(2) of the Income-tax Act, 1961 ['the Act' hereinafter] against DIN & Order No. ITBA/NFAC/S/250/2024-25/1064437931(1) dt. 29/04/2024 by the National Faceless Appeal Centre, Delhi ['Ld. 'NFAC/CIT(A)' hereinafter] passed u/s 250 of the Act which in turn quashed the order of penalty dt. 22/03/2017 passed u/s 271(1)(c) of the Act by the Dy. Commissioner of Income Tax, Central Circle-1, Thane ['Ld. AO'].



2. This appeal was called twice; none appeared at the behest of the respondent assessee, nor there is any application placed on record for adjournment. On a primary briefing from the Ld. DR Mr Desai & having regard to the case records we deem it fit to proceed *ex-parte* u/r 25 of the ITAT-Rules, 1963 and adjudicate limited issue of jurisdiction of this Tribunal. Advanced accordingly.

3. It emerges at the very outset from the Ld. DR Mr Desai's submission that; in this case the assessing officer who framed the order levying penalty u/s 271(1)(c) of the Act was Dy. Commissioner of Income Tax, Central Circle-1 Thane. It is candidly then submitted that, the situs of the assessing officer who exercised the jurisdiction for imposition of penalty over the respondent assessee falls outside the jurisdiction of Income Tax Appellate Tribunal, Pune Benches Pune. Therefore, the present appeal of the Revenue against the impugned order is not maintainable for adjudication before this bench. In support of 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 the Hon'ble Supreme Court rendered in '*PCIT Vs ABC Paper Ltd.*' reported in [2022, 447 ITR 1 (SC)]



4. We are mindful to state here that, although certain benches of the Tribunal exercise its jurisdiction over more than one state, however explanation 4 to Standing Order dt. 01/10/1997 issued under rule 4(1) of Income Tax Appellate Tribunal Rules, 1963 categorically prescribes that; the ordinary jurisdiction of the Benches of the Tribunal shall be based on the location of the Jurisdictional Assessing Officer. Reinforcing the former stipulation, the Hon'ble Supreme court in its judgement in '*PCIT Vs ABC Papers Ltd.*' (supra), has put the issue of jurisdiction of appellate forum to rest by categorically 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 cases.

5. In the instant case we note that, *situs* of the assessing officer who framed the assessment u/s 143(3) r.w.s. 153A of the Act as well as the assessing officer who imposed the penalty u/s 271(1)(c) of the Act which is under challenge, undisputedly falls beyond the territorial jurisdiction of this Pune Tribunal/Benches. In this clinching factual position, we therefore are of the considered view that this Tribunal's Pune benches at Pune have no jurisdiction to



entertain the instant appeal of the Revenue going by the Standing Order (supra) which notified the territorial jurisdiction of various benches in Tribunal. As per the foregoing notification (supra), the Tribunal's Mumbai Benches, Mumbai is vested with the territorial jurisdiction to entertain the Revenue's instant appeal.

6. In view of aforestated discussion & judicial precedents pressed into service, without offering our comments on merits of the case, we for the aforestated reason deem it fit to dismiss this appeal as '**not maintainable**' with a grant of leave to the appellant Revenue to institute the same before an appropriate bench of the Tribunal which in law exercises the jurisdiction over the jurisdictional assessing officer of the respondent assessee who framed the order levying penalty for the year under consideration. *Ergo* ordered accordingly.

7. In result, the appeal is DISMISSED in aforestated terms.

In terms of rule 34 of ITAT Rules, orders pronounced in the open court on this Wednesday, 16th October, 2024.

-S/d-

ASTHA CHANDRA
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 16th October, 2024

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

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

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

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

-S/d-

G. D. PADMAHALI
ACCOUNTANT MEMBER

आदेशानुसार / By Order

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.