

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI
BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 930/DEL/2023

Assessment Year: 2017-18

SANGEETA WAHI, 8/41, SOUTH PATEL NAGAR, NEW DELHI-110008	Vs.	INCOME TAX OFFICER, WARD 50(2), DELHI
PAN :AABPW4110E		
(Appellant)		(Respondent)

Assessee by	Shri Manoj Kumar, CA
Department by	Shri Sanjay Kumar, SR, DR

Date of hearing	22.10.2024
Date of pronouncement	20.11.2024

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The assessee has come up in challenging the order dated 10.02.2023 passed by Learned Commissioner of Income Tax (Appeals) National Faceless Appeal Centre(NFAC), New Delhi, arising out of the order dated 29.11.2019 passed by the Income Tax Officer, Ward 50(2), Delhi, (hereinafter referred to as the "AO") under Section 144 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for Assessment Year 2017-18.

2. In fact before us the assessee has challenged the assessment proceedings itself by way of additional ground raised to this effect that the notice dated 09.03.2018 under Section

142(1) of the Act was issued by the non-jurisdictional officer i.e. ITO, Ward 52(2) and therefore the assessment is void and liable to be quashed. Moreso, the notice dated 15.07.2019 under Section 142(1) of the Act though was issued by the ITO, Ward 50(2), New Delhi, the said notice is time barred and hence the assessment is liable to be quashed. Apart from that the file has been transferred from ITO Ward 52(2) to 50(2) without following the procedural law.

3. It is the case of the assessee that the initial notice under Section 142(1) of the Act dated 09.03.2018 was issued by AO Ward 52(2), Delhi and subsequently transferred to jurisdictional AO being ITO Ward 50(2), Delhi. However, for transferring the file from one AO to the other the prescribed statutory procedure have not been followed which is evident from the reply to the applicant's application made by the assessee under the Right to Information Act which specifically states that "*There was faceless merging in the department, therefore my predecessor transfer your case out of ward 52(1) to Ward-where your territorial jurisdiction (as per your return address) lies. Further, all the assessment record lies with your present ward*". In this regard, it has been specifically submitted by the Learned AR that the faceless assessment was notified from 13.08.2020 as it is evident from page 66-70 of the Paper Book filed before us. Thus the faceless assessment started after passing of the assessment order and e-assessment started much after transfer of file from 52(2) to 50(2) dated 15.04.2019. In that view of the matter the information provided by the department in reply to the RTI application made by the assessee clearly establishes the fact that the transfer of file

has been made without following the procedure laid down under Section 127 of the Act in the absence of which the entire procedure is vitiated and thus liable to be quashed. In this regard he has relied upon the judgment passed in the matter of *Raj Sheela Growth Fund (P) Limited Vs Income-tax Officer, reported in 2024 165 taxmann.com*. On the other hand the Learned DR expressed his inability to produce the copy of the order under Section 127 of the Act for transferring the file from one ward to other in order to justify the transfer of file made following the prescribed statutory provision.

3. Under these facts and circumstances of the matter, the judgment relied upon by the Learned AR where it has held that transfer of case of the assessee would not be permissible to another Assessing Officer without a decentralization order or transfer order under Section 127 of the Act and since case of the assessee was transferred to Assessing Officer, Ward-21(1), New Delhi in that particular matter without any transfer order, impugned assessment order was set aside on ground of jurisdictional error has been duly considered.

4. Having regard to the issue involved in the case in hand as found to be identical in nature factually, as evident from the judgment relied upon, respectfully relying upon the same, the transfer of case of the assessee from Ward No. 52(2) to 50(2), New Delhi since found to have without any support of issuance of order under Section 127 of the Act, the entire proceedings is

found to have no basis. The same suffers from the jurisdictional error and hence quashed.

5. Hence, assessee's appeal is, thus, allowed.

Order pronounced in the open court on 20th November, 2024.

**Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER**

Dated: 20th November, 2024

DP/SPS

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi