

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.736/Chny/2023
निर्धारण वर्ष/Assessment Year: 2013-14

The JCIT (OSD), Corporate Circle-1(1), Chennai.	v.	M/s.Allahabad Bank, (Merged with Indian Bank), 254-260, Avval Shanmugam Salai, Royapettah, Chennai-600 014.
		[PAN: AACCA 8464 F]
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
Department by	:	Mr. R. Clement Ramesh – Kumar, CIT
Assessee by	:	Mr. Sanjeev Aditya, CA
सुनवाईकीतारीख/Date of Hearing	:	23.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	04.12.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, dated 27.01.2023 for the Assessment Year (hereinafter in short "AY") 2013-14.

2. At the outset, the Ld.AR of the assessee (Allahabad Bank merged with Indian Bank) pointed out that the ibid Appeal filed by Revenue is not



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maintainable before this Tribunal and brought to our notice that AO who framed the assessment/rectification order in this case was DCIT, Circle-6(1), Kolkata, and therefore, the Revenue ought to have filed the appeal before the Tribunal at Kolkata, which has the territorial jurisdiction over such cases and not before the Tribunal situated at Chennai and relied on the decision of the Hon'ble Supreme Court in the case of Pr. CIT v. ABC Papers Limited, in Civil Appeal No. 4252 of 2022, judgment dated 18.08.2022 [(2022) reported in 289 Taxman 150 (SC)] as well as the decision of the Delhi Tribunal in M/s.Panalpine World Transport India Pvt. Ltd. v. Addl.CIT in ITA No.2168/Del/2019 & ITA No.2380/Del/2019 for AY 2010-11 dated 24.03.2023.

3. Per contra, the Ld.DR submits that since the Allahabad Bank has merged with the Indian Bank now its jurisdiction lies before this Tribunal at Chennai and not before the Kolkata Tribunal; and made an alternate prayer that even if the ibid Revenue appeal is dismissed as not maintainable, the Revenue may be granted opportunity to file appeal before the Kolkata Tribunal and the delay caused for filing the appeal due to the aforesaid reason may be condoned.

4. We have heard both the parties and perused the material available on record. We note that in this case original assessment u/s.143(3) of the Act was framed for AY 2013-14 on 21.12.2016 with the caption/



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address shown as M/s.Allahabad Bank, 2, N.S.Road, Kolkata-700 001 and the assessment was framed by the DCIT, Circle-6(1), Kolkata. Later, the assessee filed an appeal before the Ld.CIT(A); and still not satisfied with the action of the Ld.CIT(A) has preferred an appeal before the ITAT, Kolkata, which is pending before it.

5. Meanwhile, the AO [the DCIT Circle-6(1), Kolkata] has passed an order u/s.154 of the Act dated 11.11.2019 with the very same caption (Kolkata address). Aggrieved, the assessee preferred an appeal before the Ld.CIT(A)/NFAC who has passed the impugned order on 27.01.2023 allowing the appeal of the assessee.

6. Aggrieved by the aforesaid action of the Ld.CIT(A)/NFAC, the Revenue has preferred this appeal before this Chennai Tribunal by taking note of the merger of the Allahabad Bank with Indian Bank whose headquarters is at Chennai and has filed Form No.36 on 14.06.2023 which was revised [Form No.36 has been filed on 20.06.2023]; and the Registry has noted that the revised Form No.36 was time barred by '67' days which delay we condone. However, the assessee bank has filed letter dated 14.07.2023, objecting to Revenue filing the instant Appeal before this Tribunal [Chennai] wherein, they have pointed out the impugned order dated 27.01.2023 passed by Ld.CIT(A)/NFAC emanates from the rectification order passed u/s 154 dated 11.11.2019, by the AO



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under Kolkata Circle i.e., the DCIT Circle-6(1), Kolkata . Therefore according to Ld AR, as per the decision of the Hon'ble Supreme Court order in the case of ABC Papers Ltd., (supra) and the Delhi Tribunal order in the case of M/s.Panalpine World Transport India Pvt. Ltd. (supra), this appeal needs to have been filed before the Kolkata Tribunal since the territorial jurisdiction lies under the jurisdiction of Kolkata Tribunal. We note that the jurisdiction of an ITAT Bench is determined by the location of the Office of the AO [*refer standing order No.1 of 1967 issued under the Income Tax Appellate Tribunal Rules, 1963 & Para No.4 of Notification No.F.No.63-AO(AT/97) dated 16.09.1997*] and since, the location of the Office of the AO in the instant case is noted to be at Kolkata, the appeals necessarily should have been filed before the Kolkata Benches and not before Chennai Bench as held by the Hon'ble Supreme Court in the case of ABC Papers Limited (supra) which has been followed by the Tribunal [Delhi] in the case of M/s.Panalpine World Transport India Pvt. Ltd. (supra). Therefore, the preliminary objection raised by the assessee Bank needs to be allowed taking note of the Situs of the AO who passed the rectification order u/s.154 of the Act as well as the original assessment order u/s 143(3) of the Act. Therefore, we are of the considered view that the present appeal of the Revenue are not maintainable at Chennai and hence, dismissed.



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M/s. Allahabad Bank

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7. However, since the Revenue inadvertently has filed the instant appeal taking note that the assessee Allahabad Bank has merged with Indian Bank whose headquarters is situated at Chennai on wrong advice, had preferred this Appeal before this Tribunal which action cannot be termed as deliberate. Therefore, if the Revenue files the appeal before the Kolkata Bench, within 30 days of after receipt of this order, the Kolkata Bench may sympathetically consider the condonation of delay in the peculiar facts and circumstances of the case as discussed (supra).

8. In the result, appeal filed by the Revenue is dismissed.

Order pronounced on the 04th day of December, 2024, in Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04th December, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF