

**IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI**

**SHRI MS. PADMAVATHY S, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 2175/MUM/2022
(Assessment Year: 2016-17)
&
ITA No. 2174/MUM/2022
(Assessment Year: 2017-18)**

Dy. Commissioner of Income Tax-3(4),
29th Floor, Center-1, World Trade Center,
Cuffe Parade, Mumbai - 400005 **Appellant**

Union Bank of India Vs
(Successor of Corporation Bank)
Central Accounts Dept. 6th Floor,
Union Bank Bhavan 239, Vidhan bhavan
Marg Nariman Point Mumbai – 400021 **Respondent**
[PAN: AAACU0564G]

Appearance

For the Appellant/Assessee : Shri Ananthan S
Ms. Laitha Rameshwaran

For the Respondent/Department : Shri Vivek Perampurna

Date

Conclusion of hearing : 08.10.2024
Pronouncement of order : 18.12.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeals preferred by the Revenue directed against two separate order, dated 30/06/2022, and 29/06/2022, passed by the National Faceless Appeal Centre (NFAC), Delhi, [hereinafter referred to as 'the **CIT(A)**'] under Section 250 of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] for the Assessment Year 2016-2017 and 2017-2018, respectively.
2. At the outset, Ld. Authorised Representative for the Assessee filed submitted that the assessment order was passed by the Assessing

Officer, Mangalore falling. In view of the judgment of the Hon'ble Supreme Court in the case of ABC Papers Ltd. [2022] 447 ITR 1 (SC), the appeal should have been filed by the Revenue before the Bangalore Benches of the Tribunal since the seat of the Assessing Officer passing the assessment order determined the jurisdiction of the Tribunal. Therefore, both the appeals were incorrectly filed by the Revenue before the Mumbai Benches of the Tribunal. Reliance in this regard was also placed on the decision of the Mumbai Bench of the Tribunal in the case of the Assessee for the Assessment Year 2007-2008 [ITA No. 3090/Mum/2022, dated 21/11/2023,].

3. The Learned Departmental Representative supported the filing of appeal before the Mumbai Benches of the Tribunal.
4. We find that the Hon'ble Supreme Court in the case of ABC Papers Ltd. (supra) held that appeal against every decision of the ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer passed the assessment order is situated, even if the case or the cases of assessee are transferred invoking power u/s 127 of the Act, the High Court within whose jurisdiction the Assessing Officer has passed the order shall continue to exercise jurisdiction of the appeal and this principle is applicable even if the transfer is u/s 127 of the Act for same assessment year(s). While passing order, dated 21/11/2023, in ITA No. 3090/Mum/2022, holding the appeal of the Assessee for the Assessment Year 2007-2008 as not maintainable, the Tribunal had applied same principle in relation to filing of appeal before the Tribunal. In the appeals before us pertain to the Assessment Years 2016-2017 and 2017-2018. For both the aforesaid assessment years, the assessment order was passed by the Deputy/Assistant Commissioner of Income-tax, Circle 2(1), Mangalore. Hence the jurisdiction to entertain both the appeals does not lie with the Mumbai Benches

of the Tribunal.

5. In view of the above, we are of the opinion that the appeals of the Revenue are not maintainable in present form having been filed before the Mumbai Benches of the Tribunal and are, therefore, dismissed as being not maintainable with the liberty to the Revenue file appeal before concerned Bench of the Tribunal having jurisdiction over the Assessing Officer at Mangalore, if so advised, along with application seeking condonation of delay in filing the appeal bringing on record facts related to filing and disposal of the present appeals so that the period commencing from the date of filing appeal(s) till the date of disposal be taken into consideration by the concerned bench of the Tribunal.
6. In terms of paragraph 5 above, appeal preferred by the Revenue for the Assessment Year 2016-2017 and 2017-2018 are dismissed for statistical purposes as not maintainable.
3. Order pronounced on 18.12.2024.

Sd/-
(Ms. Padmavathy S)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 18.12.2024
Poonam Mirashi,
Stenographer

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai