

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "ए", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री अमिताभ शुक्ला, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER  
आअसं.3246/ दिल्ली /2008(नि.व. 1995-96)  
ITA No. 3246/Del/2008 (A.Y.1995-96)

Deputy Commissioner of Income Tax,  
Central Circle-6, R. No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi  
बनाम Vs.

..... अपीलार्थी/Appellant

Sahara India  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh  
PAN/GIR No. 19-219-FT-3005-CC-I, LKO & 303-S/C-I/LKO

..... प्रतिवादी/Respondent

CO No. 249/DEL/2009 (A.Y.1995-96)  
In ITA No.3246/DEL/2008

Sahara India  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh  
PAN/GIR No. 19-219-FT-3005-CC-I, LKO & 303-S/C-I/LKO  
बनाम Vs.

..... अपीलार्थी/Appellant

Deputy Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

आअसं.683/ लखनऊ/1999 (नि.व. 1995-96)  
ITA No. 683/LKW/1999 (A.Y.1995-96)

Assistant Commissioner of Income Tax,  
Central Circle-1, Lucknow  
बनाम Vs.

..... अपीलार्थी/Appellant

Sahara India  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh  
PAN/GIR No. 303-S/CC-I/LKO

..... प्रतिवादी/Respondent

CO No. 31/LKW/1999 (A.Y. 1995-96)  
In ITA No.683/ LKW /1999

Sahara India,  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. 303-S/CC-I/LKO

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-1, Lucknow

..... प्रतिवादी/Respondent

आअसं.104/ लखनऊ/2000(नि.व. 1996-97)  
ITA No. 104/LKW/2000 (A.Y.1996-97)

Deputy Commissioner of Income Tax,  
Central Circle, Lucknow, Uttar Pradesh

..... अपीलार्थी/Appellant

बनाम Vs.

Sahara India  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. 303-S/CC-I/LKO

..... प्रतिवादी/Respondent

आअसं.742/ लखनऊ/2000(नि.व. 1996-97)  
ITA No. 742/LKW/2000 (A.Y.1996-97)

Sahara India,  
Sahara India Bhawan, 1, Kapoorthala Complex,  
Aliganj, Lucknow, Uttar Pradesh

PAN/GIR No. 303-S/CC-I/LKO

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-1, 27/2, P.K Complex,  
Ram Mohan Roy Marg, Lucknow

..... प्रतिवादी/Respondent

आअसं.669/ लखनऊ/2002(नि.व. 1998-99)

ITA No. 669/LKW/2002 (A.Y.1998-99)

Deputy Commissioner of Income Tax,  
Central Circle-1, Lucknow, Uttar Pradesh  
बनाम Vs.

..... अपीलार्थी/Appellant

Sahara India  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & S-303

..... प्रतिवादी/Respondent

CO No. 53/LKW/2005 (A.Y. 1998-99)

In ITA No. 669/ LKW /2002

Sahara India,  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & S-303

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,  
Central Circle-1, Lucknow, Uttar Pradesh

..... प्रतिवादी/Respondent

आअसं.2502/ दिल्ली /2008(नि.व. 1996-97)

ITA No. 2502/Del/2008 (A.Y.1996-97)

Assistant Commissioner of Income Tax,  
Central Circle-6, New Delhi  
बनाम Vs.

..... अपीलार्थी/Appellant

Sahara India (Firm)  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S/C-I/LKO

..... प्रतिवादी/Respondent

CO No. 250/DEL/2009 (A.Y.1996-97)  
In ITA No.2502/DEL/2008

Sahara India (firm),

1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S/C-I/LKO

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

आअसं.567/ लखनऊ/2002(नि.व. 1997-98)  
ITA No. 567/LKW/2002 (A.Y.1997-98)

Deputy Commissioner of Income Tax,  
Central Circle-1, Lucknow, Uttar Pradesh

..... अपीलार्थी/Appellant

बनाम Vs.

Sahara India (Firm)

1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... प्रतिवादी/Respondent

CO No. 85/LKW/2005 (A.Y. 1997-98)  
In ITA No.567/ LKW /2002

Sahara India (firm),

1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,  
Central Circle-1, Lucknow, Uttar Pradesh

..... प्रतिवादी/Respondent

आअसं.775/दिल्ली/2009(नि.व. 1999-00)

ITA No. 775/DEL/2009 (A.Y.1999-00)

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... अपीलार्थी/Appellant

बनाम Vs.

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... प्रतिवादी/Respondent

CO No. 102/DEL/2009 (A.Y.1999-00)

In ITA No. 775/DEL/2009

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

आअसं.2017/दिल्ली/2009(नि.व. 2000-01)

ITA No.2017/DEL/2009 (A.Y.2000-01)

Deputy Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... अपीलार्थी/Appellant

बनाम Vs.

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... प्रतिवादी/Respondent

CO No. 231/DEL/2009 (A.Y. 2000-01)  
In ITA No. 2017/DEL/2009

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L & 303-S

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

आअसं.2359/दिल्ली/2009(नि.व. 2001-02)

ITA No.2359/DEL/2009 (A.Y.2001-02)

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... अपीलार्थी/Appellant

बनाम Vs.

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L/303-S

..... प्रतिवादी/Respondent

CO No. 190/DEL/2009 (A.Y. 2001-02)  
In ITA No. 2359/DEL/2009

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh

PAN/GIR No. AAMFS-0216-L/303-S

..... अपीलार्थी/Appellant

बनाम Vs.

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

आअसं.2152/दिल्ली/2010(नि.व. 2002-03)

ITA No.2152/DEL/2010 (A.Y.2002-03)

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi  
बनाम Vs.

..... अपीलार्थी/Appellant

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh  
PAN/GIR No. AAMFS-0216-L/303-S

..... प्रतिवादी/Respondent

CO No. 346/DEL/2010 (A.Y. 2002-03)  
In ITA No. 2152/DEL/2010

Sahara India (firm),  
1, Kapoorthala Complex, Aliganj, Lucknow,  
Uttar Pradesh  
PAN/GIR No. AAMFS-0216-L/303-S  
बनाम Vs.

..... अपीलार्थी/Appellant

Assistant Commissioner of Income Tax,  
Central Circle-6, R.No. 334, ARA Centre,  
Jhandewalan Extn. New Delhi

..... प्रतिवादी/Respondent

Assessee by : Shri Ajay Vohra, Senior Advocate with  
Ms. Manisha Sharma, Advocate and  
Shri Jitendra Bhati, Chartered Accountant  
Department by: Shri Ashish Tripathi, Sr. DR

सुनवाई की तिथि/ Date of hearing : 13/03/2025  
घोषणा की तिथि/ Date of pronouncement: : 30/05/2025

आदेश/ORDER

**PER BENCH:**

These bunch of 11 appeals by the Revenue and 9 cross objections (COs) by the assessee in appeals filed by the Revenue are taken up together as single issue is involved in these appeals with regard to Territorial Jurisdiction of the Delhi Benches to entertain these appeals/COs.

2. These appeals have been filed by the Revenue against Sahara Group which includes Sahara India (Firm) and Sahara India. Some of these appeals were filed before the Lucknow Benches of the Tribunal and some of these appeals were filed in Delhi Benches. The common factor in all these appeals and the cross objections is that the situs of the Assessing Officers (AOs) who has passed the assessment orders in the respective appeals is in Lucknow. The appeals filed in Lucknow Benches were transferred to Delhi Benches by the President, Income Tax Appellate Tribunal (ITAT) in pursuance of Rule 4 of Income-Tax (Appellate Tribunal) Rules, 1963 (in short IT(AT) Rules) vide order dated 17.08.2006. The President, ITAT transferred 218 appeals of Sahara Group including Cos and appeals filed under Wealth Tax Act to Delhi Benches from ITAT Lucknow Benches.

3. During hearing of these appeals the Bench raised a query that after the decision of Hon'ble Supreme Court of India in the case of *PCIT vs. ABC Papers Ltd.*, 141 *taxmann.com* 332 and *PCIT vs. MSPL Ltd.*, 150 *taxmann.com* 41; Whether these appeals and the cross objections are maintainable at Delhi Benches?

4. Shri Ajay Vohra, Senior Advocate appearing on behalf of the respondent/assessee's submitted that the assessee's were initially assessed at

Lucknow, subsequently order u/s.127(2) of the Income Tax Act,1961(hereinafter referred to as 'the Act') dated 29.07.2005 was passed and the cases of entire Sahara Group were consolidated at one place i.e. before ACIT, Central Circle-6, New Delhi. In light of the fact that entire cases of the assessee were centralized at Delhi a request was made before the Hon'ble President, ITAT for transferring the appeals from Lucknow Benches to Delhi Benches. The Hon'ble President, ITAT after seeking report from the Department vide order dated 17.08.2006 (supra) transferred 218 appeals of the Sahara Group from Lucknow Benches to Delhi Benches. He further submitted that in so far as the decision of Hon'ble Apex Court in the case of PCIT vs. ABC Papers Ltd. (supra), it will have no bearing on the instant appeals as they have been transferred from Lucknow Benches to Delhi Benches much prior to the date of the order of Hon'ble Apex Court, i.e. 18.08.2022. Thus, he submitted that the Delhi Benches of the Tribunal are well within their jurisdiction to decide these appeals of the Revenue and cross objections of the respondent/assessee's.

5. Shri Ashish Tripathi, representing the Department seconded the submissions made by Id. Counsel for the assessee in so far as Territorial Jurisdiction of Delhi Benches to adjudicate these appeals.

6. We have heard the submissions made by both sides and have considered the Standing Order Rules F.No.63/AD(AT)/97 dated 16.09.1997 under IT(AT). It is an admitted position that the 11 appeals and 9 cross objections emanate from the assessment orders passed by the Assessing Officers having situs at Lucknow. The Standing Order dated 16.09.1997 (supra) *inter alia* states:

***“4. The ordinary jurisdiction of the Bench will be determined not by the place of business or residence of the assessee but by the location of the office of the Assessing Officer.”***

7. The Hon’ble Apex Court in the case of PCIT vs. ABC Paper Ltd. (supra) *inter alia* after considering provisions of section 127 and 255(5) of the Act, Rule 3 and 4 of the IT(AT) Rules and catena of judgment on the issue in an ambiguous manner held that even if the case of an assessee is transferred u/s. 127 of the Act, the Tribunal and the Hon’ble High Court within whose jurisdiction AO passed assessment order would continue to exercise jurisdiction of appeal. For the sake of completeness the relevant extract of the observations of the Hon’ble Apex Court are reproduced herein under:-

*“30. The legal structure under the Income-tax Act commencing with Assessing Officer, the Commissioner of Appeals, ITAT and finally the High Court under section 260A must be seen as a lineal progression of judicial remedies. Culmination of all these proceedings in question of law jurisdiction of the High Court under section 260A of the Act is of special significance as it depicts the overarching judicial superintendence of the High Court over Tribunals and other Authorities operating within its territorial jurisdiction.*

*31. The power of transfer exercisable under section 127 is relatable only to the jurisdiction of the Income-tax Authorities. It has no bearing on the ITAT, much less on a High Court. If we accept the submission, it will have the effect of the executive having the power to determine the jurisdiction of a High Court. This can never be the intention of the Parliament. The jurisdiction of a High Court stands on its own footing by virtue of Section 260A read with Section 269 of the Act. While interpreting a judicial remedy, a Constitutional Court should not adopt an approach where the identity of the appellate forum would be contingent upon or vacillates subject to the exercise of some other power. Such an interpretation will clearly be against the interest of justice. Under Section 127, the authorities have the power to transfer a case either upon the request of an assessee or for their own reasons. Though the decision under section 127 is subject to judicial review or even an appellate scrutiny, this Court for larger reasons would avoid an interpretation that would render the appellate jurisdiction of a High Court dependent upon the executive power. As a matter of principle, transfer of a case*

*from one judicial forum to another judicial forum, without the intervention of a Court of law is against the independence of judiciary. This is true, particularly, when such a transfer can occur in exercise of pure executive power. This is a yet another reason for rejecting the interpretation adopted in the case of Sahara.*

*32. For the reasons stated above, we hold that the decision of the High Court of Delhi in Sahara India Financial Corpn. India Ltd. (supra) and Aar Bee Industries (supra), do not lay down the correct law and therefore, we overrule these judgments.*

*33. In conclusion, we hold that appeals against every decision of the ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer who passed the assessment order is situated. Even if the case or cases of an assessee are transferred in exercise of power under section 127 of the Act, the High Court within whose jurisdiction the Assessing Officer has passed the order, shall continue to exercise the jurisdiction of appeal. This principle is applicable even if the transfer is under section 127 for the same assessment year(s).*

*[Emphasized by us]*

8. The Hon'ble Apex Court in the case of PCIT vs. MSPL Ltd. (supra) has reiterated the legal position that the seat of Tribunal and/or jurisdiction of concerned Hon'ble High Court would depend upon where seat of the Assessing Officer who has passed the assessment order. The fact that subsequently the cases are consolidated before another Assessing Officer in exercise of power u/s. 127 of the Act would not change the jurisdiction of appellate Authorities.

9. We find no force in the argument of Id. Counsel for the assessee either, that the decision rendered in the case of ABC Papers Ltd. (supra) will have no impact on the appeals which have been transferred to Delhi Benches from Lucknow Benches prior to the said judgment. The Hon'ble Apex Court has explained the law 'as it has always been' and has not expounded any new legal principle.

10. In light of facts of the case, Standing Order under IT(AT) Rules (supra) and decisions referred above, we are of considered view that ITAT Delhi Benches do not have territorial jurisdiction to decide aforesaid appeals of Revenue and cross objections by the respondent/assessee. Hence, the appeals and the cross objections are dismissed, as not maintainable.

11. Before parting we may observe that the appellant cannot be left in lurch. Liberty is granted to the Department, as well as, the respondent/assessee to file fresh appeals/cross objections, as the case may be before appropriate Bench of the Tribunal i.e. at Lucknow Benches, within 60 days from the date of receipt of this order. The consequent delay caused in filing of these appeals/cross objections from the date of impugned order shall be condoned.

12. In the result, all 11 appeals of the Revenue and 9 cross objections of the respondent/assessee are dismissed.

Order pronounced in the open court on Friday the 30<sup>th</sup> day of May, 2025.

Sd/-

(AMITABH SHUKLA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 30/05/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI