NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 60 of 2016

- Maheep Marketing Pvt. Ltd. Registered Office: Room No. 911, Third Floor, 14, Pollock Street, Kolkata (West Bengal). Head Office: 160, Splendor School Building, Second Floor, D.N. Road, Mumbai, Pin 400001 (Maharashtra) **--- Petitioner**

Versus

1. Union of India Through Secretary, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi

2. The Principal Commissioner of Income Tax - I, Central Revenue Building, P.S. Civil Lines, Raipur, (Chhattisgarh) 492001

3. The Deputy Commissioner of Income Tax - 2 (1), Raipur, Central Revenue Building, P.S. Civil Lines, Raipur (Chhattisgarh) 492001

4. The Deputy Commissioner of Income Tax, Central Circle, Central Revenue Building, P.S. Civil Lines, Raipur, (Chhattisgarh) 492001

---- Respondents

For the Petitioner	:	Mr. S. Rajeshwara Rao with Mr. Manoj K. Sinha, Advocate.
For the respondents	:	Mrs. Naushina Ali, Standing Counsel for the respondents/ Income Tax Department.

Hon'ble Shri Justice Goutam Bhaduri

ORDER ON BOARD

06.05.2016

1. The challenge in this petition filed under Article 226/227 of the Constitution of India is to the order dated 31.03.2015 passed by the Deputy Commissioner of Income Tax, Raipur whereby certain assessment has been made for payment of tax against the petitioner.

2. Learned counsel for the petitioner would submit that initially the petitioner was subject to Kolkota's jurisdiction for assessment in I.T.O., Ward No.4 as per Annexure P-3 and the Commissioner in exercise of power under Section 127 of

the Income Tax Act has transferred the assessment to DCIT (Central), Raipur by an order dated 05.08.2013, therefore the impugned order passed by the Deputy Commissioner of Income Tax dated 31.03.2015, is nonest and is without jurisdiction since it contravenes their own direction issued by the department.

3. Per contra, counsel appearing on behalf of the income tax department raised a preliminary objection about the very maintainability of this petition and would submit that the order under challenge in this petition is appealable order and statutory appeal lies u/s 246-A of the Income Tax Act.

4. Perused the order dated 31.03.2015. This is an order by the Deputy Commissioner of Income Tax wherein certain assessment order has been made. Reading of section 246-A would show that statutory appeal is provided under the Act, therefore, it is observed that the petitioner may prefer an appeal before the appellate authority i.e., Commissioner of Income Tax (Appeals) and may raise all the grounds therein. Section 246-A do not limit the jurisdiction of the Commissioner, Income Tax and if such grounds are raised then the Commissioner of Income Tax (Appeals) shall be obliged to decide the same on its own merits. It is further observed that the Commissioner (Appeals) may decide the appeal within a further period of 4 weeks from the date of receipt/production of this order.

5. With the above direction, this petition stands disposed of.

Sd/-
GOUTAM BHADURI
JUDGE

Rao