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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 1700/2016 & CM No.7304/2016**

ROHNE COAL CO. (P) LIMITED ..... Petitioner
Through: Mr Ajay Vohra, Senior Advocate with Mr Rohit Jain and Ms Roopali Gupta, Advocates.

versus

PR, COMMISSIONER OF INCOME TAX, DELHI 7 & ORS. ..... Respondents
Through: Mr Sanjay Kumar, Junior Standing Counsel for Mr Dileep Shivpuri, Senior Standing Counsel.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R
% **18.03.2016**

1. The challenge in this writ petition is to the impugned order dated 5th February, 2016 passed by the Principal Commissioner of Income Tax ('PRCIT'), Delhi-7, New Delhi under Section 127 (2) of the Income Tax Act, 1961 ('Act') transferring the jurisdiction of the Assessee from Ward 21(4), New Delhi to CC-I, Chandigarh. The reason given in the impugned order is that it is for "administrative convenience.".

2. A notice was issued on 8/9th December, 2015 by the PRCIT, Delhi-7 to the Petitioner stating that it was being proposed to transfer the jurisdiction in relation to the Petitioner from Delhi to DCIT-I, Chandigarh "in the interest

of co-ordinated investigation into the group of cases" of M/s Bhushan Power & Steel Group pursuant to search and seizure conducted on the said group on 21st February 2014. In reply thereto, the Petitioner on 9th December 2015 objected to the proposal by pointing that no search and seizure operation was conducted on it and that it was not part of the M/s Bhushan Power & Steel Group.

3. The PRCIT, Delhi-7 was expected to deal with the above objection of the Petitioner and decide it one way or the other with reasons disclosed to the Petitioner. However, in the impugned order passed by the PRCIT, Delhi-7 on 5th February 2016, there is no indication whatsoever whether and how the Petitioner's objections have been dealt with.

4. In identical circumstances the Division Bench of this Court in ***ATS Promoters & Builders (P) Ltd. v. Chief Commissioner of Income-tax, Delhi (2009) 308 ITR 65 (Del)*** set aside the order passed under Section 127(2) of the Act while granting opportunity to the CIT, Delhi-I in that case to pass another order after giving a further opportunity of hearing to the Petitioner therein.

5. Accordingly, the impugned order dated 5th February 2016 passed by the PRCIT, Delhi under Section 127(2) of the Act is set aside. It will be open to the PRCIT, Delhi-7 to pass a fresh order under Section 127(2) of the Act after dealing with the objections raised by the Petitioner and if necessary giving the Petitioner an opportunity of being heard.

6. Mr Vohra, learned Senior Counsel for the Petitioner draws the attention of the Court to the fact that subsequent to the previous date of hearing i.e. 26th February, 2016 the Petitioner has been issued notices by the Assessing Officer (AO) in Chandigarh on 29th February and 10th March 2016. Mr Vohra states on instructions that, till such time fresh orders are not passed under Section 127(2) of the Act, the Petitioner would not challenge the said notices on the ground of jurisdiction but reserves the right to challenge them on the ground that Section 153 A of the Act cannot be invoked against the Petitioner.

7. In that view of the matter, further proceedings pursuant to the aforementioned notices dated 29th February and 10th March 2016 are directed to remain stayed till such time the PRCIT, Delhi-7 passes a fresh order under Section 127(2) of the Act in accordance with law and in terms of the above directions. To facilitate the compliance with the directions issued, it is directed that the matter be placed before the PRCIT, Delhi-7 on 4th April, 2016.

8. Mr Vohra states that in the event, the PRCIT, Delhi-7 decides that the jurisdiction qua the Petitioner need not be transferred to Chandigarh as originally proposed, then the above notices issued by the AO in Chandigarh may be treated as notices issued by the concerned AO in Delhi and in that event no plea of limitation for completion of the assessment will be raised by the Petitioner. He clarifies that the Petitioner nevertheless reserves the right to challenge them on the ground that Section 153 A of the Act cannot

be invoked against the Petitioner.

9. The writ petition and pending application are disposed of in the above terms.

10. Order *dasti* under the signature of the Court Master.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 18, 2016
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