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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 12403/2019

SEEMA JAIN ..... Petitioner

Through: Mr. Mukesh Gupta and Mr. Keshav Rai, Advs.

versus

ACIT, CIRCLE 51(1) ..... Respondent

Through: Mr. Zoheb Hossain, Sr. Standing counsel for Revenue with Ms. Zehra Khan, Jr. Standing counsel

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **25.11.2019**

1. The petitioner has preferred the present petition to assail the notice dated 31.08.2018 issued under Section 143 (2) of the Income Tax Act (hereinafter referred as 'Act') and further notices issued by the respondent on the basis of the said notice, on the ground that the same are without jurisdiction.

2. The case of the petitioner is that an order under Section 127 of the Act was passed on 28.05.2010, whereby the jurisdiction of the petitioner's case was transferred from the Central Circle 8, New Delhi to Central Circle 33 (1), New Delhi. The petitioner further states that for the assessment year 2017-18, the petitioner filed the return of income electronically in Circle 33 (1) New Delhi on 29.07.2017. He states that he received a notice, dated 13.08.2018 under Section 143 (2) of the Act for scrutiny of the case from the office of the respondent. This notice was received from the office of

Assistant Commissioner of the Income Tax, Circle 51 (1) New Delhi.

3. The petitioner raised its objection to the issuance of the said notice on the point of jurisdiction only on 20.02.2019. The said objection was rejected with the observations that the petitioner's PAN was decentralized to Circle 33 (1),CIT (ii), New Delhi and that upon restructuring of the department which was carried out in the year 2014, Circle 33 (1) (Pre-structuring) was redesignated as Circle 51 (1), PCIT-17, New Delhi.

4. The submission of the learned counsel for the petitioner is that apart from the petitioner's case, the case of her husband Sh. S. K. Jain was similarly transferred under Section 127 of the Act vide order dated 28.05.2010 to Circle C-33 (1), and he continues to be assessed, in Circle 50 (1) within whose jurisdiction the area of Pusa Road falls.

5. Mr. Zoheb Hossain, learned senior standing counsel, who appears on advance notice has raised two objections. Firstly, he points out that the address disclosed by the petitioner in her return, reads as Flat No. 11/2A, Pusa Road, Karol Bagh, New Delhi- 110005. The area/locality has been described by the petitioner as "Karol Bagh". He submits that in terms of the re-structuring, "Karol Bagh" falls within Circle 51 (1). Secondly, he points that the petitioner raised the issue of jurisdiction only on 28.02.2019,beyond the period of 30 days of the issuance of the notice under Section 143 (2), which was issued on 13.08.2018. He submits that such objection is therefore clearly barred under Section 124 (3) (a) which reads as under;

> *"(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—*
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> *(a) where he has made a return 83[under sub-section (1) of*

section 115WD or] under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or 83[sub-section (2) of section 115WE or] subsection (2) of section 143 or after the completion of the assessment, whichever is earlier;"

6. Mr. Hossain, further submits that subsequent order has been issued on 21.01.2019, whereby the case of the petitioner has been transferred by the Principal Commissioner of Income Tax in the exercise its power under Section 120 (3) from Circle 51 (1) to Circle 50(1).

7. We have heard the submissions of the learned counsels and perused the record. Firstly, we find that the petitioner has described her address falling within the area/locality of "Karol Bagh", therefore, in terms of restructuring of jurisdiction of income tax in Delhi that w.e.f. 15.11.2014, the jurisdiction over the "Karol Bagh" area lay with the Circle 51 (1). Secondly, the objection has been raised by the petitioner clearly highly belatedly. The purpose of the prescribing the limitation for raising such objection under Section 124 (3) (a), is to ensure that such objections are not timed in such a way as to defeat the right of the revenue to issue notice by letting time pass, and making them time barred.

8. We therefore, find no merit in the present petition. Accordingly the same is dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 25, 2019

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