

106

(THROUGH VC)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITA-232-2022 (O&M)
Date of Decision: 27.02.2024

Pr. Commissioner of Income Tax-1, Chandigarh
Vs.
..... Appellant

M/s YPT Entertainment House P. Ltd.
..... Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vaibhav Gupta, Advocate
for the appellant.

Mr. Ved Jain, Advocate
for the respondent.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Notice of motion.
2. Mr. Ved Jain, Advocate accepts notice on behalf of respondent.
3. Preliminary objection has been raised by the counsel for the respondent with regard to maintainability of the appeal on the basis of the judgment passed by the Supreme Court in *Principal Commissioner of Income Tax-I, Chandigarh vs. ABC Papers Ltd. reported in (2022) 9 SCC 1*, and submits that the jurisdiction would lie at Allahabad High Court as the Assessing Officer in the present case is of Noida.
4. Learned counsel for the appellant/Revenue does not object to the said aspect.
5. In *ABC Papers Ltd.* (supra), the Supreme Court has held as under:

“40. The binding nature of decisions of an appellate court established under a statute on subordinate courts and tribunals within the territorial jurisdiction of the State, is a larger principle involving

consistency, certainty and judicial discipline, and it has a direct bearing on the rule of law. This "need for order" and consistency in decision making must inform our interpretation of judicial remedies. An important reason adopted in Seth Banarasi Dass Gupta, further highlighted by Lahoti, J. in Suresh Desai, is that a decision of a High Court is binding on subordinate courts as well as tribunals operating within its territorial jurisdiction. It is for this very reason that the assessing officer, Commissioner of Appeals and ITAT operate under the High Court concerned as one unit, for consistency and systematic development of the law. It is also important to note that the decisions of the High Court in whose jurisdiction the transferee assessing officer is situated do not bind the Authorities or ITAT which had passed orders before the transfer of the case has taken place. This creates an anomalous situation, as the erroneous principle adopted by the authority or ITAT, even if corrected by the High Court outside its jurisdiction, would not be binding on them.

41. The legal structure under the Income Tax Act commencing with assessing officer, the Commissioner of Appeals, ITAT and finally the High Court under Section 260-A 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 260-A 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.

44. For the reasons stated above, we hold that the decision of the High Court of Delhi in Sahara² and Aar Bee³ do not lay down the correct law and therefore, we overrule these judgments.

45. In conclusion, we hold that appeals against every decision of 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).

46. We will now deal with the decisions of certain High Court which have taken a view that the jurisdiction of the High Court must be based on the location of ITAT. These judgments are CIT v. Parke Davis (India) Ltd. 20, CIT v. A.B.C. India Ltd. 21 CIT v. J.L. Morrison (India) Ltd. 22, CIT v. Akzo Nobel India Ltd. 23, CIT v. Sungard Solutions (I) (P) Ltd. 24 and CIT v. Shree Ganapati Rolling Mills (P) Ltd. 25 We have examined these cases in detail and found that the assessing officers in each of these cases were in fact not located

within the territorial jurisdiction of these High Courts. For this reason, the aforesaid decisions are correct to the extent of these High Courts not exercising jurisdiction. However, while returning the files to be represented in the appropriate court, certain observations were made stating that the appeals could be filed in the High Court which exercises territorial jurisdiction over ITAT concerned. These observations are only obiter. In any event they did not preclude the party from filing the appeal before the appropriate High Court where the assessing officers exercised jurisdiction. However, we are reiterating for clarity and certainty that the jurisdiction of a High Court is not dependent on the location of ITAT, as sometimes a Bench of ITAT exercises jurisdiction over plurality of States.”

- 6. In view of above, this Court is satisfied that the assessment order has been passed by Deputy Commissioner of Income Tax, Central Circle, Noida and the appeal was heard by Commissioner of Income Tax (Appeals), Kanpur, and as such, the jurisdiction would lie at Allahabad High Court.
- 7. Keeping in view the aforesaid, this appeal is allowed to be withdrawn with liberty to file appeal before the concerned Court of jurisdiction.
- 8. Appeal stands **dismissed as withdrawn** with aforesaid liberty.
- 9. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

February 27, 2024

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |