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

\# **CNR No. DLHC010458372026**

\+ ITA 772/2026, CM APPLs. 66017-18/2026

THE PR. COMMISSIONER OF INCOME TAX -CENTRAL - 1 .....Appellant

Through: Mr. Ruchir Bhatia, SSC, Mr. Anant Mann, JSC and Mr. Pratyaksh Gupta, JSC

versus

HUAWEI TELECOMMUNICATIONS (INDIA) CO. PVT. LTD. .....Respondent

Through: Appearance not given.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MS. JUSTICE RENU BHATNAGAR

O R D E R

% 29.10.2026

1. The present appeals have been filed against the order dated 10.10.2025 passed by the learned Income Tax Appellate Tribunal, Bench 'I', New Delhi ("ITAT").

2. The proceedings arise out of the assessment order passed by the Office of the Deputy Commissioner of Income Tax, Circle 2(1), Gurugram.

3. Learned counsel appearing for the respondent submits that the jurisdictional High Court in the present case would be the High Court of Punjab and Haryana and not this Court. In support of this

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submission, learned counsel relies upon the judgment of the Hon'ble Supreme Court in ***Principal Commissioner of Income Tax-I, Chandigarh v. ABC Papers Limited, (2022)*** 9 SCC 1. Paragraphs 42 to 45 of the said judgment are reproduced hereinbelow:

> ***"****42. The power of transfer exercisable under Section 127 is relatable only to the jurisdiction of the Income Tax Authorities. It has no bearing on 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 Parliament. The jurisdiction of a High Court stands on its own footing by virtue of Section 260-A 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.*
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> *43. 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 Sahara [CIT v. Sahara India Financial Corpn. Ltd., 2007 SCC OnLine Del 1762 : (2007) 294 ITR 363] .*
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> *44. For the reasons stated above, we hold that the decision of the High Court of Delhi in Sahara [CIT v. Sahara India Financial Corpn. Ltd., 2007 SCC OnLine Del 1762 : (2007) 294 ITR 363] and Aar Bee [CIT v. Aar Bee Industries, 2013 SCC OnLine Del 2356 : (2013) 357 ITR 542] do not lay down the correct law and therefore, we overrule these judgments.*
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> *45. In conclusion, we hold that appeals against every decision of ITAT shall lie only before the High Court*

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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).”

4. In view of the above, the present appeals would lie before the High Court of Punjab and Haryana.

5. Needless to add, benefit of Section 14 of the Limitation Act, 1963, may be available to the Revenue, should it choose to challenge the impugned order before the competent High Court, subject to the applicability of the said provision in the facts and circumstances of the case.

6. In view of the above observations, the present appeals, along with the pending applications, stand disposed of.

SUBRAMONIUM PRASAD, J

RENU BHATNAGAR, J

OCTOBER 29, 2026/*bs/ns*

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