

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 840/CHNY/2022

निर्धारण वर्ष/Assessment Year: 2018-19

**Shri Prabhakar,**

No.21, Sadasivam Metha Street,  
Mehta Nagar,  
Chennai – 600 029.

vs.

**The Addl./Joint/Deputy/**

**Asst. CIT/ Income Tax  
Officer,**

National e-Assessment Centre,  
Delhi

**PAN: AKGPP 0144E**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri B. Ramakrishnan, CA &  
Shri Shrenik Chordia, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 17.01.2023

घोषणा की तारीख/Date of Pronouncement

: 20.01.2023

**आदेश /ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-18, Chennai in ITA No.40/2021-22/CIT(A)-18 dated 26.08.2022. The assessment was framed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income Tax Officer, National e-Assessment Centre,

Delhi for the assessment year 2018-19 u/s.143(3) r.w.s.144B of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 20.04.2021.

2. At the outset, the Id.AR for the assessee drew our attention to the additional ground raised on petition filed vide dated 05.12.2022 making prayer for permission to file additional ground of appeal and admission of the same as per Rule 11 of the Income Tax Appellate Tribunal Rules, 1963. The Id.AR stated the facts that assessment for the relevant assessment year was completed u/s.143(3) r.w.s. 144B of the Act vide order dated 20.04.2021 making addition of Rs.37,42,497/- towards commission income u/s.28 of the Act. He narrated that the assessee filed appeal before CIT(A) who sustained the addition to the extent of Rs.31,42,497/- towards commission income added u/s.28 of the Act by the AO after allowing probable expenditure estimated at Rs.6 lakhs. Aggrieved, assessee preferred appeal before the Tribunal and now raising this additional ground that the AO of National e-Assessment Centre, Delhi erred in passing the assessment order dated 20.04.2021 without jurisdiction as the assessee's case was centralized with the Central Circle 3(1), Chennai vide notification No.119/2020-21 dated 19.03.2021 issued

by the PCIT-3, Chennai. For this assessee has raised the following additional ground:-

“9. For that the Learned Assessing Officer, National e-Assessment Centre, Delhi had erred in passing the Assessment Order on 20.04.2021 without jurisdiction for the case had been centralized to Central Circle-3(1), Chennai vide Notification No.119/2020-21 dated 19.03.2021 issued by the Principal Commissioner of Income Tax -3, Chennai.”

The Id.AR for the assessee stated that this ground raised by assessee now goes to the root of the matter and no new facts are to be brought on record or no new facts are to be investigation by the Tribunal, as all the relevant facts are available on the record of the AO. When this was pointed out to Id. Senior DR, he could not controvert the above fact situation.

3. After hearing both the sides and going through the ground raised which is purely jurisdictional issue and requires no investigation of new facts, we are inclined to admit the additional ground and will adjudicate.

4. We have heard rival contentions and gone through facts and circumstance of the case. Brief facts are that the relevant assessment year involved is assessment year 2018-19 and original assessment was completed by the Additional/Joint/Deputy/Assistant Commissioner of Income Tax/ Income Tax Officer i.e., AO of

National e-Assessment Centre, Delhi u/s.143(3) r.w.s. 144B of the Act vide order dated 20.04.2021. The assessee's case was selected for limited scrutiny assessment under e-assessment scheme 2019. Now before us the Id.AR for the assessee drew our attention to assessee's paper-book wherein the CBDT issued instruction vide F.No.187/3/2020-ITA-I dated 13.08.2020, wherein it is provided that all the assessment order shall hereafter be passed by National e-Assessment Centre through the Faceless Assessment Scheme 2019 except wherever the cases are assigned to central charges or international tax charges. The Id.AR drew our attention to para 2 of the order of the CBDT passed u/s.119 of the Act and the relevant reads as under:-

2. In order to ensure that all the assessment orders are passed through the Faceless Assessment Scheme, 2019, the Board in exercise of powers under section 119 of the Income-tax Act, 1961 hereby directs that all the assessment orders shall hereafter be passed by National eAssessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder :-

- i) Assessment orders in cases assigned to Central Charges.
- ii) Assessment orders in cases assigned to International Tax Charges.

4.1 The Id.AR for the assessee also drew our attention to another notification issued by CBDT vide order F.No.187/3/2020-ITA-1 dated 18.09.2020, wherein directions are issued in pursuance to webinar held on 10.09.2020 on Faceless Assessment Scheme, 2019 and vide para 2(A)(vi), all cases covered u/s.133A of the Act having

impounded material will be transferred to the Central Charge vide order u/s.127 of the Act. The relevant clause (vi) reads as under:-

“(vi) All cases selected u/s 133A of the Act (excluding International Taxation) having impounded material will be transferred to the Central Charges vide order u/s 127 of the Act and the cases having no impounded material will be handled by the ReACs. The survey reports shall be uploaded on ITBA by the jurisdictional charges.”

4.2 The Id.AR then took us through the facts of the case that a survey action u/s.133A of the Act was conducted by the Deputy Director of Income Tax (Inv), Unit 1(4), Chennai in the case of assessee and his premise M/s. Thirumala Enterprises, Chennai and other related parties on 12.01.2021. During this survey on assessee, the books of accounts were found and impounded as per Annexure ANN/JN/PB/B&D/Imp. The relevant para of the Annexure order dated 12.01.2021 reads as under:-

“During the course of survey:

- (a) Books of accounts were examined and impounded as per Annexure ANN/JN/PB/B&D/Imp
- (b) Cash found in the premises was inventorised as per Annexure ANN/JN/PB/Cash/F

4.3 In term of the above survey conducted by the Department on the premises of the assessee on 12.01.2021, the assessee's case was centralized to the Central Circle vide notification No.119/2020-21 dated 19.03.2021 vide letter C.No.3062/PCIT-3/2020-21 by the Chief Commissioner of Income Tax-3, Chennai. We noted that the

jurisdiction for framing assessment in view of notification No.187/3/2020-ITA-I dated 13.08.2020, the assessee's case was consequently centralized vide notification No.119/2020-21 vide order dated 19.03.2021. We noted from the notification centralizing the case of assessee from ITO, Non-Corporate Ward 10(3), Chennai to DCIT, Central Circle 3(1), Chennai and the responsibility of giving information was on the AO transferring the file to the change jurisdiction. This fact was also recorded in the notification at para 4, which reads as under:-

“4. The Assessing Officer transferring the file shall inform the assessee of the change in jurisdiction. Further, the Assessing Officer is directed to give complete details of the pending action in the transfer memo.”

4.4 Even it was within the knowledge of the Departmental AO's vide order F.No.187/3/2020/ITA-I that all the cases selected u/s.133A of the Act having impounded material will be transferred to Central Charge vide order u/s.127 of the Act, wherever there is impounded material. The AO while framing assessment was very much aware about the impounded material which we have reproduced above in para 4.2. This knowledge was also inferred from the order F.No.187/3/2020/ITA-1 dated 18.09.2020 wherein it is categorically recorded in para 3, which reads as under:-

“3. All communications to the taxpayer or authorized representatives etc., are to be done to ITBA Portal. In case of non-compliance of the communication, alternative email of the taxpayer as available with the

System may be used for enforcing compliance and communication should be done by examining the “Profile View” and “Asset Details” in Project Insight.

The very notification also has given power to the concerned PCITs of relevant charge for intervening period which is referred in the above notification in para 2(B)(h), which reads as under:-

“(h). If considered necessary, the Pr.CIT of the relevant charge will give concurrent jurisdiction to the Range heads and Range heads, in turn will give the concurrent jurisdiction to the AOs of those charges who carried out such work for the intervening period only, to regulate such work post 13-8-2020.”

5. When these notifications and orders were confronted to Id. Senior DR, he could not controvert the above fact situation that the actual jurisdiction of the present assessee for the present assessment year lies with the DCIT, Central Circle 3(1), Chennai by virtue of notification No.119/2020-21 dated 19.03.2011. It is also noted from this very notification that it is the duty of the AO transferring the file shall inform the assessee of the change in jurisdiction and not the other way round. The date of assessment order is 20.04.2021 that means, there is almost one month time gap was available for transferring the file from AO, ITO, Non-Corporate Ward 10(3), Chennai to DCIT, Central Circle 3(1), Chennai. It means that the assessment framed is without jurisdiction because the assessment order passed by AO of NEAC,

New Delhi is not having any jurisdiction because the matter was centralized much prior to the date of passing of order on 20.04.2021. The jurisdiction of the assessee w.e.f. 19.03.2021 lies with the DCIT, Central Circle 3(1), Chennai and only, he was authorized to make assessment in the case of assessee for the relevant assessment year.

6. In view of entirety of facts as noted above, we are of the view that the assessment framed by the non-jurisdictional AO is bad in law and hence, quashed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 20<sup>th</sup> January, 2023 at Chennai.

Sd/-

(जी. मंजुनाथ)

**(G. MANJUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 20<sup>th</sup> January, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |