

2022 LiveLaw (SC) 982

IN THE SUPREME COURT OF INDIA
K.M. JOSEPH; J., HRISHIKESH ROY; J.
Special Leave to Appeal (C) No. 7019/2017

COMMISSIONER OF INCOME TAX - I *versus* M/S. BALAK CAPITAL PVT. LTD.

Income Tax Act, 1961 ; Section 260A - 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. Followed *Principal Commissioner of Income Tax-I, Chandigarh v. ABC Papers Ltd.* [2022 LiveLaw \(SC\) 686](#).

(Arising out of impugned final judgment and order dated 10-02-2016 in ITA No. 194/2014 passed by the High Court of Punjab & Haryana at Chandigarh)

For Petitioner(s) Ms. Nisha Bagchi, Adv. Mr. Shashank Bajpai, Adv. Ms. Priyanka Das, Adv. Mr. Rupesh Kumar, Adv. Mrs. Anil Katiyar, AOR

For Respondent(s) Mr. Karan Dewan, Adv. Ms. Aancha Jain, Adv. Ms. Aditi Gupta, AOR Mr. Kartik Yadav, Adv.

ORDER

By the impugned order, the High Court of Punjab and Haryana has ordered as follows in an appeal carried under Section 260A of the Income Tax Act, 1961:

“5. In view of the above, this Court has no territorial jurisdiction adjudicate upon the lis over an order passed by the Assessing officer, i.e. Income Tax Officer, Ward 1(1), at Surat. Accordingly, the complete paper book of appeal including application for condonation of delay is returned to the appellants for filing before the competent court of jurisdiction in accordance with law. With regard to the cross objections, learned counsel for the respondent submits that in view of the return of the appeal, the cross objections have been rendered infructuous and be disposed of as such. Ordered accordingly.”

We have heard learned counsel for the petitioner and also the learned counsel for the respondent.

Learned counsel for the petitioner would point out that the very question fell for consideration before a Bench of three learned Judges which is reported in ***Principal Commissioner of Income Tax-I, Chandigarh v. ABC Papers Ltd. (2022) 9 SCC 1***. Therein this Court has held that the appellate jurisdiction of the High Court under Section 260A is exercisable by the High court within whose territorial jurisdiction the assessing officer is located. The Court has held as follows:

“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).”

In the facts of this case, we have noticed that by the impugned order, the High Court has precisely proceeded on the same principle. This means that the order by which the appeal has been directed to be presented before the High Court of Gujarat as the Assessing Officer who passed the order was located at Surat within the State of Gujarat, is unexceptionable. We see no reason to interfere with the impugned order.

Learned counsel for the petitioner would point out that on an earlier occasion, the High Court of Gujarat has taken a contrary view.

We need only mention that any contrary view which has been taken cannot survive after the authoritative announcement by this Court in the decision we have referred to. Making this also clear, the special leave petition will stand dismissed.

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