



* **HIGH COURT OF DELHI : NEW DELHI**

+ **ITA No. 640/2008**

% **Date of Decision : 02.07.2008**

Commissioner of Income Tax Appellant
Through : Mr. J R Goel, Advocate

versus

Smt Anjali Dua Respondent
Through : Mr. Prakash Kumar, Advocate

CORAM :

Hon'ble Mr. Justice Badar Durrez Ahmed

Hon'ble Mr. Justice Rajiv Shakhder

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Badar Durrez Ahmed, J. (Oral)

1- The revenue has preferred this appeal against the order dated 13.08.2007 passed in ITA No. 4827/Del/2004 by the Income Tax Appellate Tribunal (hereinafter referred as the 'Tribunal'). The case pertains to the assessment year 1996-97.



2- The entire issue is with regard to the issuance of notice under Section 148 of the Income Tax Act, 1961 (hereinafter referred as the 'said Act'). The said notice was issued on 28.03.2003 by the that Income Tax Officer, Ludhiana. It was the contention of the assessee the said notice was without jurisdiction, in as much as, the assessee had shifted from Ludhiana to New Delhi in July 1997. The contention on behalf of the revenue was that the notice under Section 148 of the said Act pertains to the assessment year 1996-97 which relates to a period when the assessee was residing at Ludhiana and the assessee had also filed her return at Ludhiana in respect of the said assessment year. It was therefore, contended on behalf of the revenue that the notice issued under Section 148 of the said Act by the Income Tax Officer at Ludhiana was not without jurisdiction and was valid. Consequently, the findings to the contrary by the Tribunal have been challenged.

3- The tribunal considered the question of jurisdiction with regard to the issuance of the impugned notice dated 28.03.2003. The tribunal was of the opinion that the notice issued by the Assessing Officer, Ludhiana was without jurisdiction on account of the fact



that the assessee had placed sufficient material on record to show that as early as, in September, 1997, it was brought to the notice of the authorities at Ludhiana that the assessee had shifted her residence from Ludhiana to New Delhi. The tribunal referred to the letter dated 25.03.1998 which had been issued by the Income Tax Officer at New Delhi to the Commissioner of Income Tax, Ludhiana. The tribunal also referred to the earlier letter dated 05.12.1997 which had been issued by the Income Tax Officer, Ludhiana to the Commissioner of Income Tax, Range-X, Vikas Bhawan, New Delhi. In the letter dated 05.12.1997, the subject is clearly indicated as – ‘change of address and jurisdiction of the Assessing Officer, Ludhiana to New Delhi’. In the said letter, the Income Tax Officer, Ludhiana requested his counter-part in Delhi to send their no objection, and, if the transfer requested for was accepted, also send the designation of the Assessing Officer, who would hold the jurisdiction over the case. In response to this letter, the Income Tax Officer, New Delhi conveyed the fact that the Commissioner of Income Tax Delhi-X, New Delhi had no objection to the proposed transfer of records in “the above mentioned cases”, which, as indicated in the subject of the letter, were as follows:-



“Transfer of assessment records from Ludhiana to Delhi in the case of C K Dua and Anjali Dua”. By the letter dated 25.03.1998, the Income Tax Officer at Ludhiana was further requested to transfer the records of the above cases directly to the Income Tax Officer, Ward No. 21 (4), Vikas Bhawan, New Delhi. These letters clearly indicate that all the cases and records with regard to the assessments and returns filed in Ludhiana by the assessee were sought to be transferred by the assessee and that the Income Tax Officers at Ludhiana and New Delhi had no objection to such transfer.

4- It is in this background that the tribunal noted that the request of the assessee to transfer the jurisdiction was noted in the letter dated 25.03.1998 whereby the no objection of Commissioner of Income Tax, New Delhi was conveyed to the Commissioner of Income Tax, Ludhiana. It is also noted that thereafter the assessee submitted returns for the assessment years 1997-98 onwards at New Delhi. It is in these facts and circumstances that the tribunal came to the conclusion that in so far as, the assessee was concerned, after the said transfer, it is only the revenue authorities at New Delhi who had jurisdiction over the assessee’s cases and who were competent to



issue a notice in terms of Section 148 of the said Act. It may also be pointed that pursuant to the issuance of impugned notice under Section 148 of the said Act on 28.03.2003, when the notice under Section 142(1) was issued to the assessee in December, 2003, the assessee by her reply dated 21.01.2004 indicated that her Assessing Officer was not located in Ludhiana, but was the Income Tax Officer at New Delhi.

5- In view of the foregoing, we are of the view that the tribunal has come to the conclusion on the basis of the facts available on the record and, we do not find any substantial question of law arising in the present case. No interference with the impugned order is called for. This appeal is dismissed.

Badar Durrez Ahmed
BADAR DURREZ AHMED, J

Rajiv Shakti
RAJIV SHAKDHER, J

July 02, 2008mk