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

+ ITA 228/2022

PR. COMMISSIONER OF INCOME TAX-7, DELHI Appellant

Through: Mr. Puneet Rai and Ms. Adeeba
Mujahid and Mr. Karan Pandey,
Advocates

versus

M/S UV REALTORS PVT. LTD. Respondent

Through: None

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Date of Decision: 27th July, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, J (Oral):

1. Present Income Tax Appeal has been filed challenging the order dated 17th May, 2021 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA 6033/Del/2016 & CO 11/DEL/2017 for the Assessment Year 2012-13.
2. Learned counsel for the Appellant states that the ITAT erred in quashing the assessment order passed by the Assessing Officer, Kolkata without appreciating that the PAN of the assessee-company was under the jurisdiction of the Assessing Officer. He states that the ITAT has erred in not appreciating that the PAN of the Assessee is lying at Kolkata and for the



last six years the returns were being processed at Kolkata and during the period the assessee had never raised any objection to the jurisdiction.

3. He submits that the ITAT also failed to appreciate that the assessee had not made any request for change of jurisdiction under Section 127 of the Income Tax Act, 1961 (for short 'Act') between the Assessment Years 2006-07 and 2012-13.

4. However, a perusal of the paper book reveals that the Tribunal has found that the acknowledgment receipt of the return of income shows that the respondent assessee had been filing its returns since inception i.e. Assessment Year 2005-06 at the address mentioned at New Delhi. It is pertinent to mention that in the Assessment Year 2012-13 when the assessee's case was selected for scrutiny, the assessee had within a month filed its objection to the jurisdiction of the ITO, Ward-10(2), Kolkata stating that the assessee's jurisdiction lies with Assessing Officer, Range-18, New Delhi.

5. This Court is in agreement with the view of the Tribunal that as the assessee had raised objection within the time provided under Section 124(3) of the Act, the Assessing Officer, if not, satisfied with the correctness of the claim should have referred the matter for determination before the assessment was made to the PCIT. However, in the present case, the Assessing Officer rejected the objection regarding the jurisdiction and referred the matter to the PCIT to decide the issue after sixteen months. Further, the PCIT instead of deciding the issue of jurisdiction ordered that the issue of transfer of the jurisdiction will be decided after the completion of assessment.



6. This Court is of the view that the approach adopted by both the Assessing Officers i.e. ITO, Ward-10(2), Kolkata as well as PCIT, Kolkata was contrary to the mandate of law, in particular, Section 124(4) of the Act.

7. Consequently, this Court is of the view that no substantial question of law arises for consideration in the present proceedings. Accordingly, the present appeal is dismissed.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

JULY 27, 2022
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