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

+ **ITA 460/2022 & CM APPL.49242/2022**

**PR. COMMISSIONER OF INCOME TAX, BENGALURU - 1,
BENGALURU** Appellant

Through: Mr.Zoheb Hossain, Sr.Standing
Counsel with Mr.Vipul Agrawal and
Mr.Parth Semwal, Jr.Standing
Counsel.

versus

**M/S SUPRAJIT ENGINEERING LTD (PREVIOUSLY KNOWN AS
M/S PHOENIX LAMPS LTD)** Respondent

Through: Dr.Shashwat Bajpai, Advocate with
Mr.Akshay Anurag and Ms.Sanjana
Sachdev, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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17.11.2022

Present Income Tax Appeal has been filed challenging the Order passed by the Income Tax Appellate Tribunal ('ITAT') dated 31st October, 2017 in ITA No. 2845/Del/2007 for the Assessment Year 2003-04.

Learned counsel for the Appellant admits that the Assessing Officer, who has passed the assessment order is based in Noida (U.P.).

The Supreme Court in *Pr. Commissioner of Income Tax - I, Chandigarh vs. ABC Papers Limited, 2022 SCC OnLine SC 1036* has held as under:-



“38. In conclusion, we hold that appeals against every decision of the 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).”

Consequently, this Court has no territorial jurisdiction to hear and decide the present appeal. Accordingly, the present appeal along with pending application is disposed of with liberty to the appellant to file the present appeal in a Court having territorial jurisdiction within twelve weeks. This Court clarifies that the rights and contentions of all the parties are left open.

MANMOHAN, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 17, 2022
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