IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8355 of 2024

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Niraj Kumar Suman, Son of Mohan Prasad Singh, Address at C/O - S.K Sharma, 230/25 E, 09, HDFC ATM, Railway Colony, Mandwali, Fazalpur, P.O - Laxmi Nagar, District - East Delhi 110092.

... ... Petitioner/s

Versus

1. Income Tax Officer Ward-1(1), Muzaffarpur, Bihar -842003.
2. Income Tax Officer Ward 1 1 Muzaffarpur And Anothers Muzaffarpur
2. Pr. Commissioner of Income Tax, Patna-1, Bihar - 800001. Central Revenue Building, Birchand Patel Marg, Patna, Bihar, 800001.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Abhimanyu Vatsa, Advocate
For the Respondent/s : Mrs.Archana Sinha @ Archana Shahi,Sr. S.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 05-07-2024

Whether a change in address in the PAN Card would automatically result in a change in the Jurisdictional Assessing Officer (JAO), is the question raised herein, which has to be considered based on the Faceless Assessment (FA) Scheme, in vogue.

2. We heard the learned Counsel for the petitioner and the learned Senior Standing Counsel for the Income Tax Department.

3. The petitioner in the present case was doing his business in Muzaffarpur, Bihar and the address declared was also

at Muzaffarpur. The 1st Respondent was the JAO of the petitioner. The petitioner contends; without specifying the actual day, that in the year 2017, the petitioner had changed the address in his PAN to Delhi, to which location he has shifted his business. The petitioner has produced Annexure-A/2 which is a communication down loaded from the website, which, according to him, notifies the change in address. The petitioner is said to have also sought for a change of the JAO from Muzaffarpur to New Delhi, as is seen from Annexure-A/3. On a notice being issued under Section 143(2) of the Income Tax Act, 1961 (for brevity 'Act'), by Annexure-A/4 dated 02.10.2018, the Chartered Accountant of the assessee had also sought for transfer of JAO from Muzaffarpur to New Delhi. As of now, the petitioner is issued with notices also in his New Delhi address, as is clear from the various documents produced in the writ petition. The petitioner then was issued with a notice under Section 148A followed with an order and notice under Section 148A(d) of the Act, produced as Annexure-A/13 series of documents. The petitioner's contention is that the 1st Respondent, who has issued the notice does not have jurisdiction to assess the petitioner.

4. On behalf of the Department, a counter affidavit has

been filed, wherein it has been specifically stated that the transfer of JAO has not been effected and the mere change of address would not facilitate the transfer of JAO. The petitioner has, in fact, filed his returns with the JAO at Muzaffarpur. As of now, the returns are filed on-line and it can be filed from anywhere in the country. However, when on-line filing is made, of the returns as obtained from the portal of the Department, the JAO is specifically indicated, which should have cautioned the petitioner and he should have applied for change of JAO with the Principal Commissioner of Income Tax Department and obtained an order under Section 127 of the Act.

5. The learned Counsel for the petitioner relies on ***[2020] 270 Taxman 216 (Madras) [21-01-2020], Abdul Azeez Haroon vs. Deputy Commissioner of Income-tax (International Taxation).***

6. We will first deal with the decision, relied upon by the petitioner, of a learned Single Judge of the Madras High Court. Therein the petitioner was a Non-Resident Indian (NRI) whose JAO from the assessment year 2012-13 was at Shimoga in Karnataka. Prior to 2010-11, the petitioner had his residence at Madurai and he had not earned any income liable to tax in that period. The notice issued under Section 148 was for the

assessment year 2008-09. The petitioner sought for time to collect the details for filing a return whereas the JAO called for the details of the number of days when the petitioner was resident in India during the financial year 2007-08. In the said summons, the JAO had also observed that if the petitioner had been an NRI, the jurisdiction would stand transferred to the Officer, International Taxation, Bangalore and if he had been resident in India, it would stand transferred to Shimoga considering his residence at Shimoga; which is also the address disclosed for the purpose of issuance of PAN. The petitioner was found to have resided in India for only five months and hence was a non-resident for the purpose of assessment; but still the assessment was proceeded with by the Officer at Madurai.

7. The finding as available from the decision is extracted from Para 15, 16, 17 and 18, which are as under:-

> "15. On a combined reading of sections 120, 124 and 127 of the following positions emerge (*i*) jurisdiction vests in an officer in terms of section 120 of the Act (*ii*) sections 120(2) and (3) state that the Central Board of Direct Taxes ('Board') will vest authority in an officer for the purpose of assessment or the Board may, in writing, authorise any Income Tax authority to issue an order in writing authorizing any other authority to perform the functions of assessment. (*iii*) section 124(1) states that where, by virtue of any direction or order issued under section 120(1) or sub-section 2 of the Act, the assessing authority had been vested with jurisdiction over

any area, he shall, within the limits of such area have jurisdiction both in respect of any person carrying on business or profession if such place is located within the area or where his business or profession is carried on in multiple locations, where the principal place of business or profession is located, and, in respect of any other person residing within the area. (*iv*) In issuing such orders, the Board or the authority to whom the power has been delegated by the Board will take note of other criteria such as (a) territorial area, (b) persons or classes of persons, (c) incomes or classes of incomes and (d) cases or classes of cases.

16. In the present case, the facts involved are not in dispute and the petitioner has been assessed for the years 2012-2013 to 2015-2016 as follows:

Sl. No.	Assessment Year	Date of filing of Return	Income Returned and processed u/s 143(1) Rs.
1.	2012-13	04.08.2013	14,00,170/-
2.	2013-14	04.08.2013	9,96,850/-
3.	2014-15	13.03.2015	9,89,920/-
4.	2015-16	30.03.2016	12,38,160/-

17. Intimations under section 143(1) of the Act have been issued by the Central Processing Centre in respect of the returns filed. The petitioners' case is that during the financial year relevant to assessment year 2009-2010 he had shifted his residence to Shimoga, Karnataka, carrying on business at Shimoga as well and the respondent, *vide* communication dated 08.01.2016 admits these facts, after verification of records, to the effect that the petitioner, as on date and since AY 2012-2013 is an assessee on the file of the Income tax Officer at Shimoga.

18. If jurisdiction thus vested with the Income Tax Officer at Shimoga, an alternate assessing authority assuming

jurisdiction of the petitioners' file can be only by transfer of the file and such power of transfer is to be exercised by the Director General or Chief Commissioner or Commissioner, after recording reasons for such transfer and after hearing the assessee concerned. In this case, no order transferring the file of the petitioner from the jurisdiction of the Income Tax Officer, Shimoga to the Deputy Commissioner of Income Tax, International Taxation, Madurai, has been produced before me."

8. The contention of existence of concurrent jurisdiction by multiple officers over a particular assessee based on decisions of other High Courts was found to be not available in the cited case.

9. The learned Single Judge specifically referred to Rule 127 (2) of the Income Tax Rules, which stipulated that the addresses to which notices/summons/requisitions/order/any other communication under the Act may be delivered or transmitted is the address available; in the PAN at the place of the addressee or that available in the income tax returns to which communication relates or that available in the last income tax return furnished by the assessee or in the case of the assessee being a company, address of the registered office as available on the website of the Ministry of Corporate Affairs. The notice in the present case has been addressed to the petitioner in his New Delhi address as available in the PAN Data Base. Specific reference was made to

Prashant Chandra v. CIT, [2016] 387 ITR 88 wherein Allahabad High Court had in a similar case, found the jurisdiction to be absent when the assessee had shifted his principal place of business to New Delhi and requested for change of his JAO from Lucknow to New Delhi.

10. In ***Abdul Azeez Haroon*** (supra), it was specifically noticed that the Assessing Officer having observed and found the transfer of jurisdiction, had again asserted jurisdiction at Madurai on the basis of his NRI status while in the earlier notices the stand taken was that it will be transferred either to International Taxation at Bangalore or the Assessing Officer at Shimoga.

11. We accept the judgment of the learned Single Judge insofar as the JAO having an obligation to communicate the factum of change in jurisdiction, if an objection is raised by the assessee, to the Superior Officer. However, in the present case, though Annexure-A/3, a request for transfer of jurisdiction, is said to have been filed before the JAO, there is nothing indicating that the matter was followed up. In fact, the appeal to the Commissioner as seen in Annexure-A/5, indicates the Assessing Officer to be the 1st Respondent. From the appellate order, it is clear that the petitioner had raised a question of

jurisdiction before the Appellate Authority. However, the appeal was allowed on merits and there was no consideration on the question of jurisdiction. There is nothing to indicate that the petitioner had filed an objection regarding jurisdiction before the JAO, since the appeal was from an order under Section 263 of the Act. While the petitioner asserts that he had changed the PAN in the year 2017, there is nothing stated as to whether he had made a request for such change of jurisdiction of the JAO, which definitely has to be ordered under Section 127. The petitioner does not have a contention that he did not receive the notices issued under Section 148A. The order passed under Section 148A(d) indicates that the petitioner when he received the show cause notice first, sought for time and then did not respond.

12. In the above circumstances, we have to find that the petitioner had not objected to the jurisdiction and as we noticed, the petitioner does not have a contention as to any returns after 2017 having been filed before an officer at New Delhi. True, the returns are filed on-line but it indicates the JAO. The change of address in PAN data base only facilitates service of notice in the changed address. In the above factual circumstances, the rigor of Section 124(3) applies squarely on the petitioner. We also have to notice that as of now the

petitioner is faced with Section 148 notice and the assessment would be done in a faceless manner, without reference to the JAO i.e. the 1st Respondent. In that event there is no prejudice caused to the petitioner. Even if the JAO at Delhi had issued the order under Section 148A, the matter would have to be considered only under the FA Scheme. We find absolutely no reason to interfere with the show cause notice issued under Section 148 of the Act in the present proceedings.

13. In this context, we also refer to the clarification in frequently asked questions (FAQ), which is issued by the Department, available in its portal, based on the Acts/Rules/ Notifications/Circulars. The FAQ is extracted hereunder:-

> "4. I have moved to a different city/state, do I need to change my AO?
>
> Yes. When you shift your permanent address or residential address from one state to another, it is necessary to get your PAN migrated to the new AO. Although the Income Tax Department endeavours to provide taxpayers with all necessary services online, on rare occasions you may need to contact your AO. Thus, it is in your interest to get your PAN migrated to the proper jurisdictional AO, so you can easily reach him/her when the need arises.
>
> 6. What should I do to migrate my PAN to a new AO?
>
> You need to file an application for migrating your PAN to your current jurisdictional AO. The process involves:
>
> 1. Write an application to your current AO stating the reason for change as address change.

2. Write an application to the new AO, requesting him/her to apply to the existing AO for the change.
3. The current AO has to accept this application.
4. Once approved, the application is forwarded to the Income Tax Commissioner.
5. After approval from the Commissioner, the AO is changed.

You are required to make a written request to your existing AO for migrating your PAN to the new AO based on your new address."

14. Paragraphs 4 and 6 of the above extract are relevant, which procedure has to be complied with by the petitioner for change of jurisdiction. Obviously, the petitioner has not applied to any A.O. in New Delhi so as to assume jurisdiction in the case of the assessee. Leaving liberty to apply for such change of jurisdiction, we decline interference to the notice now issued for the reasons stated above.

15. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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