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**Appeal against order of
ITAT would lie with High
Court exercising
jurisdiction at seat of that
Tribunal**

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Facts of the case

- The Bangalore bench of the ITAT had passed an order dated 30 July 2015.
- Subsequently, the tax authorities passed an order under section 127 of the Act transferring the taxpayer's jurisdictions from the Assessing Officer in Bangalore (*viz.* under the jurisdiction of the Karnataka High Court) to that in Pune (*viz.* under the jurisdiction of the Bombay High Court).
- Thereafter, given the change in the taxpayer's jurisdiction, the Revenue preferred to file an appeal before the Bombay High Court against the order of the Bangalore ITAT.
- The maintainability of the appeal filed was disputed by the respondent taxpayer before the Bombay High Court.

Ruling of the High Court¹

- The High court, while analysing the definition of 'Income Tax Authorities' under the Act, observed that the Tribunal and the High Court are not included in the said definition. Hence, section 124 and section 127 relied upon by the Revenue have no application in the circumstances of the current case.
- The Bombay High Court further held that the applicability of the provisions of section 127 of the Act is only restricted to authorities listed under section 116 of the Act. These provisions will not govern the jurisdiction of the High Court.
- Based on the same rationale, the Bombay High Court did not follow the ruling of the Delhi High Court (294 ITR 263)² as was relied upon by the Revenue. The Bombay High Court distinguished the ruling by also holding that it had not considered the provisions of section 260A and 269 of the Act.
- Elaborating this further, the Bombay High Court analysed the application of sections 260A and 269 of the Act. A reading of the provisions indicated that the seat of the Tribunal would decide the jurisdiction of the Court to which the appeal would lie under the Act.
- Therefore, as per the facts of the case, an appeal against an order of the Bangalore bench of the ITAT would only lie with the Karnataka High Court.
- The Bombay High Court made additional arguments to support its view:
 - Inference can be drawn from appeals that are filed before the ITAT. Similar to the High Court, the ITAT is not an income tax authority. In this case too, the jurisdiction is not decided by the seat of the assessing officer but on the basis of rule 4(1) of the ITAT Rules and the standing order No. 63/97 dated 02 July 2013.
 - Moreover it is important to note that the Bombay High Court rules do not provide for anything contrary to the view so held. In fact, the inter se, distribution of appeals between the different benches of this court is on the basis from where an appeal had originated.
 - The above discussed view has also been held by the Punjab & Haryana High Court (326 ITR 156) and the Calcutta High Court (272 ITR 321)³.

- Given the above, therefore, despite the change in the jurisdiction of the assessing officer, an appeal against the order of the Bangalore Bench of the ITAT would lie only with the Karnataka High Court.

1. PCIT v. Sungard Solutions (I) Pvt. Ltd. [TS-120-HC-2019(Bom)]
2. Ruling of the Delhi High Court was also followed by the AAR (357 ITR 452)
3. Followed in [2014] 47 taxmann.com 372 (Calcutta).

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