

CHITTEWAN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX APPEAL NO.899 OF 2018

The Pr. Commissioner of Income Tax-1,
3rd Floor, P.M.T. Building, A Wing,
Shankar Sheth Road, Swargate,
Pune-411 037

... Appellant

Versus

M/s Capstone Securities Analysis Pvt. Ltd.
201, Building No.4, Commerzone, Samrat
Ashok Path, Off Airport Road, Yerwada,
Pune-411 006.
PAN : AABCV9569K
AY 2010-11

... Respondent

* * *

Mr. Suresh Kumar for the Appellant.

Mr. Mihir Naniwadekar a/w Mr. Suyog Bhawe & Ms. Rucha Vaidya
i/b PDS Legal for the Respondent.

* * *

**CORAM : DHIRAJ SINGH THAKUR &
VALMIKI SA MENEZES, JJ.**

DATE : 2 DECEMBER 2022

: O R D E R :

[Per DHIRAJ SINGH THAKUR, J.]

The present appeal under Section 260A of the Income Tax Act, 1961 ("the Act") is preferred against the Order dated 9 August 2017, passed by the Income Tax Tribunal, Pune Bench in Income Tax Appeal No.177/PUN/2015 for the Assessment Year 2010-11.

2 Briefly stated the material facts are as under :

The assessee filed its return of income for the assessment year 2010-11 at Mumbai. The return of the assessee was processed under Section 143(1) on 17 April 2017. Subsequently, the case was selected for scrutiny under CASS and since the assessee had entered into an international transactions during the relevant period, reference under Section 92CA(1) was made to Transfer Pricing Officer by assessing officer to determine Arm's Length Price (ALP) of international transactions with AEs. The TPO vide Order dated 30 January 2014, made an adjustment of Rs.6,36,13,021/-.

3 On the basis of the Order passed by TPO, the assessing officer made the draft assessment order under Section 144C(1) of the Act on 10 February 2014, against which, the assessee filed objections before the Dispute Resolution Panel on 11 March 2014. The Dispute Resolution Panel, however, upheld the finding of the TPO.

4 The assessee, in the meantime, had shifted its registered office from Mumbai to Pune and in that regard, the Registrar of Companies, Maharashtra had issued a certificate of transfer on 13 April 2011, which was brought to the notice of the concerned ITO. A request was also made to the assessing officer, Ward-3(1)(3),

Mumbai for transferring the jurisdiction to Pune, which prayer was allowed by virtue of the Order dated 19 December 2014 passed by the Commissioner of Income Tax-3, Mumbai.

5 The assessing officer, however, despite the Order having been passed on 19 December 2014, proceeded to pass the final Order of assessment on 24 December 2014. The issue of jurisdiction has been decided by the ITAT by virtue of its Order dated 9 August 2017, which is impugned in the present appeal by the revenue. The Tribunal held that after the Commissioner of Income Tax-3, Mumbai had passed an Order on 19 December 2014, transferring the assessment jurisdiction from Mumbai to Pune, the assessing officer at Mumbai had no jurisdiction over the file of the assessee on the date when the Order of assessment came to be passed on 24 December 2014 by him. The Tribunal rejected the argument of the revenue that the assessing officer would continue to exercise the jurisdiction in the case of the assessee inasmuch as PAN of the assessee came to be transferred only 29 December 2014. It was held that the transfer of PAN is consequential to the Order of transfer of jurisdiction and that it is a PAN, which follows the jurisdiction and not *vice versa*.

6 In our view, there is no illegality in the Order dated 9 August 2017, which has been passed by the Tribunal. No substantial question of law arises. The Appeal is accordingly dismissed.

(VALMIKI SA MENEZES, J.) (DHIRAJ SINGH THAKUR, J.)