IN THE HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD

****

WRIT PETITION No.16270 of 2021 and batch

Between:

M/s. Sandhya Constructions and Estates Private Limited,
Sy. No. 86, 87, 90, 91, Sandhya Techno-1, Opposite Sunshine Hospital, Raidurg Main Road, Hyderabad-500 032, Telangana, Represented by its Managing Director, Mr. S. Sreedhar Rao S/o. Mr. S. Babu Rao

Petitioner

VERSUS

The Assistant Commissioner of Income Tax,
Central Circle-32, Hyderabad,
Aayakar Bhavan, Opposite LB Stadium,
Basheerbagh, Hyderabad-500 004 and others

Respondents

ORDER PRONOUNCED ON: 22.09.2026

THE HON'BLE SRI JUSTICE P. SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : No

2. Whether the copies of judgment may be marked to Law Reporters/Journals? : **Yes**

3. Whether His Lordship wishes to see the fair copy of the Judgment? : **Yes**

NARSING RAO NANDIKONDA, J

THE HON'BLE SRI JUSTICE P. SAM KOSHY
AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

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Respondents

! Counsel for Petitioner(s) : Mr. A.V. Krishna Koundinya, learned Senior Counsel representing Mr. A.V.A. Siva Kartikeya.

^Counsel for the respondent(s) : Ms. B. Sapna Reddy, Mr. N. Praveen Kumar Reddy and Mr. K. Sudhakar Reddy, learned Senior Standing Counsel for Income Tax Department.

<GIST:
> HEAD NOTE:
? Cases referred
1) (1976) 102 ITR 281 (SC)
2) (1991) 187 ITR 405(AP)
3) (2011) 334 ITR 232 (P&H)
4) (2019) 260 Taxman 94 (SC)
5) (2016) 388 ITR 489 (SC)
6) (2018) 404 ITR 63 (Bom)
7) (1980) 46 STC 71 (All.)
8) (1957) 31 ITR 565 (SC)
9) (1965) 56 ITR 67 (SC)
10) (1979) 118 ITR 906 (Cal.)
11) (1990) 1 SCC 193
12) (2003) 4 SCC 147
13) (2012) 4 SCC 307
14) AIR 1965 SC 1028
15) (1981) 129 ITR 31 (AP)
16) (2013) 32 taxmann.com 320 (Chhattisgarh)
17) (2025) 181 taxmann.com 1912 (P&H)
18) [2023] 151 taxmann.com 434 (SC)
19) [2025] 179 taxmann.com 589 (Chattisgarh)
20) [2018] 94 taxmann.com 355 (Delhi)
21) [2016] 73 taxmann.com 69 (Calcutta)

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HONOURABLE SRI JUSTICE P. SAM KOSHY

AND

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION Nos.16270, 16276, 16278, 16283, 16287, 16299, 16302, 17579, 17580, 17584, 17585, 17625, 17635, 17647, 19957, 19958, 19963, 19968, 19969, 19973, 19976, 19978, 19986, 19987, 19990, 19995, 19997, 20000, 20008, 20013, 20020, 20025, 20028, 20033, 20050, 20052, 20054, 20070, 20078, 20081, 20083, 20088, 20107, 20261, 20283, 20372, 20651, 20652, 20653, 20656, 20664, 20855, 20896, 21023, 21044, 21048, 21052, 21056, 21066, 21090, 21091, 21105, 21141, 21159, 21173, 21192, 21193, 21196, 21201, 21307, 21309, 21381 and 21384 of 2021

(CNR No. HBHC010267202021)

Date: 22.09.2026

Reserved on: 22.09.2026 **Pronounced on: 22.09.2026**

Uploaded on: 23.09.2026

Between:

M/s. Sandhya Constructions and Estates Private Limited.

…Petitioner

AND

The Assistant Commissioner of Income Tax and 3 Others.

…Respondents

COMMON ORDER: *(per Hon'ble Sri Justice Narsing Rao Nandikonda)*

Heard Mr. A.V. Krishna Koundinya, learned Senior Counsel appearing for Mr. A.V.A. Siva Kartikeya, learned counsel appearing for the petitioner; and Ms. B. Sapna Reddy, Mr. N. Praveen Kumar Reddy, and Mr. K. Sudhakar Reddy, learned Senior Standing Counsel for Income Tax Department appearing for the respondents.

2. The present batch of writ petitions have been filed by the petitioner's private limited company along with its sister concerns and group companies and individual assessees, namely, Sandhya Hotels West Private Limited, Sandhya Construction and Estates Private Limited, Sandhya Hotel East Private Limited, Sarnala Jayalakshmi Hospitality Private Limited, Sandhya Hospitality Private Limited, Sreedhar Sarnala, Lata Pamidimukkala, Jupiter Realtors Private Limited, Sujan Sein, Sandhya Sarnala, and Raja Rao Diggirala. These entities constitute a group of companies, each having a distinct Permanent Account Number (for short 'PAN').

3. Since the entire batch pertains to the same group of companies, the petitioners are substantially the same, the respondents are common and the subject matter as well as the relief sought in all the writ petitions are identical, and as learned counsel appearing for both sides have consented, all the matters were heard and decided analogously.

4. As the submissions by all the parties were advanced taking W.P.No.16287 of 2021 as the lead case, all the connected writ petitions are also being disposed of by this common order.

5. The petitioner has filed the writ petition seeking the following reliefs:

> *"to issue a Writ Order or Direction one more particularly in the nature of Mandamus declaring*
>
> *a. the order u/s. 127 of the Income Tax Act 1961 in F.No.Pr.CIT3/Centralisation/5/2019-20 passed by the 4th Respondent on 18.06.2019 not served on the Petitioner till date as arbitrary illegal bad in law without jurisdiction violative of principles of natural justice and to consequently set aside the same and*
>
> *b. the Assessment Order passed by the 15thRespondent DIN and Order No.1TBA/AST/M/153A/202122/10325171081 for the Assessment Year 2014-15 dated 19.04.2021 as arbitrary illegal bad in law without jurisdiction and violative of principles of natural justice and to consequently set aside the same in the interests of justice and to pass"*

6. The petitioner is an assessee engaged in the business of real-estate and other allied businesses. For the Assessment Year 2014-15, they filed the return of income under Section 139(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") declaring a total income of Rs.2,71,30,660/-. The returns were subjected to scrutiny and the regular assessment under Section 143(3) of the Act was completed on 30.09.2016.

7. The events commenced with a search and seizure operation conducted under Section 132 of the Act on 26.02.2019 at the business premises of the petitioners, the residential premises of their directors and the premises of the group companies. During the course of the search, the respondents took possession of the regular books of account and certain loose slips. According to the petitioners, neither valuable assets were seized during the search, nor were any incriminating material discovered or seized from their premises. That they were originally under the jurisdiction of respondent No.4/the Principal Commissioner of Income Tax-3, Hyderabad, and their jurisdictional Assessing Officer was the respondent No.4/the Assistant Commissioner of Income Tax, Circle 3(1), Hyderabad. Thereafter, pursuant to an order of transfer passed under Section 127 of the Act in F.No.Pr.CIT-3/Centralisation/5/2019-20, dated 18.06.2019, by respondent No.4, the jurisdiction of the petitioners' cases was transferred from respondent No.3 to respondent No.1. It is the case of the petitioners that the said transfer order was never served upon the petitioners or the other group assessees despite repeated requests. Subsequently, on 09.12.2019, the respondent No.1 issued notices under Section 153A of the Act to the petitioners, their directors, the group companies and other family members of the directors. According to the petitioners, owing to the pressure exerted by the respondents, they filed the return of income in response to the said notices. Thereafter, the cases were selected for scrutiny and notices under Sections 143(2) and 142(1) of the Act were issued on 10.02.2020, 12.02.2020, 18.12.2020, 02.02.2021, 31.03.2021, 07.04.2021, and 15.04.2021, calling upon the petitioners to furnish various details and information. The petitioners submitted the requisite information through the Department's web portal. It is further stated that the authorised representative of the petitioners also appeared before respondent No.1 in person and furnished the relevant documents and records in physical form, as certain documents could not be uploaded on the Department's web portal owing to the absence of trained personnel. Ultimately, the assessment was completed on 19.04.2021 by passing the assessment order bearing DIN and Order No.ITBA/AST/M/153A/2021-22/1032517108(1), whereby substantial tax demands were raised against the petitioners.

8. It was submitted that the Assessing Officer ignored the audit reports prepared by the independent Chartered Accountants, disallowed various expenditures claimed by the assessees and disallowed interest expenditure on the ground that no interest had been charged by the petitioners on certain advances, notwithstanding the fact that interest had actually been paid. It was further submitted that the subcontract receipts, together with the corresponding tax deducted at source (for short 'TDS') were wrongly disallowed and added to the income under the provisions of the Act.

9. It is the specific case of the petitioners that the Assessing Officer failed to appreciate that the assessment for the Assessment Year 2014-15 had already been completed under Section 143(3) of the Act after detailed scrutiny. In the absence of any incriminating material unearthed during the course of the search conducted under Section 132 of the Act, no additions could have been made while framing the assessment under Section 153A of the Act merely on estimates or assumptions. According to the petitioners, the impugned assessment order was based solely on the *ipse dixit* of the Assessing Officer, without proper application of mind, without conducting a fair and meaningful enquiry, and in total disregard of the settled principles governing the assessments under the Act.

10. It was further submitted that the entire assessment proceedings were conducted without furnishing to them the order passed under Section 127 of the Act. According to the petitioners, an order passed under Section 127 of the Act is required to be a reasoned order and must necessarily be communicated to the assessee. It was contended that the requirement of recording reasons under Section 127(1) of the Act is mandatory and applies in all cases, irrespective of whether the order of transfer is passed after affording an opportunity of hearing to the assessee or otherwise. The competent authority is therefore, under a statutory obligation to record the reasons necessitating the transfer of jurisdiction in the order itself and an order of transfer which is bald, cryptic, and bereft of valid reasons is liable to be set aside.

11. It was also submitted that the reasons recorded for effecting the transfer must also be communicated to the assessee, failing which the very purpose of recording reasons would stand frustrated. Once an order transferring the case of an assessee from one Assessing Officer to another is passed, communication of such order to the assessee is an essential requirement of law. It is also well settled that an order passed under Section 127 of the Act must disclose the reasons for transfer and such reasons must be duly communicated to the assessee. The relaxation provided under Section 127(3) of the Act, dispensing with the requirement of affording an opportunity of hearing where the transfer is within the same city, locality, or place, does not dispense with the mandatory requirement of recording and communicating the reasons for transfer. Thus, even where the transfer is effected within the same city or locality, the Revenue Department is under a statutory obligation to communicate the reasons to the assessee. Likewise, where the transfer is effected under Section 127(2) of the Act, the consent of the concerned Commissioners must be expressly indicated in the transfer order.

12. Further, the petitioners were never served with the order of transfer passed under Section 127 of the Act, as required by law. According to the petitioners, the Revenue Department cannot be permitted to take advantage of its own omission in failing to communicate the transfer order and there can be no question of waiver merely because the petitioner participated in the assessment proceedings. Such participation should only be under compulsion and cannot confer jurisdiction upon an authority which inherently lacks jurisdiction. It was submitted that the jurisdiction flows solely from the statute and cannot be conferred either by consent or participation in the proceedings.

13. The petitioners' also submitted that the reasons for the transfer must be disclosed in the communication made to the assessee. According to the petitioners, the rigour of Sections 127(1) and 127(2)(a) is relaxed by Section 127(3) only to the limited extent of dispensing with the requirement of affording an opportunity of hearing where the transfer is within the same city, locality, or place. It is an admitted fact that the petitioner in the present writ petition, as well as the petitioners in the connected batch matters, belong to the same group of companies. The petitioners are either individuals associated with the group or Directors of the said group companies.

14. Aggrieved thereby, the petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India, seeking issuance of an appropriate writ, more particularly a writ of Mandamus, to declare the impugned transfer order and the consequential assessment order as illegal, arbitrary, without jurisdiction, and violative of the principles of natural justice and consequently to set aside the same.

15. Learned Senior Counsel for the petitioners contended that in the absence of communication of the order passed under Section 127 of the Act, respondent No.1 lacked jurisdiction to proceed with the assessment under Section 153A of the Act. Consequently, the assessment order dated 19.04.2021 is without jurisdiction, arbitrary, mechanical, and violative of the principles of natural justice.It is further contended that the impugned assessment order is manifestly illegal, contrary to the provisions of the Act, unsupported by valid reasons and passed in a wholly arbitrary and high-handed manner. The order is also alleged to be violative of Articles 14 and 265 of the Constitution of India. According to him, the tax demand raised thereunder is baseless, erroneous, and wholly unjustified. It is alleged that the assessment was completed in undue haste, apparently to overcome the period of limitation and to raise an inflated and unsustainable tax demand without proper application of mind.

16. Learned Senior Counsel appearing for the petitioners placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **Ajantha Industries v. Central Board of Direct Taxes[1],** wherein it is submitted that the principal question which arose for consideration before was whether the failure to communicate the reasons recorded in an order passed under Section 127 of the Act amounts to a violation of the principles of natural justice and consequently renders the order of transfer invalid. While interpreting the scope

[1](1976) 102 ITR 281 (SC)

and ambit of Section 127 of the Act, the Hon'ble Supreme Court categorically held that the requirement of recording reasons is mandatory and that such reasons must also be communicated to the assessee. He also has drawn the attention of this Bench to the observations contained in the unnumbered paragraphs at pages 385 and 386 of the report, wherein the Hon'ble Supreme Court held that the communication of reasons is an essential requirement, and that mere recording of reasons without communicating them to the assessee would defeat the very purpose of the statutory safeguard provided under Section 127. It was further held that non-communication of the reasons would render the order vulnerable to challenge.

17. Learned Senior Counsel for the petitioners has also relied upon the judgment of the then High Court of Andhra Pradesh in **Vijaya Shanthi Investments (P) Ltd. vs. Chief Commissioner of Income-tax and Others[2].**In the said case, the Court was considering the validity of an order transferring the petitioner's assessment proceedings from Bombay to Visakhapatnam under Section 127 of the Act. Reliance is placed upon the relevant observations contained in the judgment, particularly those dealing with the mandatory requirement of recording and communicating reasons for transfer.

18. He has also placed reliance upon the judgment of the Punjab and Haryana High Court in the case of **Deep Malhotra and Others vs. Chief**

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[2](1991) 187 ITR 405 (AP).

Commissioner of Income-tax and Others[3], the relevant paragraphs of which are extracted hereunder for ready reference:

> ***11.*** *The matter is no longer res-integra because Hon'ble the Supreme Court in Ajantha Industries case (supra) has interpreted the provisions of Section 127(1) of the Act and it has been held that the requirement of recording the reasons is mandatory. We are clearly of opinion that the requirement of recording reasons under Section 127 (1), is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee under its writ jurisdiction under Article 226 of the Constitution or even this Court under Article 136 of the Constitution in an appropriate case for challenging the order, inter alia, either on the ground that it is mala fide or arbitrary or that it is based on irrelevant and extraneous considerations. Whether such a writ or special leave application ultimately fails is not relevant for a decision of the question.*
>
> *We are clearly of opinion that the requirement of recording reasons under Section 127 (1), is a mandatory direction under the law and non-communication thereof is not saved by showing that the reasons exist in the file although not communicated to the assessee."*
>
> ***15.*** *In view of the aforesaid principle, the recording of separate reasons which are not part of the impugned order and its non communication to the petitioners would not be sustainable in the eyes of law. Therefore, we find no hesitation to reject the aforesaid argument.*

The High Court in the said case reiterated the mandatory nature of the statutory requirements prescribed under Section 127 of the Act.

[3](2011) 334 ITR 232 (P&H)

19. Learned Senior Counsel has further relied upon the judgment of the Hon'ble Supreme Court in **Principal Commissioner of Income-tax (Central) vs. Rohtas Projects Ltd.**[4], the relevant paragraphs are extracted below:

> *12. Now we proceed to examine respective issue raised in this petition. Power of transfer has been exercised in this case under Section 127(2)(a) which reads as under: -*
>
> *"where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;" (emphasis added)*
>
> *13. Provision is very clear. Order of transfer can be passed after complying two requirements; (i) after giving Assessee a reasonable opportunity of hearing wherever it is possible to do so; and (ii) recording of reasons for doing so.*
>
> *14. Statute says that "opportunity of hearing" is necessary in such cases where it is possible to do so meaning thereby it is not necessary to be observed invariably in each and every case, whenever orders transferring cases are passed. However, second requirement that 'reasons' shall be recorded is applicable in all the cases irrespective of the fact whether order of transfer has been passed after giving opportunity of hearing or not. Statute is clear and in emphatic terms requires that 'reasons' shall be recorded by Competent Authority. Not only that, but, reasons must be communicated to Assessee, otherwise very purpose of recording reasons would be frustrated. When it is said that order shall be passed after recording reasons, in our view, reasons cannot be recorded and kept in file but the order itself must contain reasons for transfer and communicated to Assessee.*
>
> *23. Section 127 is a procedural provision for ascertaining liability of an Assessee to determine in a fair, impartial and effective manner, so that no one is unduly*

[4](2019) 260 Taxman 94 (SC)

benefited and wherever competent authority, having power of transfer under section 127 or any Assessee has apprehension, or for other administrative reason, it is found necessary that case should be transferred from jurisdiction of one authority to another, the same may be done. Statute also incorporates requirement of principles of natural justice as also recording of reason but simultaneously has used phrase "whenever it is possible to do so". This has been noticed by a Constitution Bench in Kanshi Ram Agarwal Vs. Union of India, AIR 1965 SC 1028. Reading Section 127, Court has said that Section 127(1) imposes an obligation on the authority exercising power under the said Section to record 'reasons' for directing transfer of a case from one Income Tax Officer to another. It further requires that whenever power conferred by Section 127 is intended to be exercised, an opportunity should be given to Assessee, "whenever it is possible to do so" and reasons have to be recorded for making order of transfer. Court thus held that opportunity to Assessee shall be offered "whenever it is possible to do so" but order must contain reasons for transfer. Court held that "requirement that opportunity should be given, cannot be said to be obligatory, because it has been left to discretion of authority to consider whether it is possible to give such opportunity to Assessee. This is of course, true, in coming to the conclusion, that Authority must act reasonably and bona-fide; but if Authority comes to conclusion that it is not possible to give a reasonable opportunity to Assessee, same can be dispensed with. However, it is not so with regard to requirement that reasons must be recorded for making transfer.

27. Thus, at the pain of repetition, we hold that careful reading of Section 127(2)(a) leads no manner of doubt that requirement of "reasonable opportunity" to Assessee is subjected and conditional i.e. "whenever it is possible to do so" department may proceed to pass an order of transfer without giving such opportunity. When a phrase has actually been used by Legislature in a statute, we cannot either ignore it or omit or render it redundant by reading that in every case an opportunity is must, else order of transfer would be rendered bad. The words used by legislature have to be read and given due meaning and effect and that is the basic principle of interpretation. Each and every word used by legislature has some meaning or consequence and whenever an statute is considered, every word must be given its logical meaning and consequence unless there appears to be some inconsistency or conflict resulting in consequences to be disturbing or there are other compelling reasons showing that some part does not convey the same meaning as it ought to be *or the same is redundant or is inconsistent with rest of the provisions. However that is not so particularly in this case and from judgment of Constitution Bench in Panna Lal Binjraj Vs. Union of India (supra) also we find that requirement of opportunity has not been held mandatory. The mandate is available only for requirement of recording of 'reason'.*

28. Then comes the question "whether order of transfer contains any reason and whether mandatory requirement of recording of reason is satisfied or not". The reason mentioned in the order is "decentralization of cases". Requirement of reason under Section 127 has a basic condition that before causing some inconvenience or prejudice to Assessee, Competent Authority passing order of transfer must show, from order of transfer, a conscious application of mind on its part that transfer order is not a mechanical exercise. Requirement of reasons does not mean that order must contain a detailed discussion on several grounds for justifying order of transfer, but requirement of statute stands satisfied if from a bare reading of order, any person of ordinary prudence may come to know as to what is the reason which has prevailed in the mind of Competent Authority to exercise power of transfer and such reason or ground is not flimsy, imaginary, whimsical. It must disclose that patently, logic and prudence has been applied before passing it."

From the above judgment, it is contended by both the learned Senior Counsel for the petitioner and the learned Senior Standing Counsel appearing for the Income Tax Department that the requirement of granting an opportunity of hearing under Section 127 is not absolute and is required to be complied with only where it is possible to do so. However, the requirement of recording reasons in the order of transfer is mandatory in all cases. It is further submitted that the Act prescribes distinct procedures for transfers effected within the same city or locality and for transfers beyond such limits. The Hon'ble Supreme Court, in the aforesaid judgment, held that while the authority has the discretion to determine whether it is possible to afford an opportunity of hearing to the assessee before effecting the transfer, such discretion must be exercised reasonably, fairly and *bona fide*. If, upon due consideration, the authority concludes that it is not possible to afford such an opportunity, the requirement may be dispensed with. Nevertheless, the order of transfer must invariably contain the reasons for such transfer.

20. Learned Senior Counsel has also placed reliance upon the judgment of the Hon'ble Supreme Court in **Noorul Islam Educational Trust vs. Commissioner of Income-tax and Others**[5] the relevant paragraphs are extracted hereunder:

> *"3. For the purpose of the appeal, it will be necessary to note the provisions of Section 127(2)(a) of the Income Tax Act, 1961 (for short "the Act") which is in the following terms:*
>
> *"Power to transfer cases.*
>
> *127.(1) ....*
>
> *(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner.-*
>
> *(a). Where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard*

[5](2016) 388 ITR 489 (SC),

in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order."

4. As the Income-tax/assessment file of the appellant – assessee has been transferred from one Assessing Officer in Tamil Nadu to another Assessing Officer in Kerala and the two Assessing Officers are not subordinate to the same Director General or Chief Commissioner or Commissioner of Income Tax, under Section 127(2)(a) of the Act an agreement between the Director General, Chief Commissioner or Commissioner, as the case may be, of the two jurisdictions is necessary.

5. The counter affidavit filed on behalf of the Revenue does not disclose that there was any such agreement. In fact, it has been consistently and repeatedly stated in the said counter affidavit that there is no disagreement between the two Commissioners. Absence of disagreement cannot tantamount to agreement as visualized under Section 127(2)(a) of the Act which contemplates a positive state of mind of the two jurisdictional Commissioners of Income Tax which is conspicuously absent.

6. In the above circumstances, we will hold that the transfer of the Income-tax/assessment file of the appellant – assessee from Assessing Officer, Tamil Nadu to Assessing Officer, Kerala is not justified and/or authorized under Section 127(2)(a) of the Act. The order of the High Court is, therefore, interfered with and the transfer is accordingly set aside."

21. It was contended that where a case is transferred from the jurisdiction of one Commissioner to another, an agreement between the two jurisdictional Commissioners, as contemplated under Section 127(2)(a) of the Act, is mandatory. It is argued that the absence of disagreement cannot be equated with the agreement required under the statute. The agreement must be a conscious one, arrived at after due application of mind by both the jurisdictional Commissioners or Chief Commissioners, as the case may be and the existence of such agreement should be discernible from the record.

22. Reliance was also placed upon the judgment of the Bombay High Court reported in **CIT vs. Lalit Kumar Bardia**[6] the relevant paragraphs are extracted below:

> ***3.*** *In the year 1999, there was a search and seizure operation on Motwani group of Nagpur. As a consequence, a search was also carried out on the respondent-assessee during the period from February 2, 1999 to February 6, 1999. At that time, the respondent-assessee was being assessed at Rajnandgaon (M.P.).*
>
> ***7.*** *Thereafter, the Deputy Commissioner of Income-tax, Nagpur on August 12, 2000 issued notices under sections 142(1) and 143(2) of the Act. The respondent/assessee participated in the proceedings and consequent thereto, an order dated February 28, 2001 of assessment came to be passed under section 143(3) read with section 158BC of the Act by the Deputy Commissioner of Income-tax, Nagpur. The above order dated February 28, 2001 of assessment determined the undisclosed income at Rs. 27.56 crores.*
>
> ***18.*** *It is a settled position in law that mere participation in proceedings or acquiescence will not confer jurisdiction. The apex court in Kanwar Singh Saini (supra) made observations, which are apposite to the issue at hand and which read as under:*
>
> *"22.There can be no dispute regarding the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court, and if the court passes order/decree having no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause. Such an issue*

[6](2018) 404 ITR 63 (Bom)

can be raised at any belated stage of the proceedings including in appeal or execution. The finding of a court or Tribunal becomes irrelevant and unenforceable/inexecutable once the forum is found to have no jurisdiction. Acquiescence of a party equally should not be permitted to defeat the legislative animation. The court cannot derive jurisdiction apart from the statute. (Vide United Commercial Bank Ltd. v. Their Workmen [1951] AIR 1951 SC 230, Smt. Nai Bahu v. Lala Ramnarayan [1978] AIR 1978 SC 22, Natraj Studios P. Ltd. v. Navrang Studios [1981] AIR 1981 SC 537, Sardar Hasan Siddiqui v. State Transport Appellate Tribunal [1986] AIR 1986 All 132, A.R. Antulay v. R.S. Nayak [1988] AIR 1988 SC 1531, Union of India v. Deoki Nandan Aggarwal [1992] AIR 1992 SC 96, Karnal Improvement Trust v. Smt. Parkash Wanti (Dead) (1995) 5 SCC 159, U.P. RajkiyaNirman Nigam Ltd. v. Indure P. Ltd. [1996] AIR 1996 SC 1373, State of Gujarat v. Rajesh Kumar ChimanlalBarot [1996] AIR 1996 SC 2664, Kesar Singh v. Sadhu (1996) 7 SCC 711, KondibaDagadu Kadam v. Savitribai Sopan Gujar [1999] AIR 1999 SC 2213 and Collector of Central Excise v. Flock (India) P. Ltd. [2000] AIR 2000 SC 2484."

20. *Transfer of proceedings under section 127 of the Act cannot be retrospective so as to confer jurisdiction on a person who does not have it. Section 127 of the Act does not empower the authorities under the Act to confer jurisdiction on a person who does not have jurisdiction with retrospective effect. In fact, the Explanation under section 127 of the Act clearly provides that all the proceedings under the Act which are pending on the date of such order of transfer and all the proceedings which may be commenced after the date of such order of transfer would stand transferred to the Assessing Officer to whom the case is transferred by section 127(1) of the Act. This provision makes it clear that though transfer would come into effect from the date the order of the Commissioner passed under section 127(1) of the Act, the proceedings already commenced would not abate and continue with new Assessing Officer, who assumes charge consequent to transfer subject of course to the pending notices being within jurisdiction of the Officer issuing the notices. It is not a provision which validates without jurisdiction notice issued by an Income-tax Officer. If the submission of the Revenue on*

> *the above account is to be accepted, then an order which is without jurisdiction could be bestowed with jurisdiction by passing an order of transfer with retrospective effect. Section 127 of the Act does not validate notices/orders issued without jurisdiction, even if they are transferred to a new officer by an order under section 127 of the Act."*

23. It was also contended that mere participation by an assessee in assessment proceedings does not confer jurisdiction upon an authority which otherwise lacks jurisdiction in law. A defect relating to jurisdiction can be raised even at a belated stage of the proceedings, including in appeal or revision. Once it is found that the authority lacked jurisdiction to initiate or continue the proceedings, every consequential order passed by such authority becomes unenforceable and inexecutable in the eyes of law and it has also been held that an order of transfer passed under Section 127 of the Act cannot operate retrospectively so as to confer jurisdiction upon an authority who otherwise had no jurisdiction. It is argued that Section 127 of the Act does not empower the competent authority to confer jurisdiction upon an Assessing Officer with retrospective effect. Consequently, any proceedings undertaken by an officer prior to the valid assumption of jurisdiction are without authority of law.

24. In this regard, reliance is placed upon the observations of the Hon'ble Supreme Court, wherein it was held that the conferment of jurisdiction is a legislative function and cannot be conferred either by the consent or acquiescence of the parties or even by an order of a superior court. If a Court or statutory authority passes an order or decree without possessing the requisite jurisdiction over the subject matter, such order or decree is a nullity in the eyes of law, as the question of jurisdiction goes to the very root of the matter. It was also argued that such an issue can be raised at any belated stage of the proceedings including in appeal of execution. The finding of a Court or Tribunal becomes irrelevant and unenforceable/inexecutable once the forum is found to have no jurisdiction. Acquiescence of a party equally should not be permitted to defeat the legislative intention.

25. Learned Senior Counsel for the petitioners has also placed reliance upon the judgment of the Allahabad High Court in **Laxmi Narain Anand Prakash vs. Commissioner of Sales Tax**[7], the relevant paragraphs are extracted below:

> *In view of these authorities it cannot be disputed that no proceedings could be initiated without issue and service of notice. Service of a notice for purpose of initiating proceedings under Section 21 is not a mere procedural requirement but is a condition precedent. If no notice is issued or the notice issued is shown to be invalid or no notice has been served on the dealer the proceedings and the consequential order under Section 21 will be illegal and void irrespective of the fact that the dealer gets knowledge of the proceedings under Section 21. The words 'after issuing' also do not make any difference as it has been held to mean entire process of sending the notice and serving it. In Banarsi Devi v. Income-tax Officer ((1964) 53 ITR 100) at p. 108 it was observed by Supreme Court.*
>
> *"To summarise: The clear intention of the legislature is to save the validity of the notice as well as the assessment from an attack on the ground that the notice was given beyond the prescribed period. That intention would be effectuated if the wider meaning is given to the expression "issued". The dictionary meaning of the*

[7](1980) 46 STC 71 (All.),

> *expression 'issued' takes in the entire process of sending the notice as well as the service thereof. The said word used in Section 34 (1) of the Act itself was interpreted by Courts to mean 'served'. The limited meaning, namely, 'sent' will exclude from the operation of the provision a class of cases and introduce anomalies. In the circumstances, by interpretation, we accept the wider meaning the word 'issued' bears."*
>
> *It cannot therefore, be said that mere issue of notice was sufficient. The jurisdiction to proceed under Section 21 could be exercised only if condition precedent was satisfied and notice for assessment or re-assessment under Section 21 was not only issued but validly served on the assessee. To this extent there appears to be no difficulty and even the Division Bench held that if a notice is not served properly then such service is invalid and contrary to law. It, however digressed from more or less settled view and attempted to carve out a new approach by invoking principle of estoppel in taxation proceedings. The question therefore, that boils down for consideration is whether by participation of assessee the invalidity of notice was cured and assessing authority was clothed with jurisdiction to proceed under Section 21.*

In the aforesaid case, the Allahabad High Court emphasized that jurisdiction must exist in law before an authority can validly initiate proceedings.

26. Reliance was further placed upon the judgment of the Hon'ble Supreme Court in **Pannalal Binjraj vs. Union of India[8],** wherein it was held that until a valid order of transfer is made in accordance with law and communicated to the assessee, the transferee authority does not acquire jurisdiction. Any proceedings initiated without such lawful assumption of jurisdiction are illegal and invalid.

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[8](1957) 31 ITR 565 (SC)

27. Learned Senior Counsel has also relied upon the judgment of the Hon'ble Supreme Court in **CIT vs. V. Mr. P. Firm, Muar**[9], the relevant paragraphs are extracted hereunder:

> *The Central Board of Revenue issued further instructions on the above scheme by its letter dated December 1, 1947. One of the instructions was that debts due to the assessee if paid in Japanese currency would be taken to have been satisfied to that extent and excluded from the assets side in the balance sheet, provided that if any recovery was subsequently made, it was to be taken as income. Briefly stated, under the scheme the losses suffered by an assessee during the assessment years 1942-43 to 1946-47 were set off against his profits for the assessment years 1942-43 and 1941-42 and any unabsorbed loss could not be carried forward. The debts discharged in Japanese currency were excluded from the assets side in the balance sheet but the authority reserved for itself the right to treat any recoveries subsequently made as income. The contention is that the assessees having opted to accept the scheme, derived benefit thereunder, and agreed to have their discharged debts excluded from the assets side in the balance sheet subject to the condition that subsequent recoveries by them would be taxable income, they are now precluded, on the principle of "approbate and reprobate", from pleading that the income they derived subsequently by realization of the revived debts is not taxable income. The doctrine of "approbate and reprobate" is only a species of estoppel; it applies only to the conduct of parties. As in the case of estoppel, it cannot operate against the provision of a statute. If a particular income is not taxable under the Income-tax Act, it cannot be taxed on the basis of estoppel or any other equitable doctrine. Equity is out of place in tax law; a particular income is either eligible to tax under the taxing statute or it is not. If it not, the Income-tax Officer has no power to impose tax on the said income.*

28. In the above said judgment, while dealing with the doctrine of approbate and reprobate, the Hon'ble Supreme Court held that the doctrine is only a

[9](1965) 56 ITR 67 (SC)

species of estoppel applicable to the conduct of parties and cannot operate against the provisions of a statute. Therefore, it is contended that there can be no estoppel against a statutory requirement relating to jurisdiction.

29. Further reliance has been placed upon the judgment of the Calcutta High Court in **Bhagwan Devi Saraogi and Others v. Income-tax Officer**[10], the relevant paragraph is extracted below:

> *13. It will appear from the said notice that the notice was addressed to Smt. Rama Devi Agarwalla and others without mentioning in what capacity the said notice was issued to them, though in the body of the notice, it appears, the words "A.O.P" were in the notice. Challenging the validity of the notice before the Division Bench similar arguments were advanced on behalf of the assessee.*

30. Learned Senior Counsel has also relied upon the judgment of the Hon'ble Supreme Court in **Sushil Kumar Mehta vs. Gobind Ram Bohra**[11], the relevant paragraphs are extracted hereunder:

> *11. On merits it was held that since the appellant himself had invoked the jurisdiction of the civil court with undervaluation, the objection as to jurisdiction was not available by operation of Section 99 of the Code and as to the territorial jurisdiction he was precluded by operation of Section 21 of CPC; and on such premise it was held that the decree of the District Court could not be treated to be a nullity and person who invoked the jurisdiction cannot plead prejudice to himself by his own act.*
>
> *26. Thus it is settled law that normally a decree passed by a court of competent jurisdiction, after adjudication on merits of the rights of the parties, operates as res judicata in a subsequent suit or proceedings and binds the parties or the persons claiming right, title or interest from the parties. Its validity should be assailed only in an appeal or revision as the case may be. In subsequent proceedings its validity*

[10](1979) 118 ITR 906 (Cal.)
[11](1990) 1 SCC 193

cannot be questioned. A decree passed by a court without jurisdiction over the subject matter or on other grounds which goes to the root of its exercise or jurisdiction, lacks inherent jurisdiction. It is a coram non judice. A decree passed by such a court is a nullity and is non est. Its invalidity can be set up whenever it is sought to be enforced or is acted upon as a foundation for a right, even at the stage of execution or in collateral proceedings. The defect of jurisdiction strikes at the authority of the court to pass a decree which cannot be cured by consent or waiver of the party. If the court has jurisdiction but there is defect in its exercise which does not go to the root of its authority, such a defect like pecuniary or territorial could be waived by the party. They could be corrected by way of appropriate plea at its inception or in appellate or revisional forums, provided law permits. The doctrine of res judicata under Section 11 CPC is founded on public policy.

An issue of fact or law or mixed question of fact and law, which are in issue in an earlier suit or might and ought to be raised between the same parties or persons claiming under them and was adjudicated or allowed uncontested becomes final and binds the parties or persons claiming under them. Thus the decision of a competent court over the matter in issue may operate as res judicata in subsequent suit or proceedings or in other proceedings between the same parties and those claiming under them. But the question relating to the interpretation of a statute touching the jurisdiction of a court unrelated to questions of fact or law or mixed questions does not operate as res judicata even between the parties or persons claiming under them. The reason is obvious; a pure question of law unrelated to facts which are the basis or foundation of a right, cannot be deemed to be a matter in issue. The principle of res judicata is a facet of procedure but not of substantive law. The decision on an issue of law founded on fact in issue would operate as res judicata. But when the law has since the earlier decision been altered by a competent authority or when the earlier decision declares a transaction to be valid despite prohibition by law it does not operate as res judicata. Thus a question of jurisdiction of a court or of a procedure or a pure question of law unrelated to the right of the parties founded purely on question of fact in the previous suit, is not res judicata in the subsequent suit. A question relating to jurisdiction of a court or interpretation of provisions of a statute cannot be deemed to have been finally determined by an erroneous decision of a court. Therefore, the doctrine of res judicata does not apply to a case of decree of nullity. If the court inherently lacks jurisdiction consent cannot

> *confer jurisdiction. Where certain statutory rights in a welfare legislation are created, the doctrine of waiver also does not apply to a case of decree where the court inherently lacks jurisdiction.*
>
> *27. In the light of this position in law the question for determination is whether the impugned decree of the civil court can be assailed by the appellant in execution. It is already held that it is the Controller under the Act that has exclusive jurisdiction to order ejectment of a tenant from a building in the urban area leased out by the landlord. Thereby the civil court inherently lacks jurisdiction to entertain the suit and pass a decree of ejectment. Therefore, though the decree was passed and the jurisdiction of the court was gone into in issue Nos. 4 and 5 at the ex parte trial, the decree thereunder is a nullity, and does not bind the appellant. Therefore, it does not operate as a res judicata. The courts below have committed grave error of law in holding that the decree in the suit operated as res judicata and the appellant cannot raise the same point once again at the execution.*

In the said case, it was held that a judgment or order passed by a Court or authority lacking inherent jurisdiction is a nullity, whether the defect pertains to territorial, pecuniary, or subject-matter jurisdiction. Such a nullity can be questioned at any stage of the proceedings, including in collateral proceedings and does not attain finality merely because it has remained unchallenged for some time.

31. Learned Senior Counsel has further relied upon the judgment of the Hon'ble Supreme Court in **Sarwan Kumar and Another vs. Madan Lal Aggarwal**[12], the relevant paragraph is extracted below:

[12](2003) 4 SCC 147

21. For the reasons stated above, the appeal is accepted. The order passed by the High Court as well as the executing court regarding the executability of the decree passed by the civil court are set aside. It is held that the jurisdiction of the civil court to pass the decree for ejectment was barred. A decree passed by a court having no jurisdiction over the subject-matter would be a nullity and the judgment-debtor can object to the execution of such a decree being a nullity and non est. Its invalidity can be set up whenever it is sought to be enforced including the stage of execution of the decree or any other collateral proceedings. We are conscious of the fact that it would work a great hardship on the respondent decree-holder who would not be able to reap the benefit of the decree passed in his favour having won at all the stages but the vagaries of law cannot be helped. Accordingly, appeal is accepted. Orders of the High Court and the executing court are set aside. It is held that the decree obtained by the decree-holder cannot be executed being a nullity and non est. The parties are directed to bear their own costs.

In the said case, the Hon'ble Supreme Court, while considering the exclusion of the jurisdiction of the Civil Court under the Rent Control legislation, reiterated the settled principle that a decree passed by a court lacking jurisdiction is a nullity and cannot be enforced merely because it has attained finality.

32. Reliance is also placed upon the judgment of the Hon'ble Supreme Court in **Kanwar Singh Saini vs. High Court of Delhi**[13] the relevant paragraphs are extracted below:

22. There can be no dispute regarding the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court, and if the court passes order/decree having no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause. Such an issue can be raised at any belated stage of the proceedings including in appeal or execution. The finding of a court or tribunal becomes irrelevant

[13](2012) 4 SCC 307

and unenforceable/inexecutable once the forum is found to have no jurisdiction. Acquiescence of a party equally should not be permitted to defeat the legislative animation. The court cannot derive jurisdiction apart from the statute. [Vide United Commercial Bank Ltd. v.Workmen, Nai Bahu v. Lala Ramnarayan, Natraj Studios (P) Ltd. v. Navrang Studios, Sardar Hasan Siddiqui v. STATIZ, A.R. Antulay v. R.S. Nayak18, Union of India v. Deoki Nandan Aggarwal, Karnal Improvement Trust v. Parkash Wanti, U.P. RajkiyaNirman Nigam Ltd. v. Indure (P) Ltd., State of Gujarat v. Rajesh Kumar ChimanlalBarot, Kesar Singh v. Sadhu, KondibaDagadu Kadam v. Savitribai Sopan Gujar and CCE v. Flock (India) (P) Ltd.]

23. When a statute gives a right and provides a forum for adjudication of rights, remedy has to be sought only under the provisions of that Act. When an Act creates a right or obligation and enforces the performance thereof in a specified manner, "that performance cannot be enforced in any other manner". Thus for enforcement of a right/obligation under a statute, the only remedy available to the person aggrieved is to get adjudication of rights under the said Act. (See Doe d. Bishop of Rochester v. Bridges, B & AD p. 859, Barraclough v. Brown, Premier Automobiles Ltd. v. KamlekarShantaramWadke and Sushil Kumar Mehta v. Gobind Ram Bohra.)

In the said case, according to the learned Senior Counsel for the petitioners reaffirmed that any order or decree passed by a court or authority without jurisdiction is void *ab initio*, *non est* in the eyes of law and its invalidity can be raised whenever and wherever it is sought to be enforced.

33. Learned Senior Counsel also placed reliance upon the judgment of the erstwhile High Court of Andhra Pradesh in **Vijayasanthi Investments (P) Ltd. vs. CIT** (2nd cited supra) particularly the observations of non-recording and non-communication of reasons vitiate the order of transfer. It is also contended that the petitioners themselves had requested that their cases be centralized at

Hyderabad. Having sought such centralization, the petitioners cannot now be permitted to contend that they have suffered any prejudice on account of the transfer of jurisdiction.

34. It is further argued that the present writ petitions were filed only on 15.07.2021, after completion of the assessments, challenging the transfer orders and the consequential assessment proceedings. The orders under Section 127 having been passed on 18.06.2019 (and on other relevant dates in respect of certain assessees), the challenge thereto has been made nearly two years thereafter and is, therefore, highly belated and liable to be rejected on the ground of delay and laches.

35. Learned Senior Counsel has made the primary challenge to the order passed under Section 127 of the Act. It is contended that though the respondents assert that the order of transfer under Section 127 was duly served upon the petitioner, the petitioner specifically denies having been served with any such order.

36. It is further submitted that all proceedings undertaken pursuant to the impugned transfer order are liable to be declared invalid, as the very foundation of the assessment proceedings is the order passed under Section 127 of the Act. It is contended that unless and until the order of transfer is validly communicated to the assessee, the transferee Assessing Officer does not acquire jurisdiction to initiate or complete the assessment proceedings. Consequently, the assessment orders passed by respondent No.1 are without jurisdiction and are liable to be set aside.

37. It is further argued that the participation of the petitioner in the assessment proceedings cannot be construed as acquiescence or voluntary acceptance of jurisdiction. According to the petitioner, such participation was not voluntary but was compelled by the statutory notices issued by the Department and the threat of penal consequences for non-compliance. It is, therefore, submitted that jurisdiction, being a creature of statute, cannot be conferred by consent, waiver, acquiescence, or participation in proceedings.

38. It is further contended that the petitioner was unable to furnish an effective response to the notices issued by the Department owing to the disruption caused by the COVID-19 pandemic, as specifically pleaded in the writ affidavit. It is further contended that the department failed to furnish copies of the seized books of account and other seized material to the petitioner until 05.04.2021. In the absence of the very material on the basis of which the assessments were proposed to be framed, the petitioner was deprived of a meaningful opportunity to participate in the assessment proceedings. Despite withholding the seized material, the department proceeded to initiate penalty proceedings for the petitioner’s alleged non-compliance. According to the petitioner, such action clearly demonstrates that its participation in the proceedings was under compulsion and cannot be construed as voluntary acceptance of the jurisdiction of the Assessing Officer.

39. On the strength of the aforesaid decisions, it is contended that where the assumption of jurisdiction itself is contrary to the statutory mandate, neither participation in the proceedings nor failure to raise an objection at an earlier stage can validate proceedings that are otherwise *void ab initio*.

40. The learned Senior Counsel for the petitioner further contended that the judgment of the Hon'ble Supreme Court in **Ajantha Industries vs. Central Board of Direct Taxes** (1st cited supra), makes it clear that an order passed under Section 127 of the Income-tax Act cannot be treated as a mere administrative order. Once such an order affects the jurisdiction of an Assessing Officer and the rights of an assessee, the same must satisfy the statutory requirements prescribed under the Act. It is, therefore, contended that the order of transfer is required to be communicated to the assessee and that jurisdiction cannot be assumed by the transferee authority merely on the basis of acquisition of records or administrative arrangements.

41. It is further submitted that the order of transfer itself suffers from a fundamental defect, inasmuch as it does not disclose the agreement contemplated under Section 127(2) of the Act. The transfer was effected only to overcome the statutory requirement of obtaining an agreement between the concerned jurisdictional Commissioners. It is contended that where an assessee’s case is transferred from an Assessing Officer subordinate to one Commissioner to an Assessing Officer subordinate to another Commissioner, and both officers are not under the same jurisdictional Commissioner, the requirement of an agreement between the two concerned Commissioners, as contemplated under Section 127(2)(a) of the Act, is mandatory. Such agreement cannot be presumed or inferred merely from the absence of any objection by one of the Commissioners. In support of the said contention, reliance has been placed upon the judgment of the Hon’ble Supreme Court in **Noorul Islam Educational Trust vs. Commissioner of Income-tax and Others** (5th cited supra), wherein the Hon’ble Supreme Court held that Section 127(2)(a) of the Act contemplates a positive application of mind by both the jurisdictional Commissioners. The Court further held that mere absence of disagreement or silence on the part of one authority cannot be construed as an agreement within the meaning of the statutory provision.

42. Learned Senior Counsel appearing for the petitioner contended that the assessment order passed by the Assessing Officer is effectively an order passed without considering the complete replies submitted by the petitioner. It is further contended that except for the reply dated 09.04.2021, the other replies submitted by the petitioner were not taken into consideration while framing the assessment. It is also contended that the time granted by the Assessing Officer for filing objections was wholly insufficient and unreasonable. According to the petitioner, only a period of five days was granted for furnishing replies, despite the fact that the seized material was supplied only on 05.04.2021. It is therefore argued that the assessment proceedings were concluded without providing a fair and effective opportunity to the petitioner.

43. Learned Senior Counsel for the petitioners relied upon the settled legal principle that an assessee must be granted reasonable time to respond to show-cause notices and has also referred to the Standard Operating Procedure issued by the Central Board of Direct Taxes on 03.08.2021, wherein Assessing Officers were instructed to grant a minimum period of seven days to assessees for filing responses to show-cause notices.

44. On the contrary, Learned Senior Standing Counsel for the Income Tax Department has submitted that the Principal Director of Income-tax (Investigation), Hyderabad, *vide* communication dated 08.05.2019, recommended the centralization of the cases relating to M/s. Sandhya Constructions and its group concerns. The recommendation was made on the ground that a search and seizure operation under Section 132 of the Act had resulted in the seizure of incriminating material and valuable assets, thereby necessitating coordinated investigation and centralized assessment.

45. It is further submitted that the proposal for centralization covered twelve distinct assessees, comprising both corporate entities and individual members of the group. The searched entities included M/s. Sandhya Hotels Private Limited and M/s. Sandhya Hospitality Private Limited, while the individual persons searched included Sri Sarnala Sreedhar, Smt. Sandhya Sarnala, Sri P. Srujan Sain, and Sri Duggirala Raja Rao. According to the Revenue, in view of the commonality of transactions, interlacing of financial affairs, and the material unearthed during the search, centralization of all the cases before the Central Circle was considered necessary to facilitate coordinated investigation and effective assessment proceedings.

46. Learned Senior Standing Counsel appearing for the Income Tax Department further submitted that the proposal for centralization of the cases was made strictly in accordance with the guidelines issued by the Central Board of Direct Taxes (CBDT), particularly Instruction No.286/88/2008-IT (Investigation-II) dated 17.09.2008, and the subsequent guidelines contained in F.No.299/14/2013-DIR (Investigation-III)/605 dated 11.02.2013.

47. It is submitted that the object of centralization was to facilitate a coordinated investigation of all the group cases, to correlate the facts unearthed during the search proceedings, to analyse the incriminating material seized from various premises, and to ensure effective and comprehensive assessment of all the interconnected assessees forming part of the same group. It is further submitted that the Principal Commissioner of Income-tax (Central), Bengaluru, *vide* communication dated 22.04.2019, had proposed centralization of the cases of the petitioner and its Managing Directors at Bengaluru. Since Sri Chennupati Sai Krishna, who was identified as one of the Managing Directors of M/s. Sandhya Constructions and Estates Private Limited, was also connected with the searched group, the Principal Commissioner of Income-tax-3, Hyderabad, issued a show-cause notice dated 10.05.2019 proposing transfer of the petitioner's case to Bengaluru.

48. According to the Revenue, the petitioner submitted a reply dated 15.05.2019, objecting to the proposed transfer to Bengaluru. Significantly, in the said reply, the petitioner itself acknowledged that pursuant to the search conducted in February, 2019, its case had already been proposed for centralization with the Central Circle at Hyderabad. Thereafter, the Principal Commissioner of Income-tax-3, Hyderabad, passed an order under Section 127 of the Income-tax Act on 18.06.2019, transferring the petitioner's case from the territorial jurisdiction to the Central Circle at Hyderabad. The said transfer order was received by the Principal Commissioner of Income-tax (Central), Hyderabad, on 25.06.2019, whereupon the transferee Assessing Officer assumed jurisdiction over the case.

49. Pursuant to the transfer of jurisdiction, respondent No.1 issued a notice under Section 153A of the Act, which according to the Revenue, was duly served upon the petitioner on 09.12.2019. In response thereto, the petitioner filed its return of income on 21.05.2020. Thereafter, a notice under Section 143(2) of the Act was issued on 24.09.2020, followed by a notice under Section 142(1) dated 18.12.2020, calling upon the petitioner to furnish books of account and other relevant particulars. Since the petitioners failed to respond on the date fixed for hearing i.e., on 04.01.2021, and another notice dated 23.01.2021 was issued fixing the hearing on 29.01.2021. Even thereafter, no effective response was received from the petitioner.

50. Owing to the continued non-compliance, proceedings under Section 274 read with Section 271(1)(b) of the Act were initiated by issuance of a notice dated 01.02.2021. As the petitioner failed to respond to the penalty proceedings, an order imposing penalty came to be passed on 01.04.2021.

51. **Ms. B.Sapna Reddy**, learned Senior Standing Counsel for the Department further submitted that additional notices under Section 142(1), along with show-cause notices, were issued on 02.04.2021 and 07.04.2021. It is stated that the petitioner ultimately uploaded only partial details through the Income Tax Business Application (for short 'ITBA') portal on 09.04.2021. Since the assessments were required to be completed within the statutory limitation period expiring on 30.04.2021, the Assessing Officer proceeded to complete the assessments by passing orders under Section 143(3) read with Section 153A of the Act, together with consequential demand notices issued under Section 156 of the Act.

52. Learned Senior Standing Counsel for the Department further contended that the transfer of the petitioner's case to the Central Circle was lawful, supported by valid administrative reasons and fully in conformity with Section 127(3) of the Act. It is submitted that the petitioner's contention that recording and communication of reasons and a prior opportunity of hearing were mandatory under Section 127(1) is misconceived in the facts of the present case. It is further argued that the present transfers fall squarely within the ambit of Section 127(3), since the transfers were effected mostly between Assessing Officers situated within the same city or locality. Consequently, the requirements contemplated under Sections 127(1) and 127(2) regarding prior opportunity of hearing are inapplicable. It is also contended that the petitioner was fully aware of the proposed centralization, as is evident from its own reply dated 15.05.2019 and therefore cannot now contend that it had no notice of the proposed transfer.

53. Learned Senior Standing Counsel for the Department also submits that the petitioner's contention that the transfer order must expressly record the concurrence or consent of all the jurisdictional Principal Commissioners is without statutory basis. According to the Department, Section 127 does not require the order itself to expressly record such concurrence in cases governed by Section 127(3).

54. Learned Senior Standing Counsel for the Department further contended that the challenge to the jurisdiction of the Assessing Officer is barred by Section 124(3) of the Act. In cases arising out of search proceedings under Section 132, any objection to the jurisdiction of the Assessing Officer is required to be raised within the period prescribed after the service of notice under Section 153A. Since the petitioner did not raise any such objection within the prescribed period and, on the contrary, submitted returns of income in response to the notices issued under Section 153A, it is not open to the petitioner to challenge the jurisdiction of the Assessing Officer at this belated stage.

55. It was also submitted that the petitioner has an efficacious alternative statutory remedy by way of an appeal under Section 246A of the Act before the Commissioner of Income-tax (Appeals). Therefore, the present writ petitions are not maintainable, particularly when the assessments have been completed on merits and the statutory appellate remedy has not been exhausted.

56. It is further contended that the petitioner's assertion that no incriminating material or valuable assets were found during the course of the search is factually incorrect. According to the respondents, during the search conducted at the residence of Sri Sarnala Sreedhar and Smt. Sarnala Sandhya, cash of Rs.1,63,500/- and 3,963.65 grams of gold jewellery, valued at approximately Rs.1.50 crore, were found. Likewise, at the residence of Sri Duggirala Raja Rao, 350 grams of gold jewellery, valued at approximately Rs.11.06 lakh, was found. At the residence of Sri P. Srujan Sain, cash of Rs.4,66,000/- and 1,415.8 grams of gold jewellery, valued at approximately Rs.50.81 lakh, were found, out of which Rs.4,00,000/- in cash was seized. This search conducted in the cases of the petitioner and the other group concerns resulted in the detection of substantial incriminating material, books of account and other documents which formed the basis for the assessments completed under Sections 153A and 153C of the Act. It is further submitted that the group collectively admitted undisclosed income aggregating to approximately Rs.104.12 crore, including Rs.26 crore disclosed by M/s. Sandhya Hotels West Private Limited and substantial additional disclosures made by M/s. Sandhya Hospitality Private Limited over the relevant assessment years.

The petitioner itself disclosed substantial additional income in the returns filed pursuant to the notices issued under Section 153A for the Assessment Years 2017-18 and 2018-19. It is, therefore, contended that the assessments were completed strictly on the basis of the material seized during the search and the disclosures made by the assessees, resulting in a lawful tax demand of approximately Rs.19.01 crore, for which consequential demand notices under Section 156 of the Act were duly issued.

57. **Sri N. Praveen Reddy**, learned Senior Standing Counsel appearing for respondent Nos.1 and 2 has made elaborate oral submissions and has also filed written submissions in support of the respondents' case. It is contended that the present writ petitions, challenging the orders passed under Section 127 of the Income-tax Act, 1961, and the consequential assessment orders, have been instituted only with a view to circumvent the efficacious alternative statutory remedy available under the Act. It is submitted that the centralization of the petitioners' cases was effected solely for the purpose of facilitating coordinated investigation pursuant to the search and seizure operation conducted under Section 132 of the Act.

58. It is further contended that the petitioners never objected to the transfer of their cases at any point of time, either immediately after the passing of the orders under Section 127 or during the course of the assessment proceedings before the first respondent. Consequently, by virtue of Section 124(3) read with Section 292BB of the Act, the petitioners are precluded from questioning the jurisdiction of the Assessing Officer at this belated stage.

59. Learned Senior Standing Counsel further submits that no material whatsoever has been placed before this Court to substantiate the petitioners' assertion that repeated requests were made seeking copies of the orders passed under Section 127 of the Act. According to the Revenue, the said plea is unsupported by any documentary evidence and has been raised for the first time in these writ proceedings.

60. **Sri K. Sudhakar Reddy**, learned Senior Standing Counsel appearing for the Income Tax Department argued that in view of Section 124(1) of the Income-tax Act, the jurisdiction of the Assessing Officer is clearly governed by the statutory scheme. He also referred to Sections 124(3) and 124(4) of the Act and contended that the petitioners, having accepted the jurisdiction of the transferee Assessing Officer pursuant to the centralization of their cases, actively participated in the assessment proceedings. Therefore, having acquiesced to such jurisdiction, they ought to have invoked the remedy available under Section 124(4), if at all they had any grievance regarding jurisdiction.

61. Referring to Annexure P-5 at page 25 of the Writ Petition, it was submitted that although the PAN of the petitioner continued to be at Khammam, the transfer of jurisdiction had already taken place. He further contended that the transfer order merged with the assessment order, which is an appealable order under the Act. It was also argued that Section 132 pertains only to search and seizure proceedings, whereas the impugned proceedings were initiated under Section 153A of the Act. Since the assessee had participated in the assessment proceedings culminating in the assessment order, and no objection regarding jurisdiction or transfer was raised in the reply submitted in response to the notice issued under Section 153A, such objections cannot now be entertained.

62. Learned Senior Standing Counsel further submitted that, as is evident from the averments made in the writ petition itself, the petitioner had full knowledge of the transfer proceedings. It is not the petitioner's case that he was taken by surprise. On the contrary, from the date of the search and seizure till the passing of the assessment orders, the petitioner was fully aware that the cases had been centralized and transferred. The transfer was effected only to facilitate a consolidated assessment before a single forum, thereby enabling the petitioner to agitate all issues in one place and avoiding the possibility of conflicting views by different Assessing Officers. Having raised no objection to the centralization of the assessments, the petitioner is now estopped from questioning the very transfer of jurisdiction.

63. It was further contended that in terms of Section 124(3)(c) of the Act, the petitioner was required to raise any objection to the jurisdiction of the Assessing Officer within one month from the date of receipt of the relevant notice. Reliance was also placed on Section 124(4) in support of this contention, learned counsel further relied upon the decision in **Kashiram Agarwala vs. Union of India and others**[14] to contend that no prior notice to the assessee is required where the transfer of jurisdiction is effected within the same city.

64. It was also argued that no prejudice whatsoever has been caused to the petitioner by virtue of the transfer. Since no objection was raised under Section 124(3) within the prescribed period of one month after receipt of the notice and the assessment orders have already been passed by the transferee Assessing Officer, the petitioner cannot now challenge the transfer of jurisdiction.

65. Learned Senior Standing Counsel further submitted that the petitioners participated in the assessment proceedings by filing returns of income pursuant to the notices issued under Section 153A of the Act and by

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[14] AIR 1965 SUPREME COURT 1028

responding to the subsequent statutory notices. Having participated in the proceedings without demur, the petitioners accepted the jurisdiction of the first respondent. It is only after the assessment orders came to be passed that the present challenge to jurisdiction has been raised, which is a clear afterthought intended solely to avoid the tax liability arising under the impugned assessment orders.

66. It is also submitted that the petitioners had full knowledge of the proposal for centralization and had themselves acknowledged such proposal by requesting that the cases be centralized before the Central Circle at Hyderabad. The orders under Section 127 were passed by the competent authority for valid administrative reasons, namely, the centralization of all the searched group cases to facilitate coordinated investigation and assessment.

67. Learned Senior Standing Counsel further contended that the petitioners have failed to disclose the complete facts relating to their participation in the assessment proceedings and their failure to raise any objection regarding jurisdiction at the relevant point of time. Such suppression of material facts, according to the respondents, disentitles the petitioners to any discretionary relief under Article 226 of the Constitution of India. In support of the above submissions, reliance has been placed upon the following judgments:

(i) **Kashiram Agarwala vs. Union of India** (14th cited supra)

(ii) **M.A.A.K.K. Verma v. Central Board of Direct Taxes**[15]

(iii) **Commissioner of Income-tax, Raipur v. Union of India**[16]

(iv) **Bhupinder Singh v. Principal Commissioner of Income-tax**[17]

68. **Sri K. Sudhakar Reddy**, learned Senior Standing Counsel for Income Tax appearing for respondents has relied upon the following judgments:

i. **Deputy Commissioner of Income Tax vs. Kalinga Institute of Industrial Technology[18].**

ii. **Harish Kumar Chhabada vs. Principal Commissioner of Income Tax[19].**

iii. **Abhishek Jain vs. Income Tax Offficer, Ward-55(1), New Delhi[20].**

iv. **Elite Pharmaceuticals vs. Income Tax Officer, Ward 46(1), Kolkata[21].**

In **Deputy Commissioner of Income Tax (18th cited supra)**, the relevant paragraphs are extracted below:

1. The impugned order set asides the assessment for AY 2014-2015 on the ground that the jurisdictional officer had not adjudicated upon the returns. The jurisdiction

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15(1981) 129 ITR 31 (AP);

16(2013) 32 taxmann.com 320 (Chhattisgarh);
17(2025) 181 taxmann.com 1912 (P&H)
18[2023] 151 taxmann.com 434 (SC)
19[2025] 179 taxmann.com 589 (Chattisgarh)
20[2018] 94 taxmann.com 355 (Delhi)
21[2016] 73 taxmann.com 69 (Calcutta)

had been changed after the returns were filed. However, the records also reveals that the assessee had participated pursuant to the notice issued under Section 142 (1) and had not questioned the jurisdiction of the assessing officer. Section 124(3)(a) of the Income Tax Act precludes the assessee from questioning the jurisdiction of the assessing officer, if he does not do so within 30 days of receipt of notice under Section 142 (1).

2. In the present case, the facts did not warrant the order made by the High Court. At the same time, this Court notices that the High Court had granted liberty to the concerned authority to issue appropriate notice.

3. It is clarified, therefore, that the assessing officer is free to complete the assessment (in case the assessment order has not been issued) within the next 60 days. In such event, the question of limitation shall not be raised by the assessee.

4. The special leave petition is allowed in the above terms.

In **Harish Kumar Chhabada (19th cited supra),** the relevant paragraphs are extracted hereunder:

11. Admittedly, in the PAN database of the appellant herein/assessee,the address shown is Samta Colony, Raipur and after reallocation of wards at Raipur by the notification dated 15-11-2014, the ITO, Ward-2(1), Raipur had the jurisdiction over Samta Colony, and thus, by operation of law, the jurisdiction originally exercised by the ITO, Ward-1(1), Raipur, who had issued notice under Section 143(2) of the IT Act on 8-8-2013 based on PAN database residential address, validly devolved upon the ITO, Ward-2(1), Raipur.

13. Admittedly, in this case, the assessee has not made any applicationfor change in address to the concerned Assessing Officer and therefore the jurisdictional Assessing Officer is justified in processing the return of income filed by the assessee based on his PAN database residential address.

15. A careful perusal of Section 124(3)(a) of the IT Act would show that the assessee cannot question the jurisdiction of an Assessing Officer beyond the period of one month from the date of service of notice or after completion of the assessment, *whichever is earlier. As such, Section 124(3) stipulates a bar to any contention about lack of jurisdiction of an Assessing Officer.*

21. As such, from the aforesaid discussion, it is quite vivid that the appellant/assessee was served with notice under Section 143(2) of the IT Act on 8-8-2013, which was served upon him on 21-8-2013 and he did not raise objection qua jurisdiction of the Assessing Officer till his appeal was decided by the CIT (Appeals) on 14-7- 2016. The assessee also did not raise any objection regarding jurisdiction upon completion of his assessment. As such, the plea with regard to territorial jurisdiction of the ITO was barred by virtue of Section 124(3)(a) of the IT Act. Even otherwise, by the notification dated 15-11-2014, the territorial reallocation of wards at Raipur was undertaken and thus by operation of law, validly, the ITO, Ward-2(1), Raipur has been conferred with the jurisdiction after reallocation of wards. Therefore, the ITAT is absolutely justified in not entertaining the question with regard to jurisdiction of the AO.

In **Abhishek Jain (20th cited supra),** the relevant paragraphs are extracted as follows:

19. We would reiterate that sub-section (1) to Section 124 states that the Assessing Officer would have jurisdiction over the area in terms of any direction or order issued under sub-section (1) or sub-section (2) to Section 120 of the Act. Jurisdiction would depend upon the place where the person carries on business or profession or the area in which he is residing. Sub- section (3) clearly states that no person can call in question jurisdiction of an Assessing Officer in case of non-compliance and/or after the period stipulated in clauses (a) and (b), which as observed in S.S. Ahluwalia (supra) would negate and reject arguments predicated on lack of subject matter jurisdiction. Where an assessee questions jurisdiction of the Assessing Officer within the time limit and in terms of sub-section (3), and the Assessing Officer is not satisfied with the correctness of the claim, he is required to refer the matter for determination under sub-section (2) before the assessment is made. Reference of matter under sub-section (2) would not be required when Assessing Officer accepts the claim of the assessee and transfers the case to another Assessing Officer in view the objection by the assessee. (In terms of sub-section (3) to Section 124 of the Act, *the petitioner had lost his right to question jurisdiction of the Income Tax Officer, Ward No. 1(1), Noida.)*

20. Sub-section (5) to Section 124, though limited in scope, would also be applicable in the facts and circumstances of the present case as the Income-Tax Officer, Ward-1 (1), Noida had the power to assess income accruing or arising within the area as it is not the case of the petitioner- assessee that the said officer did not have jurisdiction in view of location of the bank account and/or petitioner's place of work. Section 124(5) of the Act saves assessment made by an assessing officer provided that the assessment does not bring to tax anything other than income accruing, arising or received in that area over which the assessing officer exercises jurisdiction. However, notwithstanding Section 124(5), the Act does not postulate multiple assessments by different assessing officers, or assessment of part or portion of an income [see Kanjimal& Sons Vs. Commissioner of Income Tax, New Delhi, (1982) 138 ITR 391 (Del)]. Thus, it is necessary that the Assessing Officers having concurrent jurisdiction ensure that only one of them proceeds and adjudicate. This is the purport and objective behind sub-section (2) to Section 124 of the Act.

23. In view of the above discussion, objections as to the jurisdiction of assessing officer in the present case cannot be equated with lack of subject matter jurisdiction. They relate to place of assessment. Income-Tax Officer Ward 1(1), Noida would not per se lack jurisdiction, albeit he had concurrent jurisdiction with the Income-Tax Officer Ward 36(1)/58, Delhi. In the facts of the present case the contention raised about the lack of jurisdiction would not justify quashing the notice under Section 147 /148 of the Act.

In **Elite Pharmaceuticals (21th cited supra),** the relevant paragraphs are extracted as follows:

15. The assessee had questioned the territorial jurisdiction of the assessing officer and the assessing officer held that the assessee had lost the right to raise the objection by efflux of time. We, as such, find no substance in the case of the appellant.

69. Placing reliance upon the aforesaid decisions, it is argued that the conduct of the petitioners clearly establishes that they had knowledge of the centralization of their cases before the Central Circle, Hyderabad and had acquiesced in the assumption of jurisdiction by the first respondent. Accordingly, it is contended that the writ petitions are liable to be dismissed on the grounds of delay and laches, waiver and acquiescence, absence of prejudice, suppression of material facts, and the availability of an efficacious alternative statutory remedy.

Findings and Conclusion:

70. Having heard the learned Senior Counsel appearing for the petitioner and the learned Senior Standing Counsel appearing for the respondents and upon considering the respective submissions and rival contentions made by both sides, the main grievance of the petitioner is that the order of transfer passed by respondent No.4 under Section 127 of the Act is arbitrary, illegal, and unsustainable in law and that the assessment order passed by respondent No.1 being founded upon the said transfer order, is also illegal, arbitrary and liable to be set aside.

71. On consideration of the rival submissions, it is evident that the challenge mounted by the petitioner is twofold. Firstly, it is contended that the order of transfer passed by respondent No.4 is not in conformity with the requirements of Section 127 of the Act. It is argued that Section 127(1) mandates the recording of reasons before passing an order of transfer. Secondly, it is contended that although communication of the transfer order to the assessee is an essential statutory requirement, the same was not complied with in the present case. According to the learned Senior Counsel for the petitioner, non-communication of the transfer order itself renders the order illegal and invalid.

72. It is evident that where the transfer is effected under Section 127(2) of the Act, the consent of the Jurisdictional Commissioners concerned must be expressly reflected in the order and Section 127(3) of the Act provides for a relaxation where the transfer is within the same city, locality, or place. However, such relaxation does not absolve the Revenue of its statutory obligation to record and communicate the reasons for transfer to the assessee.

73. Another ground urged by the learned Senior Counsel for the petitioner is that where an assessee's case is transferred from one Assessing Officer to another and the two officers are not subordinate to the same Principal Chief Commissioner, Chief Commissioner, Principal Commissioner, or Commissioner, an agreement between the two jurisdictional Commissioners is mandatory under Section 127(2)(a) of the Act. It was argued that Section 127(2)(a) contemplates a conscious and positive application of mind by both the jurisdictional Commissioners. Mere absence of objection or silence cannot be equated with the agreement contemplated under the statute. The consent to the transfer must be recorded after due application of mind and such agreement should be clearly reflected in the order of transfer. In the present case, the transfer order does not disclose any such agreement as envisaged under Section 127(2)(a) of the Act.

74. In the present writ petitions, the challenge is not confined merely to the order of transfer but also extends to the assessment orders passed by the concerned Assessing Officer pursuant to such transfer. Therefore, before examining the validity of the assessment orders, it becomes necessary to determine whether the Assessing Officer had the requisite jurisdiction to undertake the assessment. Such jurisdiction would necessarily depend upon the legality and validity of the order of transfer. If the transfer itself is found to be contrary to law and unsustainable, the consequential assessment made by the concerned Assessing Officer cannot be sustained.

75. It would be trite at this juncture to examine the scope and ambit of Section 127 of the Act, particularly in the light of the contention made by the learned Senior Counsel for the petitioner that an order of transfer can be passed only after affording the assessee an opportunity of hearing, wherever it is possible to do so and after recording the reasons for such transfer. For the sake of convenience and better appreciation, the provisions of Section 127 of the Act are extracted hereunder:

> *Section 127 of the Income-tax Act, 1961 deals with the power to transfer cases from one Assessing Officer to another. In substance, it provides as follows:*
>
> 1. *Section 127(1): Where both the Assessing Officers are subordinate to the same Principal Director General/Director General, Principal Chief Commissioner/Chief Commissioner, Principal Commissioner/Commissioner, the competent authority may transfer any case from one Assessing Officer to another after giving the assessee a reasonable opportunity of being heard, wherever it is possible to do so, and after recording the reasons for making the transfer.*
> 2. *Section 127(2): Where the Assessing Officers are not subordinate to the same authority:*
>
> o *Section 127(2)(a): If the concerned authorities are in agreement, the transfer may be made by the authority from whose jurisdiction the case is transferred.*
>
> o *Section 127(2)(b): If there is no such agreement, the transfer may be effected by the Central Board of Direct Taxes (or the authority empowered under the Act), after following the prescribed procedure.*
>
> 3. *Section 127(3): The requirement of giving the assessee a reasonable opportunity of being heard does not apply where the transfer is from one Assessing Officer to another Assessing Officer and the offices of both Assessing Officers are situated in the same city, locality, or place.*
> 4. *Section 127(4): The transfer of a case under this section does not render invalid any notice already issued by the previous Assessing Officer, and the transferee Assessing Officer may continue the proceedings from the stage at which the case stood transferred.*

Judicial interpretation of Section 127 has consistently held that while the requirement of affording an opportunity of hearing under Section 127(1) is qualified by the words “wherever it is possible to do so” and is dispensed with in cases falling under Section 127(3), the recording of reasons for the transfer is mandatory. The Hon’ble Supreme Court has further held that such reasons must also be communicated to the assessee, failing which the order of transfer would be vulnerable to challenge. Additionally, where the transfer is governed by Section 127(2)(a), the agreement of the concerned Jurisdictional Commissioners is a statutory prerequisite and must reflect a conscious application of mind. A plain reading of the said provision also makes it clear that an order of transfer can be passed only upon compliance with two requirements, namely:

i. *Affording the assessee a reasonable opportunity of being heard, wherever it is possible to do so; and*
ii. *Recording the reasons for effecting such transfer.*

76. It is pertinent to note that the statute itself qualifies the requirement of granting an opportunity of hearing by employing the expression “wherever it is possible to do so”. Thus, the requirement of granting such opportunity is not absolute and need not invariably be complied with in every case. The necessity of such opportunity depends upon the facts and circumstances of each case. However, so far as the second requirement is concerned, namely the recording of reasons, the statute admits of no such exception. Irrespective of whether an opportunity of hearing is afforded or dispensed with, the order of transfer must contain the reasons for such transfer. More importantly, those reasons must also be communicated to the assessee. Otherwise, the very purpose underlying the statutory requirement of recording reasons would stand frustrated. Recording reasons without communicating them to the affected assessee would defeat the principles of transparency and fairness that are embedded in Section 127 of the Act.

77. Upon consideration of the judgments relied upon by the learned Senior Counsel for the petitioner and the settled legal principles laid down by the Hon'ble Supreme Court with regard to Section 127 of the Act, this Bench finds that certain statutory requirements are required to be complied with before the competent authority transfers the jurisdiction of an assessee's case from one Assessing Officer to another.

78. Broadly, three requirements emerge from the statutory scheme. Firstly, the assessee is required to be afforded a reasonable opportunity of being heard wherever it is possible to do so. Secondly, the order of transfer must be a reasoned order, recording the grounds which necessitated the transfer, and such reasons are required to be communicated to the assessee. Thirdly, where the transfer is from an Assessing Officer subordinate to one Principal Commissioner or Commissioner of Income-tax to an Assessing Officer subordinate to another Principal Commissioner or Commissioner of Income-tax, the agreement or concurrence of both the jurisdictional Commissioners, as contemplated under Section 127(2)(a) of the Act, is mandatory.

79. It has also been argued that the statutory requirement of agreement between the two Jurisdictional Commissioners cannot be dispensed with merely because one of the Commissioners has not raised any objection to the proposed transfer. Mere absence of objection cannot be equated with the agreement contemplated under Section 127(2)(a) of the Act. Such agreement must be the result of a conscious application of mind and must be discernible from the order or the record. However, it is pertinent to note that the very judgments relied upon by the petitioner make it clear that the requirement of affording an opportunity of hearing is qualified by the expression "wherever it is possible to do so." The Hon'ble Supreme Court has consistently held that the requirement of granting an opportunity of hearing is directory in nature and not mandatory in every case. The competent authority is vested with the discretion to dispense with such opportunity where it is not feasible to afford the same, provided such discretion is exercised reasonably, fairly, and *bona-fide*. At the same time, the requirement of recording reasons for the transfer remains mandatory and cannot be dispensed with.

80. The Writ Petitions Nos.21384, 21110, 21309, 21307, 21381, 21193, and 21023 of 2021 relate to M/s. Sarnala Jayalakshmi Hospitality Private Limited for the Assessment Years 2013-14 to 2019-20. The jurisdiction of the said assessee was transferred from Ward 6(2), Chennai to Central Circle-3(2), Hyderabad.

81. Writ Petition Nos. 19976, 19977, 20070, 20020, 19978, 20054, and 20000 of 2021 relate to M/s. Sandhya Hotels West Private Limited for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Circle-3(2), Hyderabad to Central Circle-3(2), Hyderabad.

82. Similarly, Writ Petition Nos. 16276, 16287, 16283, 16270, 16278, 16302, and 16299 of 2021 pertain to M/s. Sandhya Constructions and Estates Private Limited for the Assessment Years 2013-14 to 2019-20. The jurisdiction in the said cases was transferred from Circle-3(1), Hyderabad to Central Circle-3(2), Hyderabad.

83. Likewise, Writ Petition Nos.19973, 19987, 19986, 20008, 20283, 20372, and 20028 of 2021 pertain to M/s. Sandhya Hotels East Private Limited for the Assessment Years 2013-14 to 2019-20, wherein the cases were transferred from Circle-3(2), Hyderabad to Central Circle-3(2), Hyderabad. Writ Petition Nos.20107, 20025, 20078, and 20050 of 2021 relate to M/s. Sandhya Hospitality Private Limited for the Assessment Years 2016-17 to 2019-20, and the transfer was effected from Circle-3(1), Hyderabad to Central Circle-3(2), Hyderabad.

84. Writ Petition Nos.17570, 17625, 17588, 17579, 17635, 17647, and 17583 of 2021 pertain to Sri Sarnala Sreedhar for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Circle-3(1), Hyderabad to Central Circle-3(2), Hyderabad.

85. Writ Petition Nos.21201, 21090, 21141, 21196, 21048, 21052, and 21066 of 2021 relate to Smt. Latha Pamidimukkala for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Ward-12(3), Hyderabad to Central Circle-3(2), Hyderabad.

86. Writ Petition Nos.19957, 20081, 20013, 20083, 19995, 20052, and 19968 of 2021 pertain to M/s. Jupiter Real Estates Private Limited for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Ward-2(1), Hyderabad to Central Circle-3(2), Hyderabad.

87. Writ Petition Nos.21091, 21056, 21173, 21159, 21044, and 21192 of 2021 relate to Sri P. Srujan Sain for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Ward-11(5), Hyderabad to Central Circle-3(2), Hyderabad.

88. Writ Petition Nos.19963, 19990, 20033, 20088, 19969, 20261, and 19958 of 2021 pertain to Smt. Sandhya Sarnala for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Circle-3(1), Hyderabad to Central Circle-3(2), Hyderabad.

89. Writ Petition Nos. 20855, 20896, 20652, 20653, 20651, 20664, and 20662 of 2021 relate to Sri Duggirala Raja Rao for the Assessment Years 2013-14 to 2019-20, wherein the jurisdiction was transferred from Ward-2, Khammam to Central Circle-3(2), Hyderabad.

90. Admittedly, the present batch of writ petitions pertains to a common group of assessees comprising individual members of the same family as well as various private limited companies managed and controlled by them. The challenge in all these writ petitions is to the orders of transfer passed under Section 127 of the Act, and the consequential assessment orders passed pursuant thereto.

91. Thus, it is noteworthy to mention that all the cases belong to the same group and all have been transferred to one place i.e., Central Circle-3(2), Hyderabad.

92. It is also pertinent to note that all the aforesaid assessees belong to the same family group and are closely connected with the private limited companies managed and controlled by them. The assessments in question pertain both to the individual assessees as well as to the corporate entities forming part of the said group.

93. It is an already admitted fact that a search and seizure operation under Section 132 of the Income-tax Act was conducted on 26.02.2019 in respect of the aforesaid group of assessees. There is no dispute between the parties regarding the conduct of the said search. Pursuant thereto, orders of transfer under Section 127 of the Act were passed on different dates in respect of the respective assessees. The transfer order relating to M/s. Sarnala Jayalakshmi Hospitality Private Limited was passed on 19.08.2019. In respect of M/s. Sandhya Hotels West Private Limited, M/s. Sandhya Constructions and Estates Private Limited, M/s. Sandhya Hotels East Private Limited, M/s. Sandhya Hospitality Private Limited, Sri Sarnala Sreedhar, and Smt. Sandhya Sarnala, the transfer orders were passed on 18.06.2019. The transfer order relating to Smt. Latha Pamidimukkala was passed on 24.10.2019. The transfer orders concerning M/s. Jupiter Real Estates Private Limited and Sri P. Srujan Sain were passed on 11.06.2019, whereas the transfer order relating to Sri Duggirala Raja Rao was passed on 24.02.2020.

94. Consequent upon the transfer of jurisdiction, notices under Sections 153A and 153C of the Act, wherever applicable, were issued to the respective assessees. Notices under Section 143(2) of the Act were also issued, followed by show-cause notices on various dates during April, 2021. Thereafter, assessment orders under Sections 153A/143(3), 153C/143(3), and 144, as the case may be came to be passed between 12.04.2021 and 23.04.2021 in respect of the respective assessees.

95. The record further discloses that, following the search conducted on 26.02.2019, the Department formed an opinion that having regard to the close interconnection among the individual assessees and the group companies, it was desirable that all the cases be centralized and assessed by a single Central Circle. Accordingly, a proposal for centralization of the group cases was initiated.

96. It is pertinent to note that the petitioners are assessees whose cases were originally within the jurisdiction of different Assessing Officers. It is an admitted fact that search and seizure operations under Section 132 of the Act were conducted at the business premises of the petitioners and at the premises of Sri Chennupati Sai Krishna by the Deputy Director of Income-tax (Investigation), Bengaluru, as well as at the residential premises of the Directors and other group concerns by the Deputy Director of Income-tax (Investigation), Unit-I, Hyderabad. Although it has been contended on behalf of the petitioners that no incriminating material was recovered during the search, it is not in dispute that books of account and other incriminating documents and materials were seized during the course of the search proceedings.

97. It is also an admitted fact that the Principal Commissioner of Income-tax (Central), Bengaluru, addressed a communication to respondent No.4 recommending transfer of the petitioner’s case from the jurisdiction of the respondent No.3 to the Deputy Commissioner / Assistant Commissioner of Income-tax, Central Circle-1(4), Bengaluru, consequent upon the search proceedings.

98. The record further discloses that recommendations were also received from the Principal Director of Income-tax (Investigation), Hyderabad, recommending transfer of the petitioners' cases from the jurisdiction of respondent No.4 to the jurisdiction of the second respondent for the purpose of centralization. Pursuant thereto, respondent No.4 issued a communication to the petitioner inviting objections to the proposal made by the Principal Commissioner of Income-tax (Central), Bengaluru, seeking transfer of the petitioner's case to Bengaluru.

99. The material placed on record further reveals that the petitioner *vide* letter dated 15.05.2019, objected to the proposed transfer of its case to Bengaluru. For the sake of convenience and proper appreciation of the rival submissions, the letter filed by the learned Senior Standing Counsel appearing for the Income Tax Department is extracted hereunder:

> *The Assessee Company jurisdiction has been notified to Central Circle, Hyderabad by the Director of Income Tax (Investigation), Hyderabad.*
>
> *As the Assessee Company's activities mainly carried out at Hyderabad only as the registered office and corporate office of the company are situated at Hyderabad and also search was conducted U/s. 132 of Income tax 1961 on 26.02.2019 and the jurisdiction of the company has been notified to Central Circle, Hyderabad.*
>
> *Hence we request you not to be centralised at Bangalore for Income Tax assessment.*

A perusal of the said letter discloses that a search and seizure operation under Section 132 of the Act was conducted on the same day in respect of all the petitioners and the entities belonging to the group. The statement further indicates that consequential notices were issued by the Department and sets out the sequence of events leading to the transfer of jurisdiction. Significantly, in the said communication, the petitioner requested that its case be centralized before the Central Circle at Hyderabad instead. The said communication prima facie indicates that the petitioner was aware of the proposal for centralization and had sought transfer of its case to the Central Circle, Hyderabad.

100. Notwithstanding the above, the main contention made by the petitioner is that although the transfer of the group cases from the jurisdiction of respondent No.4 to that of the second respondent was purportedly effected under Section 127(2)(a) of the Act, the order of transfer was never communicated to them. It is further contended that the said order neither records the reasons for transfer nor discloses the agreement or concurrence between the two Jurisdictional Commissioners, as mandated under Section 127(2)(a) of the Act. According to the petitioners, the non-communication of the transfer order and the absence of the statutory requirements vitiate the very assumption of jurisdiction by the transferee Assessing Officer.

101. Admittedly, the principal grievance of the petitioner is that no sufficient opportunity was afforded by the respondents either prior to the passing of the transfer order under Section 127 of the Act or during the course of the subsequent assessment proceedings, including the issuance of show-cause notices and passing of the assessment order. However, the material placed on record and the sequence of events relating to the assessment proceedings clearly demonstrate that the petitioner was issued a notice under Section 153A of the Act by the first respondent on 09.12.2019, calling upon the petitioner to file its return of income. Pursuant to the said notice, the petitioner filed its return of income on 11.01.2020. Subsequently, notice under Section 143(2) of the Act was issued on 10.02.2020, and thereafter, notice under Section 142(1) of the Act was issued on 12.02.2020, calling upon the petitioner to furnish the requisite information and details. Further, another notice under Section 142(1) along with a show-cause notice was issued on 18.12.2020. Thereafter, a further show-cause notice was issued on 02.02.2021.

102. It is also evident from the record that proceedings under Section 274 read with Section 271(1)(b) of the Act were initiated for non-compliance with the notices issued under Section 142(1) of the Act. The penalty proceedings culminated in the passing of an order on 01.04.2021.

103. It is the specific case of the petitioners that the seized material was furnished to the petitioner only on 05.04.2021. Thereafter, the petitioner submitted a detailed response to the show-cause notice dated 02.02.2021. The petitioners also filed a response to the notice dated 07.04.2021 on 09.04.2021. Further, replies were also submitted on 19.04.2021 and 20.04.2021 in respect of the earlier notices issued under Sections 142(1) and other proceedings. However, it is to be noted that the said instructions were issued subsequent to the completion of the search proceedings, issuance of notices, filing of replies and completion of the assessment orders in the present case. Therefore, the petitioners cannot derive any benefit from the said instructions, which came into existence after the completion of the relevant proceedings.

104. The principal issue raised by the petitioner, apart from the challenge to the assessment proceedings, is with regard to the validity of the transfer order passed under Section 127 of the Act. The petitioner contends that the transfer order is invalid on the ground that no opportunity of hearing was provided, no reasons were recorded and communicated and no agreement or consensus was obtained between the concerned Commissioners where the transfer was effected from an Assessing Officer under one Commissioner to an Assessing Officer under another Commissioner.

105. It is the contention of the petitioners that in cases where the Assessing Officers are subordinate to different Commissioners, an agreement between the concerned Commissioners is mandatory and in the absence of such agreement, the transfer order itself is liable to be set aside. On the other hand, the learned Senior Standing Counsel appearing for the Income Tax Department has contended that except in two cases involving transfer from Ward 6(2), Chennai to Central Circle 3(2), Hyderabad, and Ward 2, Khammam to Central Circle 3(2), Hyderabad, all other transfers were within the same city and locality of Hyderabad. Therefore, the requirement of agreement between Commissioners, as contemplated under Section 127(2) of the Act, would not arise.

106. It is further submitted that the cases relating to Circle 3(1), Hyderabad, Circle 3(2), Hyderabad, Circle 12(3), Hyderabad, Ward 2(1), Hyderabad, Ward 11(5), Hyderabad and other Hyderabad jurisdictions were transferred within the same city and locality to Central Circle 3(2), Hyderabad. Hence, the statutory requirement of obtaining agreement between different Commissioners was not attracted.

107. As it is seen from the record that the transfer of cases was effected pursuant to centralization proceedings initiated after the search and seizure operation and that the petitioner itself had expressed its willingness for centralization at Hyderabad. Therefore, the petitioner cannot now challenge the transfer order after having accepted the jurisdiction and participated in the assessment proceedings. Though the petitioner contends that mere participation in proceedings cannot amount to acquiescence or confer jurisdiction where none exists, it is relevant to note that the petitioner had participated throughout the assessment proceedings, filed returns of income, responded to statutory notices and submitted replies before the Assessing Officer.

108. The judgments relied upon by the petitioner also make it clear that the requirement of granting an opportunity of hearing under Section 127(1) of the Act is not absolute, as the statute itself provides that such opportunity shall be given wherever it is possible to do so. The provision, thus, confers discretion upon the authority depending upon the facts and circumstances of each case.

109. Coming to the requirement of recording reasons, it is evident from the record that the petitioner was initially issued a notice proposing transfer of the case to Bangalore. In response thereto, the petitioner objected to the transfer and requested that the case be centralized at Hyderabad. The subsequent conduct of the petitioner, including participation in the assessment proceedings before the Central Circle, Hyderabad, clearly demonstrates that the petitioner had knowledge of and accepted the transfer to the said jurisdiction. The petitioner repeatedly participated in the proceedings, received statutory notices, issued replies, and subjected itself to the jurisdiction of the Assessing Officer, Central Circle 3(2), Hyderabad.

110. Having regard to the aforesaid circumstances, this Bench is of the considered view that the petitioners having consented to the proposal for centralization and having participated in the proceedings before the transferred authority cannot now turn around and challenge the transfer order on technical grounds, including alleged violation of principles of natural justice. As rightly contended by the learned Senior Standing Counsel appearing for the Income Tax Department that the conduct of the petitioners clearly indicates that the present challenge is primarily intended to avoid the statutory appellate remedy available against the assessment order. The petitioners had an efficacious alternative remedy of filing an appeal before the competent appellate authority against the assessment order. Instead of availing such remedy, the petitioner has approached this Bench by questioning the transfer proceedings as a means to indirectly challenge the assessment order.

111. In view of the above discussion and considering the facts and circumstances of the case, this Bench is of the considered opinion that no grounds are made out to interfere with the transfer orders passed under Section 127 of the Act or the consequential assessment orders passed by the

Assessing Officer. Consequently, these Writ Petitions are devoid of merit and are liable to be dismissed.

112. Accordingly, all these Writ Petitions are dismissed.

As a sequel, miscellaneous applications, if any pending, shall stand closed. However, there shall be no order as to costs.

P. SAM KOSHY, J

NARSING RAO NANDIKONDA, J

Date: 22.09.2026
vjb