

# Suchi Agarwal vs Assistant Commissioner Of Income Tax ... on 11 April, 2023

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 4484/2023 & CM Nos.17165-66/2023  
SUCHI AGARWAL

..... Petitioner

Through: Mr Kapil Goel, Adv.

versus

ASSISTANT COMMISSIONER OF INCOME  
TAX CIRCLE 43(1) NEW DELHI

..... Respondent

Through: Mr Ruchir Bhatia, Sr Standing  
Counsel with Ms Priya Sarkar  
Shlok Chandra, Jr Standing Counsel

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% 11.04.2023 [Physical Hearing/Hybrid Hearing (as per request)]

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing. W.P.(C) 4484/2023 & CM No.17165/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. This writ petition concerns Assessment Year (AY) 2015-16.

3. Mr Kapil Goel, who appears on behalf of the petitioner, says that the consequential notice dated 29.06.2022 issued under Section 148 of the Income Tax Act, 1961 [in short, "Act"], emanates from an officer who had no jurisdiction in the matter.

3.1 In this regard, our attention has been drawn to Annexure P-7, appended on page 82 of the case file. A perusal of the said notice shows that it has been issued by the Deputy Commissioner of Income Tax [DCIT].

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3.2 In support of his plea that the DCIT had no jurisdiction

has been drawn to Annexure P-8, which is appended on page 84 of the case file.

3.3 Concededly, the petitioner had declared a loss and is a resident of a metro city. Since the petitioner is an individual, therefore, Instruction no.1/2011 dated 31.01.2011 seems to suggest that pecuniary jurisdiction, in this case, vested with the Income Tax Officer (ITO) and not the DCIT.

4. Learned counsel for the petitioner, in support of this plea, has referred to the judgment dated 08.03.2022 rendered by the Bombay High Court in W.P.(C) No.3489/2019, titled Ashok Devichand Jain v. Union of India and Ors.

5. Issue notice.

5.1 Mr Ruchir Bhatia, learned senior standing counsel, accepts notice on behalf of the respondents/revenue.

6. Counter-affidavit will be filed within six weeks. 6.1 Rejoinder thereto, if any, will be filed before the next date of hearing.

7. List the matter on 13.10.2023.

8. In the meanwhile, there shall be a stay on the operation of the impugned order and notices.

9. Parties will act based on the digitally signed copy of the order.

RAJIV SHAKDHER, J TARA VITASTA GANJU, J APRIL 11, 2023 aj Click here to check corrigendum, if any W.P.(C) 4484/2023 page 2 of 2