

## If case of assessee was transferred to another AO, notice to be given to assessee

**Summary – The Hyderabad ITAT in a recent case of Vijay Vikram Dande Kurnool, (the Assessee) held that If case of assessee was transferred to another AO, notice to be given to assessee**

### Facts

- The assessee's return was processed under section 143(1) and subsequently, the case was selected for scrutiny. Thereafter, the case was transferred to Addl. CIT (IT-II) Hyderabad, stating that the jurisdiction of the case was with the Assessing Officer Hyderabad since the assessee was a non-resident.
- Thereafter, the Assessing Officer completed the assessment under section 143(3). The assessee preferred an appeal before the Commissioner (Appeals) challenging the jurisdiction of the Assessing Officer at Hyderabad for making the assessment and also the additions.
- The Commissioner (Appeals) confirmed the assesment order.
- On second appeal:

### Held

- The ITAT stated that according to the assessee, there is a change of jurisdiction from the Assessing Officer to Hyderabad and as per the provisions of section 127(1) of the Act, it is only the Principal Director General or the Principal Commissioner or Chief Commissioner of Income Tax or the Principal Commissioner, who may, after giving the assessee a reasonable opportunity of being heard in the matter for doing so, transfer any case from one or more than one Assessing Officer subordinate to him to other Assessing Officer or Assessing Officer's also subordinate to him.
- The ITAT found that the notice under section 127(1) had to be given to the assessee and it were only the Pr. Director General or the Pr. Commissioner who could transfer the case under section 127 of the Act. No such procedure has been followed by the Deptt. Therefore, the issuance under section 143(2) by the Deputy Commissioner (IT)-1, Hyderabad is without any authority and also beyond the period of six months from the date of filing of returns and therefore, is barred by limitation and hence, not sustainable and the consequent assessment order passed by the Assistant Commissioner (IT) Hyderabad is void *ab initio*.