

आयकर अपीलीय अधिकरण “J” न्यायपीठ मुंबई मे ।

**IN THE INCOME TAX APPELLATE TRIBUNAL “J” BENCH, MUMBAI**

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री मनोज कुमार अग्रवाल लेखा सदस्य के समक्ष ।

**BEFORE SRI MAHAVIR SINGH, JM AND SRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No. 4051/Mum/2017

(निर्धारण वर्ष / Assessment Year 2010-11)

आयकर अपील सं./ ITA No. 4052/Mum/2017

(निर्धारण वर्ष / Assessment Year 2011-12)

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| The Asst. Commissioner of Income Tax, Circle 11(3)91), Room No. 204, Aayakar Bhavan, 2 <sup>nd</sup> Floor, M.K. Marg, Mumbai-400 020 | Vs. | M/s Trigyn Technologies Ltd.<br>27-A, SDF-1, SEEPZ-SEZ, Andheri (East), Mumbai-400 096 |
| <b>(अपीलार्थी / Appellant)</b>  | ..  | <b>(प्रत्यर्थी / Respondent)</b>   |
| <b>स्थायी लेखा सं./PAN No. AAACL2065K</b>   |     |  |

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| अपीलार्थी की ओर से / <b>Appellant by</b>   | : | Shri S Senthil Kumaran, DR |
| प्रत्यर्थी की ओर से / <b>Respondent by</b> | : | Shri Anuj Kisnadwala, AR   |

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|---|------------|
| सुनवाई की तारीख / <b>Date of hearing:</b>       | 07-01-2019 |
| घोषणा की तारीख / <b>Date of pronouncement :</b> | 28-01-2019 |

**आदेश / ORDER**

**PER MAHAVIR SINGH, JM:**

These appeals filed by the Revenue are arising out of the orders of Commissioner of Income Tax (Appeals)-18, Mumbai [in short CIT(A)], in



appeals No. CIT(A)-18/IT-54/ITO-8(3)(3)/14-15 & CIT(A)-18/IT-274/AC-11(3)(1)/15-16 of even date 28.02.2017. The Assessments were framed by the Income Tax Officer & Asst. Commissioner of Income Tax, Ward-8(3)-3, Circle-11(3)(1), Mumbai (in short 'ITO/ AO) for the A.Ys. 2010-11 & 2011-12 vide different order dated 20.03.2014 & 15.05.2015 under section 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

2. In these appeals, for AYs 2010-11 & 2011-12 in ITA Nos. 4051 & 4052/Mum/2017 contains disallowance of ₹ 57,29,300/- & Rs. 55,00,600/- respectively, which is under challenged on account of allowance of consultancy charges by CIT(A). The learned Counsel for the assessee stated that the tax effect in this appeal is ₹ 19,47,389/- for AY 2010-11 & ₹ 18,69,654/- for AY 2011-12, which is below the tax effect circular brought by the Central Board of Direct Taxes (CBDT) vide circular F.No. 279/Misc. 142/2007-ITJ (Pt) dated 11.07.2018, wherein monetary limits and other conditions for filing of departmental appeal before the Tribunal has been revised and fixed at ₹ 20 lacs. He placed the copy of this circular on record.

3. We have gone through the circular and noticed that this circular will apply to pending appeals also & we are referring to Para 13 of the circular for this proposition, which reads as under: -

*“13. This Circular will apply to SLPs/appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/cross objections/ references. **Pending appeals below the***



***specified tax limits in para 3 above may be withdrawn/ not pressed.***

4. In view of the above, we are of the view that the Revenue's appeals are fully covered by CBDT circular No. 3 of 2018 and there is no exception brought out by the Revenue that these appeals falls under any of the exception as provided in Para 10 which reads as under: -

*“10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:*

*(a) Where the Constitutional validity of the provisions of an Act or Rule IS under challenge, or*

*(b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or*

*(c) Where Revenue Audit objection in the case has been accepted by the Department, or*

*(d) Where the addition relates to undisclosed foreign assets/ bank accounts.”*

5. When this was confronted to the learned Sr. Departmental Representative, he could not point out that these appeals falls under any of the exception as provided in Circular No. 3 of 2018. Admittedly, the tax



effect in these appeals of Revenue is much below the prescribed limit of filing appeal before the Tribunal i.e. ₹ 20 lacs as per CBDT circular No. 3 of 2018. In view of the above, these appeals of Revenue are dismissed as withdrawn in view of Circular No 3 of 2018.

**6. In the result, the appeals of Revenue are dismissed as withdrawn.**

Order pronounced in the open court on 28-01-2019.

Sd/-

(मनोज कुमार अग्रवाल / MANOJ KUMAR AGGARWAL)  
(लेखा सदस्य / ACCOUNTANT MEMBER)

Sd/-

(महावीर सिंह / MAHAVIR SINGH)  
(न्यायिक सदस्य/ JUDICIAL MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 28-01-2019.

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
- गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai