

**IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI**

**SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.3190/MUM/2025
(Assessment Year: 2011-2012)
&
ITA No.3191/MUM/2025
(Assessment Year: 2012-2013)**

9X Media Private Limited

Ground Floor, Gala No.1,,
ABEL Estate, Saki Vihar Road, Saki Naka
Mumbai – 400072. Maharashtra.
[PAN:AABCI5594D]

..... **Appellant**

Vs

**Assistant Commissioner of Income Tax
16(1), Mumbai**

Room No.439, Aayakar Bhavan, M.K.Road,
Mumbai – 400020. Maharashtra

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Manoj Raghani
For the Respondent/Department : Shri Arun Kanti Datta

Date

Conclusion of hearing : 26.06.2025
Pronouncement of order : 27.06.2025

ORDER

Per Rahul Chaudhary, Judicial Member:

1. These are two appeals preferred by the Assessee for the Assessment Year 2011-2012 and 2012-2013 which were heard together and are being disposed of by way of a common order. ITA No.3190/Mum/2025 pertains to Assessment Year 2011-2012 and ITA No.3191/Mum/2025 pertains to Assessment Year 2012-2013.
2. When the appeals were taken up for hearing, the Learned Departmental Representative pointed out that the Assessee has challenged the Assessment Orders passed by the Assessing Officer

under Section 143(3) read with Section 254 of the Act directly in appeal before the Tribunal without preferring any appeal before the Commissioner of Income Tax (Appeals). The appeal preferred by the Assessee were, therefore, not maintainable. Responding to the aforesaid submissions the Learned Authorized Representative for the Assessee submitted that the Assessee has preferred appeal before the Tribunal since the demand notice issued under Section 156 of the Act made reference to filing appeal before the Tribunal. Without prejudice to the aforesaid, it was further submitted by the Learned Authorized Representative of the Assessee that in case the present appeals were held to be not maintainable, the appeal fee of INR.10,000/- paid in respect of each of the appeal be refunded to the Assessee.

3. On perusal of the record we find that in the memorandum of appeal in Form 36 for the Assessment Years 2011-2012 and 2012-2013, while 'section/sub-section under which appeal has been filed' has been mentioned as Section 250 of the Act, in the details of order appealed against the date of the Assessment Order passed under Section 143(3) read with Section 254 of the Act has been mentioned. Thus, by way of present appeal the Assessee has impugned the Assessment Order passed under Section 143(3) of the Act read with Section 254 of the Act and the appeal against the same lies before the Commissioner of Income Tax (Appeals) in terms of Section 246A of the Act and not before this Tribunal. Order passed by the Commissioner of Income Tax (Appeals) under Section 250 of the Act is appealable before this Tribunal. However, in the present case the orders impugned by way of ITA No.3190/Mum/2025 (Assessment Year 2011-2012) and ITA No.3191/Mum/2025 (Assessment Year 2012-2013) are the Assessment Orders passed under Section 143(3) read with Section 254 of the Act by the Assessing Officer, and not the orders passed by the Commissioner of Income Tax (Appeals) under Section 250 of

the Act. The Assessee has preferred the present appeals before this Tribunal by misplacing reliance upon the contents of Demand Notice issued under Section 156 of the Act. As regards, the contention of the Assessee seeking refund of appeal fee paid for the institution of the appeal is concerned, we find that no factual or legal basis has been placed before us in support of the same. The reference to the extract of Income Tax Appellate Tribunal – Office Manual is of no aid to the Assessee since the same deals with a case of refund of (a) fee paid twice or (b) excess fee paid or (c) fee paid in respect of appeal not actually filed. Clearly, that is not the case in the appeals before under consideration. In view of the aforesaid, both the appeal preferred by the Assessee are dismissed. The Assessee would have such liberty, as available the provisions of the Act, to challenge the Assessment Order in appeal before the Commissioner of Income Tax (Appeals). In case the Assessee moves application seeking condonation of delay, the Commissioner of Income Tax (Appeals) shall adjudicate the same after taking into consideration the time spent by the Assessee in pursuing the present appeals before this Tribunal which has been held by us to be wrong forum.

4. In result, the both the appeals preferred by the Assessee are dismissed.

Order pronounced on 27.06.2025.

Sd/-
(Omkareshwar Chidara)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 27.06.2025
Milan,LDC

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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