आयकर अपीलीय अधिकरण "एक-सदस्य मामला " **न्यायपीठ मुंबई में।**

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

माननीय श्री विकास अवस्थी**,** न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य के समक्ष।

BEFORE HON'BLE SHRI VIKAS AWASTHY, JM AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आ□करअपील सं./ I.T.A. No.7960/Mum/2019
(**निर्धारण वर्ष** / Assessment Year: 2009-10)

ITO-4(3)(2) Room No.648, 6th Floor Aaykar Bhawan, New Marine Lines Mumbai-400 020	**बनाम**/ Vs.	**M/s. Ken Financial Services Limited** 302, Standard House 83, M.K. Road, Marine Lines Mumbai-400 002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. **AAACK-4929-K**		
(□ पीलार्थी/**Appellant**)	:	(प्रत्यर्थी / **Respondent**)

अपीलार्थीकीओरसे/ **Appellant by**	:	Shri Sanjay Sethi-Ld.DR
प्रत्यर्थीकीओरसे/**Respondent by**	:	None

सुनवाईकीतारीख/**Date of Hearing**	:	08/06/2021
घोषणाकीतारीख /**Date of Pronouncement**	:	08/06/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member): -

1. The revenue challenges the order of Ld. Commissioner of Income-Tax (Appeals)-9, Mumbai, [CIT(A)] dated 24/10/2019 which has deleted the additions of Rs.7 Lacs as made by Ld. AO while framing an assessment u/s 143(3) r.w.s. 147 on 28/12/2016.

2. Though none appeared for assessee, however, it transpires that the tax effect of quantum additions under dispute by revenue is below Rs.50 Lacs and therefore, the appeal is not maintainable in terms of CBDT low tax effect Circular No.17/2019 dated 08/08/2019 [F.No.279/Misc.142/2007-TTJ(Pt.) Government of India, Ministry of Finance, Department of Revenue].

3. The Ld. DR stressed that the reassessment proceedings were triggered pursuant to receipt of certain information from DGIT (investigation) and therefore, the matter would fall under exception 10(e) of the Circular. However, we are of the considered opinion that the Directorate of Income Tax (investigation) is a law enforcement agency under the control of Ministry of Finance and would thus constitute internal agency / wing of Income Tax Department which works under the aegis of its controlling authority CBDT and therefore, it could not be considered as 'external source' as is referred to in para 10(e) of CBDT circular dated 20/08/2018. When CBDT is referring to external sources, it is certainly referring to sources which are not internal sources within the Income Tax Department and various wings functioning within its aegis. It could also be seen that the subsequent CBDT Circular No. 23 of 2019 dated 06/09/2019 read with office memorandum dated 16/09/2019 applies only to cases involving bogus long-term capital gains (LTCG) / Short Term Capital Loss (STCL) on penny stocks. The same is not the case here.

4. In view of the foregoing, the revenue's appeal is not maintainable on account of low tax effect. At the same time, a liberty is given to revenue to seek recall of the appeal, if at a later stage, it is found that the matter is

covered by any exceptions provided in any of the circular or in case the tax effect as agitated by revenue exceeds the prescribed monetary limit.

5. In the result, the appeal stands dismissed.

Order pronounced on 08th June, 2021.

Sd/-	**Sd/-**
(Vikas Awasthy)	**(Manoj Kumar Aggarwal)**
न्यायिक सदस्य / **Judicial Member**	लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 08/06/2021
Sr.PS, Jaisy Varghese

<u>आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to</u> :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / **ITAT, Mumbai.**