



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA No. 601 of 2009  
ITA No. 602 of 2009  
ITA No. 614 of 2009

% Reserved on: December 04, 2009  
Pronounced on: December 23, 2009

M/s. Egon Zehnder International Pvt. Ltd. . . . Appellant

through : Dr. Rakesh Gupta with  
 Ms. Poonam Ahuja and  
 Ms. Mahima Agrawal, Advocates

**VERSUS**

Commissioner of Income Tax, Delhi -IV . . . Respondent

through : Mr. N.P. Sahni with  
 Mr. P.C. Yadav and  
 Ms. Sonia Mathur, Advocates

**CORAM :-**

**THE HON'BLE MR. JUSTICE A.K. SIKRI**  
**THE HON'BLE MR. JUSTICE SIDDHARTH MRIDUL**

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

**A.K. SIKRI, J.**

1. Admit.
2. Following substantial questions of law arise for determination :-

**"ITA No. 601/2009**

- 1) Whether the Tribunal is correct in law and on facts in upholding the act of the CIT in assuming jurisdiction and issuing notice under Section 263 of the Income Tax Act, 1961?
- 2) Whether the order of the Tribunal is perverse in assuming/holding that PE of M/s. Egon AG existed in India?
- 3) Whether the Tribunal was correct in law in holding that non-disposal of application under Section 195(2) of the Act will amount to its non-acceptance or rejection?



of Rs.59.34 lacs on account of the share of the petitioner in costs incurred by its non-resident holding company outside India, relating to information technology and other expenses, under Section 40(a)(i) of the Act?

**ITA No. 602/2009**

- 1) Whether the Tribunal is correct in law in holding that onus of proving, with documentary evidence, that there is no PE of a Non-Resident in India lies on the assessee?
- 2) Whether the order of the Tribunal is perverse in assuming/holding that PE of M/s. Egon AG existed in India?
- 3) Whether the Tribunal was correct in law in holding that non-disposal of application under Section 195(2) of the Act will amount to its non-acceptance or rejection?
- 4) Whether the Tribunal was correct in law in sustaining the disallowance of expenses of Rs.1,00,82,620/- on account of the share of the petitioner in the costs incurred by its non-resident holding company outside India, relating to information technology and other expenses, under Section 40(a)(i) of the Act?

**ITA No. 614/2009**

- 1) Whether the Tribunal is correct in law and on facts in upholding the act of the CIT in assuming jurisdiction and issuing notice under Section 263 of the Income Tax Act, 1961?
- 2) Whether the order of the Tribunal is perverse in assuming/holding that PE of M/s. Egon AG existed in India?
- 3) Whether the Tribunal was correct in law in holding that non-disposal of application under Section 195(2) of the Act will amount to its non-acceptance or rejection?
- 4) Whether the Tribunal was correct in law in upholding the direction of the CIT for making of disallowance of expenses of Rs.59.34 lacs on account of the share of the petitioner in the costs incurred by its non-resident holding company outside India, relating to information technology and other expenses, under Section 40(a)(i) of the Act?"

Paper books shall be filed within three months in ITA No.

601/2009 only.

(A.K. SIKRI)  
JUDGE