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% 14.01.2011

Present: Mr.Sanjeev Sabharwal, Advocate for the appellant.
Mr.Ajay Vohra and Ms.Kavita Jha, Advocates for the respondent.

+ITAs No.209/2010, 210/2010, 211/2010 and 212/2010

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(Common Order)

ITAs No.209/2010 and 210/2010 pertain to the same assessment year, i.e., assessment year 2004-2005 and raise same question. Two appeals have been filed simply because of the reason that by the impugned order, the Tribunal has decided appeal of the Revenue as well as cross-objections of the assessee. The Tribunal while deciding the cases in favour of the assessee has followed its earlier order in respect of the same assessee passed in assessment year 2003-2004. Against that order ITA 211/2010 is preferred. When we perused the orders passed by the Tribunal in ITA 211/2010, we find that the Tribunal had followed its earlier orders passed in the case of HCL Technology Limited. Against the orders passed in the case of HCL Technology Limited, ITAs 1244/2009 and 1250/2009 were preferred by the Revenue, which were dismissed in the following terms vide orders

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dated 15.12.2009. The order dated 15.12.2010 passed in ITAs 1244/2009 and 1250/2009 reads as under:

"The Income Tax Appellate Tribunal has followed its decision in the case of **DCIT vs. Binary Sematics, ITA No.293/Del/05**.

On 1st December, 2009 order was passed directing the learned counsel to inform us whether any appeal was preferred against that judgment or not.

Learned counsel is not in a condition to affirm the same even today. In these circumstances, we draw the inference that the aforesaid order was accepted by the Department and dismiss these appeals. However, in case it turns out that appeal was preferred against that order and still pending, the appellant shall be entitled to seek revival of these appeals."

Following the aforesaid order, we dismiss these appeals on identical terms and giving the same liberty to the Revenue in these appeals also.

Insofar as ITA 212/2010 is concerned, assessee is HCL Techno Limited and therefore this appeal shall also be governed by the aforesaid orders dated 15.12.2009 which was in respect of this very assessee.

A.K. SIKRI, J.

M.L. MEHTA, J.

JANUARY 14, 2011

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