IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 17/2009

The Commissioner of Income Tax,
having office at Aayakar Bhavan,
Patto-Plaza, Panaji-Goa. … **Appellant**.

Versus

Pyramid Finance Ltd.,
Salgaoncar House,
F.L.Gomes Road,
Vasco-da-Gama, Goa … **Respondent**

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Ms. Asha Desai, Advocate for the appellant.
Mr. A.F. Diniz, Advocate for the respondent.

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Coram: F. M. REIS &
K. L. WADANE, JJ.
Date : 11th January, 2016.

Oral Judgment (Per F.M. REIS, J):

1] Heard Ms. Asha Desai, learned counsel appearing for the appellant and Mr. Diniz, learned counsel appearing for the respondent .

2] The above appeal was admitted by order dated 23rd September, 2009, on the following substantial question of law:-

> *"Whether the facts in the circumstances of the case, the I.T.A.T. was justified in law in holding that lease equalization charges could not be regarded as amount transferred to reserve as envisaged u/s explanation to (b) section115 JA (2) 115JB (2), though explanation (b) contemplates reserve any nature except as specified in section 33AC."*

3] During the course of arguments of the above appeal, it was pointed out by the learned counsel appearing for the appellant that the tax effect of the appeal is less than Rs. Twenty lakhs and as such, this is covered by paragraph 10 of the Circular dated 10th December, 2015 issued by the Government of India. The learned counsel appearing for the respondent does not dispute this position. Paragraph 10 of such Circular read thus:-

> *"This instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in High Courts/ Tribunals. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed. Appeals before the Supreme Court will be governed by the instructions on this subject, operative at the time when such appeal was filed".*

4] Taking note of the said Circular, the question of entertaining the above appeal does not arise. The above appeal stands disposed of accordingly.

K. L. WADANE, J. F. M. REIS, J.

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