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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 99/2017 & CM Nos.4174-75/2017**

AGINITY INDIA TECHNOLOGIERS P. LTD. Appellant
Through: Mr. Sanat Kapoor, Advocate.

Versus

COMMISSIONER OF INCOME TAX-1 Respondent
Through: Mr. Rahul Chaudhary, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **03.02.2017**

1. Issue notice. Mr. Rahul Chaudhary, Advocate accepts notice on behalf of the respondent.
2. The assessee in this appeal against the order of the Income Tax Appellate Tribunal (ITAT) under Section 260A of the Income Tax Act, 1961 (for short 'the Act') questions the inclusion of three comparables i.e. E-Zest Solutions Ltd., Flextronics Software System Ltd. and Persistent Systems Ltd. These were introduced by the TPO and affirmed concurrently by the DRT and the ITAT. The assessee has also appealed inclusion of eight other comparables i.e. Avani Cincom Technologies Ltd., KALS Information System Ltd., I Gate Global Solutions Ltd., Tata ELXSI Limited (Seg), Thirdware Solutions Ltd. (Seg-), Softsol India Ltd., Infosys Technologies Ltd. and Wipro Ltd. (after excluding rental income etc.). The ground urged is that the ITAT's affirmation of the DRT's order and in turn

that Authorities' orders are unreasoned as to the grounds urged before this Appellate Authority.

3. This Court has considered the submissions and materials on record and is of the opinion that even though the remit by the ITAT is justified, the lack of any reasoning by any Authority, as to the inclusion of the comparables, would mean that the matter is open for the assessee and that its right to contend that inclusion of such comparables is not in accordance with law, for the whatever grounds it chooses to urge are open. The ITAT's order is accordingly partly allowed and all rights and contentions of the parties are kept open in respect of all the comparables mentioned in this order.

4. The appeal is disposed off accordingly.

S. RAVINDRA BHAT, J.

NAJMI WAZIRI, J.

FEBRUARY 03, 2017

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