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

\+ W.P.(C) 17569/2025 CM APPL. 72559/2025

MIXPANEL INC

.....Petitioner

Through: Mr. Kamal Sawhney and Mr. Nishank Vahistha, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE INTERNATIONAL TAX 221 NEW DELH

.....Respondent

Through: Mr. Abhishek Maratha, Sr. Standing Counsel, Mr. Apoorv Agarwal, Mr. Parth Samwal, Jr. SCs, Ms Nupur Sharma, Mr. Gaurav Singh, Mr. Bhanukaran Singh Jodha, Ms Muskaan Goel, Mr. Himanshu Gaur and Mr. Nischay Purohit Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 06.01.2026

1. Learned counsel for petitioner invited court's attention towards the certificate dated 17.10.2025 *(hereinafter referred to as 'impugned certificate')*, respondent has passed pursuant to the petitioner's application under Section 197 of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*) and submitted that the sole reason given while rejecting petition's application under Section 197 is that the Department has not

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accepted the orders dated 25.07.2024, 25.09.2024 and 21.05.2025 passed by the Income Tax Appellate Tribunal (*hereinafter referred to as 'ITAT'*) for Assessment Years (*hereinafter referred to as 'AY'*) 2018-19, 2021-22 and 2022-23.

2. Learned counsel for the petitioner submitted that once the final fact finding authority under the Act of 1961 has held the facts and legal issue in petitioner's favour, clearly ruling that the services provided by the petitioner do not fall within the ambit 'Fee for Technical Services', no tax under the Act of 1961 is payable by the petitioner company, which is registered in United States. And therefore, the petitioner is entitled to get a certificate of zero tax under the Act of 1961. Learned counsel for petitioner argued that the approach of the respondent is contrary to law and as a matter of fact, amounts to contempt of court as the respondent has not followed, rather flouted the orders passed by the ITAT.

3. Mr. Abhishek Maratha, SSC for the respondent on the other hand submitted that out of the three orders referred hereinabove, passed by the ITAT, the department has filed two SLPs before Hon'ble the Supreme Court for AYs 2021-22 and 2022-23 and since the tax effect in the appeal for AY 2018-19 was less than the permissible limit, no appeal was filed against the same. He added that in case the appeals filed by the Department are allowed (in which notice has been issued), the situation would be irreversible and the respondent company will take a plea that since the Department has accepted the order passed by the ITAT, the appeals be disposed of as such.

4. Heard learned counsel for the parties.

5. We are of the view that the apprehension expressed by the Mr. Maratha is untenable in law. Simply because the Department follows the

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order passed by the ITAT, which order is otherwise binding on it, the plea that since the Department has issued the certificate and accepted the orders, the appeal should not be heard and decided on merit is misconceived. According to us, the orders of the ITAT being the final fact finding authority under the Act of 1961 are required to be followed by the Jurisdictional Assessing Authorities, regardless of the fact whether an appeal has been preferred or not.

6. That apart, only notice has been issued in the subject appeals and even substantial question of law has not been framed. As a matter of fact, no stay application has been filed by the department and the orders of the ITAT are existing and subsisting.

7. The present writ petition is therefore allowed. The impugned certificate dated 17.10.2025 requiring to deduct tax at 15% is hereby quashed and set aside.

8. In order to meet the ends of justice, the respondent is directed to issue a fresh certificate to the petitioner requiring deduction of tax at the rate of 2% in place of 15%.

9. The respondent shall continue to issue TDS certificate at such rate (2%) for the subsequent assessment years i.e. AY 2026-27 and onwards as well until the orders of the ITAT are reversed or otherwise modified by the High Court or any other change in relation to the services provided by the petitioner company takes place.

10. Needless to observe that on furnishing the Income Tax Return (ITR) by the petitioner company, the Assessing Officer shall be free to pass assessment order as per his own wisdom, against which the right of the petitioner to file statutory appeal shall stand reserved.

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11. The fresh certificate be issued within a period of four weeks'.

12. List on 08.04.2026.

DINESH MEHTA, J

VINOD KUMAR, J

JANUARY 6, 2026/dd

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