

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.4759 /DEL/2017  
[Assessment Year: 2012-13]**

Income-tax Officer, Ward 6(3), New Delhi.	<u>Vs</u>	M/s Cordilera Realtors Pvt. Ltd., Shop no. 3, A-5, ground Floor, Madhu Vihar, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

**AND**

**ITA No.4264 /DEL/2017  
[Assessment Year: 2012-13]**

Income-tax Officer, Ward 6(4), New Delhi.	<u>Vs</u>	M/s Cygnet Realtors Pvt. Ltd., Shop no. 3, A-5, ground Floor, Madhu Vihar, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee represented by</b>	Shri Nitin Kumar, CA
<b>Department represented by</b>	Shri T James Singson, CIT(DR)
<b>Date of hearing</b>	20.07.2023
<b>Date of pronouncement</b>	26.07.2023

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The captioned appeals have been preferred by the Revenue against respective orders of the Commissioner of Income Tax (Appeals)-2, New Delhi, pertaining to the assessment year 2012-13. Since common issues are involved for adjudication in these appeals, of the same group of assessees, the same were heard together and are being disposed of by a common order for the sake of convenience.

2. Heard and perused the record.

3. At the outset learned DR pointed out that the Revenue's appeal being ITA no. 4260/Del/2017 for the same assessment year 2012-13 titled "**TTO Vs. Conventional Traders Pvt. Ltd.**" was an appeal which arose out of the same set of facts and the discussion of facts and law by the tax authorities below and which has been allowed in favour of the assessee and issue has been restored to the file of CIT(Appeals) with the direction to allow Ld. AO to cross-examine the Directors examined by CIT(Appeals).

4. Learned AR submitted that the Revenue's appeal in Conventional Traders Pvt. Ltd. (supra) was decided ex parte. He further submitted that all the relevant materials were produced before the learned CIT(Appeals) and upon examining the same learned CIT(Appeals) had arrived at the conclusion that identity and

credibility of the parties in transaction of share application money advancement based on banking channel cannot be doubted.

5. The Bench has considered the submissions and finds that as a matter of fact learned CIT(Appeals) had observed in para 3.5.1 of its orders in present cases that during the appellate proceedings he recorded on oath statements of the Directors of the Companies who had admitted the transaction and they had confirmed the investment in the assessee company. It also mentions that he had called for the copies of the form No. 2 of allotment of shares. However, learned AO was not given an opportunity to examine and respond to the on oath statements of these persons. It can be observed that learned AO specifically observed in the assessment orders that despite being afforded sufficient opportunities to present its case the assessee company did not present the concerned investors which has resulted into restricting the scope of inquiries which could have been taken at its end. Thus, when the question of discharge of onus was examined by the learned AO and learned CIT(Appeals) had improved the case of assessee on the basis of statements recorded by himself, learned AO deserves an opportunity to rebut the statements.

6. In the light of aforesaid the **appeals are allowed for statistical purposes** and the issue is restored to the file of learned CIT(Appeals) with the direction to allow the Ld. AO to submit his response by way of cross-examination of the

Directors of the investing companies examined by the learned CIT(Appeals) or otherwise if Ld. AO wants to respond by submitting remand report.

Order pronounced in open court on 26.07.2023.

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA )**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

\*MP\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

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