

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

**BEFORE SHRI SHAMIM YAHYA , ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1787 /DEL/2017

A.Y. 2009-10

ITA No.1788 /DEL/2017

A.Y. 2012-13

ITA No.593 /DEL/2020

A.Y. 2012-13 (u/s 271(1)(c))

ITA No.6146 /DEL/2019

A.Y. 2013-14

DCIT, Circle 7(2), New Delhi.	<u>Vs</u>	M/s Direct News Pvt. Ltd., [Formerly known as INX News Pvt. Ltd.] B-116, Ground Floor, Okhla Industrial Area, Phase-I, New Delhi-110020. PAN: AABCI6212J
APPELLANT		RESPONDENT
Assessee represented by	Shri Pradeep Singh Rawat, adv.	
Department represented by	Shri T. James Singson, CIT(DR)	
Date of hearing	19.09.2023	
Date of pronouncement	21.09.2023	

ORDER

PER ANUBHAV SHARMA, JM:

Heard and perused the Record.

2. Appeals being ITA nos. 1787/Del/2017 (A.Y. 2009-10); 1788/Del/2017 (A.Y. 2012-13); 593/Del/2020 (A.Y. 2012-13); and 6146/Del/2019 (A.Y. 2013-

14) arise from a common question of fact and law except for the amounts involved in the respective years, wherein Revenue has challenged the deletion of disallowance made by the AO u/s 68 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), on account of share application money received by the assessee from M/s Indi Media Company Pvt. Ltd., which Revenue claims was deleted by the learned CIT(A) ignoring the fact that the assessee company failed to prove the identity, creditworthiness and genuineness of M/s Indi Media Company Pvt. Ltd. Revenue has also challenged the deletion of penalty imposed u/s 271(1)(c) of the Act for allegedly furnishing inaccurate particulars of income by the assessee for A.Y. 2012-13.

3. During the course of hearing learned AR at the outset pointed out the fact that Coordinate Bench, of which one of us was also on the Coram in ITA nos. 6533 & 6534/Del/2015 for A.Y. 2010-11 and 2011-12 respectively, has considered the issue and dismissed the appeal of Revenue. It will be appropriate to reproduce the findings in the aforesaid referred Coordinate Bench order dated 23.05.2023 here as follows:

“3. Heard and perused the record. Ld. DR submitted that Ld CIT(A) has fallen in error in not considering all the suspicious circumstances examined by the Ld. AO while Ld. AR relied the order of Ld. CIT(A). He relied following judicial verdicts to submit that source of source of holding company cannot be questioned :

1. PCIT vs. Swati Bajaj [2022] 139 taxmann.com 352 (Calcutta)

2. *Bhag Chand Chhabra vs. PCIT [2022] 138 taxmann.com 33(SC)*
3. *Priya Blue Industries (P) Ltd. vs. ACIT [2022] 138 taxmann.com 69(SC)*
4. *Vishwatej Developers (P) Ltd. v.v. ACIT Chennai [2021] 130 taxmann.com*
5. *Amar Jewellers Ltd. vs. ACIT[2022] 139 taxmann.com 198 (Gujarat)*
6. *ITO Vs. Sai Everest Building & Developers [2022] 142 taxmann.com 383 (Mum)*
7. *C. V. Ravi vs. ITO [2021] 129 taxmann.com 44(SC)*
8. *NDR Promoters (P) Ltd. w. PCIT [2019] 109 taxmann.com 53 (SC)*
9. *Balbir Chand Virmani v.v. CIT [2019] 112 taxmann.com 214 (P&H)*
10. *Par Excellence Leasing and Financial Services (P.) Ltd. vs. ACIT [2020] 115 taxmann.com 38 (Delhi-Trib)*
11. *CIT v.v. Midas Golden Distelleries (P.) Ltd. [2021] 130 taxmann.com 206 (Madras)*

4. *Appreciating the matter on record it can be observed that the Id. AO himself does not dispute the fact that investor company M/s. Indi Media Company Pvt. Ltd. is the holding company of the assessee company. Then it can be observed from the order of Ld. CIT(A) in the respective years that share application money was received through banking channel, confirmation was given by the investing company. Remand report was called including a direction to the Ld. AO to summon the Director of investing company but in spite of reasonable opportunities, Ld. AO failed to respond and file a remand report. This itself gives rise to presumption that information tendered by assessee before the Ld. CIT(A) was sufficient to establish the credibility of transaction. In fact, assessee has filed the copy of statement of Director of M/s. Indi Media Company Pvt. Ltd. Sh. Sumit Kumar recorded on 05.12.2013, during remand proceedings, wherein he provided all the necessary details like identity, creditworthiness and genuineness of the transaction. It appears primarily, the Ld. AO was carried away by the fact that M/s. Indi Medio company P. Ltd. was incorporated on 28.12.2008 and thus as investor it was supposed to explain the sources. Ld. AO was not justified to question the source of source of a holding company and merely rely, the inspector report to doubt the existence of holding*

company. Infact given a chance and having examined Director of M/s. Indi Media Company Pvt. Ltd. Sh. Sumit Kumar, he failed to reinforce his opinion, by a remand report.

5. The Bench is of considered opinion that onus casted upon the assessee company u/s 68 of the Act was sufficiently discharged and merely on surmises the claim of assessee could not be set aside. The exhaustive appreciation of evidence and circumstances by the Id. CIT(A) require no interference.

6. In the light of aforesaid, there is no substance in the grounds, Revenue's appeals are dismissed."

4. Learned DR could not point out any distinction on fact or law otherwise applicable, therefore, following the Coordinate Bench order, the appeals of Revenue in quantum appeals and consequent effect in penalty appeal are dismissed.

Order pronounced in open court on 21.09.2023.

Sd/-
(SHAMIM YAHYA)
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