

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER

AND

SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER

**ITA No. 555/MUM/2024
Assessment Year: 2016-17**

Assistant Commissioner of Income Tax- Circle- 4(2)(1) Room No. 640, 6 th Floor, Aayakar Bhavan, M. K. Road, Mumbai 400 020.	Vs.	Hathway Patiala Cable Private Limited, 4 th Floor, V. P. Road, Santacruz, West, Mumbai 400054. PAN: AABCH3937R
(Appellant)		(Respondent)

Present for:

Assessee by

: None

Revenue by

: Shri. P.D. Chougule (Addl. CIT), SR. D.R.

Date of Hearing

: 22 . 05 . 2024

Date of Pronouncement

: 25 . 06 . 2024

O R D E R

Per: Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed against the order of the Ld. CIT (Appeals) passed u/s. 250 of the Income Tax Act [the 'Act' in short] vide its DIN & Order No. ITBA/NFAC/S/250/2023-24/1058923820(1) Dated 20/12/2023 for the Assessment Year 2016-17.

2. Following grounds of appeal have been raised by the appellant:

1. *"Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) is right in deleting the disallowance of Rs.9,86,01,905/-, wherein, Ld. assessing officer had made addition u/s. 56(2(viia)) of the Act?"*
2. *Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) is right in deleting the disallowance of Rs.9,86,01,905/- without appreciating the fact that the assessee had not provided any supporting documents before the Ld. assessing officer to prove the source of investment or year of investment and Ld.CIT(A) has not called any remand report from Ld. assessing officer not given any opportunity to Ld. assessing officer for verification of details/documents submitted by the assessee before Ld.CIT(A)?"*
3. *The appellant craves leave to amend or alter any ground or add new ground which may be necessary."*

3. The facts of the case, in brief, are that the assessee company is engaged in the business of Multi System Operator (MSO) which is in the intermediary between the broadcasters and the cable operators. The company used to buy content from various broadcasters and pass on the same to various cable operators. The Ld. Assessing Officer, during the assessment year under consideration, found that the assessee had made total investment of Rs.9,86,01,905/- a sum of Rs.7,68,03,115 in M/s. Creative Cable Network Private Limited and Rs.2,17,98,790/- in M/s. Jujhar Advertiser Private Limited respectively. The AO, therefore, asked the assessee to furnish the name and address of the parties, the number of shares purchased from these companies, the rate at which shares were purchased and whether any share premium was paid for acquiring these

shares along with copies of balance sheet and other financial documents of the company. The Assessee, however, did not file these details. The AO then invoked the provisions of section 56(2)(viiia) of the Act and added the entire amount of Rs.9,86,01,905/- as income of the assessee.

4. Aggrieved by the order of the Ld. Assessing Officer, the assessee preferred appeal before the Ld. CIT (A), who after having detailed discussions in the body of the order, held as under :-

“On perusal of annexure of the audit report and bank statement of the appellant, it is seen that the appellant made payment to M/s. Creative Cable Network Pvt. Ltd. during the F.Y. 2011-12 to 2014-15 and this amount was received back during the F.Y. 2016-17. It is further noted from the documents that the appellant made payment to M/s. Jujhar Advertisers Pvt. Ltd. during the F.Y. 2009-10 and the same was received back during the F.Y. 2016-17. On perusal of Form MGT-7 depicting the share-holder pattern of the companies M/s. Creative Cable Network Pvt. Ltd. and M/s. Jujhar Advertisers Pvt. Ltd., it is verified that no shares were allotted to the appellant during the period 2014-15 to 2016-17. Thus, on verification of the various documents furnished by the appellant as discussed above, it is observed that no transaction with M/s. Creative Cable Network Pvt. Ltd. and M/s. Jujhar Advertisers Pvt. Ltd. has been entered into by the appellant. Neither has the appellant invested in the said two companies during the

current year nor received any shares or payment from the two companies during the year under consideration. Accordingly, the addition of Rs.9,86,01,905/- made u/s. 56(2)(viii) of the Act for A.Y. 2016-17 is not correct and hence deleted. The ground of appeal raised is allowed.”

5. Not satisfied with the above order, the Revenue has filed this appeal. During the appellate proceedings before us, the appellant submitted that no investment was made during the assessment year under consideration and thus, there is no reason to make any addition on this ground. On the other hand, the Ld. D.R. simply placed reliance on the assessment order.
6. We have considered the rival submissions and it is found that the claim of the assessee that no investment was made during the impugned assessment year has already been examined in detail by the Ld. CIT (A) and accepted the same. We find no infirmity in the order of the Ld. CIT(A) and therefore, dismiss the appeal of the revenue.
7. In the result, the appeal is dismissed.

Order pronounced in the open court on 25.06.2024.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER**

Mumbai, Dated: 25.06.2024.
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.