

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

**ITA No.4712/Mum/2025
(Assessment Year: 2022-23)**

9X Media Private Limited Ground Floor, Gala No. 1, Abel Estate, Saki Vihar Road, Saki Naka, Mumbai- 400072	Vs.	ACIT 16(1), Mumbai Room No. 439, Aayakar Bhavan, MK Road, Mumbai- 400020
PAN/GIR No. AABC15594D		
(Applicant)		(Respondent)

Assessee by	Shri. Ashok Rao
Revenue by	Shri. Rajendra Joshi, Sr.-DR.

Date of Hearing	05.01.2025
Date of Pronouncement	21.01.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 29.05.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2022-23.

1. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in rejecting the contention of your Appellant that the Show Cause Notice was in violation of the principles of natural justice on account of short notice for

response given to the creditors as well as to your Appellant for reconciliation of amounts and, hence, the assessment deserves to be set aside.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in upholding the action of the AU disallowing an amount of Rs.57,26,783/- representing the discount given to the Appellant's Sundry Creditors, viz., M/s. Dish TV India Ltd., in the current year when the discount pertains to the subsequent Assessment Year, in which year the said discount has been offered to tax.

3. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in upholding the action of AU adding back from Sundry Creditors, viz., an amount of Rs.5,84,835/- related to M/s. Planetcast Media Services Pvt. Ltd., u/s. 69 read with section 115BBE of the Act, as these sections deal with "undisclosed investment" which the Sundry Creditors are not.

4. On the facts and in the circumstances of the case, the Ld. CIT(A) ought to have upheld the stand of the Appellant that the difference of Rs.5.84.385/-, in the case of M/s. Planetcast Media Services Pvt. Ltd.. was with regard to opening balance as on 01.04.2021 and did not pertain to the same Assessment Year and, therefore, needed to be deleted.

5. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in upholding the action of the AU adding back the amounts of Sundry Creditors, viz., Rs.22,99,038/- which was related to M/s. CCN Den Network Ltd., under section 69 read with section 115BBE of the Act, as

these sections deal with "undisclosed investments", which the Sundry Creditors are not.

6. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in upholding the action of the AU adding back the difference of Rs.22,99,038/- in the case of M/s. CCN Den Network Ltd., which was with regard to opening balance as on 01.04.2021 and did not pertain to the concerned Assessment Year and, therefore, needed to be deleted.

7. On the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in sustaining the additions of Rs. 5,84,835/- and Rs.22,99,038/-, pertaining to Sundry Creditors of M/s. Planetcast Media Services and M/s. CCN Den Network Ltd., respectively, in view of the fact that there is no provision for adding back unreconciled Sundry Creditors to the income of the Appellant, more particularly so as the AU has not drawn a negative inference with regard to the purchases of the Appellant.

8. On the facts and in the circumstances of the case, the interest charged under section 234B of the Act, of Rs.1,87,104/- needs to be deleted and/or modified.

2. **Ground No. 1:** During the course of hearing, the Id. AR of the assessee has not pressed the Ground No.1. Therefore, Ground No.1 stands dismissed as not being pressed.

3. **Ground No.2:** This ground raised by the assessee relates to challenging the order of Ld. CIT(A) in confirming

the addition of Rs. 57,26,783/- made by the AO on account of discount given to assessee's sundry creditors.

4. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that the addition of Rs. 57,26,783/- u/s. 41(1) of Act was made towards remission of liability. In this regard it was submitted that assessee entered into a settlement agreement with Dish TV dated 10.02.2023, wherein it was agreed that the assessee will pay Dish TV Rs.1,35,00,000/- in 14 equal installments beginning 15.02.2023 and ending on 15.03.2024, and also facilitate the non-saleable commercial time worth Rs.75,00,000/- on the channel 9XM' to be consumed by Dish TV on or before the last installment made by 9X Media. The assessee has placed on record a copy of the same along with a reconciliation as was submitted to the assessing unit. The reconciliation statement is at page 36 of the Paper Book and as per clause 4 of the Settlement Agreement, it mention as follows.

"... after the payment of the above Settled Amount and the utilization of the Commercial Time as mentioned above in Clause 1 & 2 respectively, no amount of whatsoever nature shall remain due and payable by 9X to Dish TV towards the dues/outstanding as raised and disputed in TDSAT Petitions. The Parties hereby further confirm and agree that upon payment of the entire outstanding amount as mentioned in this Settlement Agreement, Dish TV shall have no claim of

whatsoever nature against 9X Media claimed under TDSAT Petitions. Further, it is also agreed by Dish TV that 9X Media shall be discharged from all claims, liabilities and outstanding(s) towards Dish TV...."

5. Thus, as per the above settlement assessee would pay the outstanding sum in 14 installments, starting from 15.02.2027, with the last installment due on 15.03.2024 and on receipt of the last of the installments, Dish TV would consider its dues settled, resulting in a discount of Rs.57,26,783.

6. Since the assessee was following the mercantile system of accounting, therefore as per the terms of settlement agreement the actual discount would accrue with the payment of the last installment due on 15/03/2024 which falls in A.Y.2024-25. Our attention was also drawn towards clause No. 6 of the settlement agreement which reads as under:

"That if the 9X MEDIA fails to honour or defaults any of the installments as scheduled in Clause 1, or fails to honour the terms of the Clause 2, then Dish TV shall be entitled to the said "Claimed Amount" and the 9X Media shall be liable to pay the residual amount after adjusting the payment made under this Agreement, along with damages and interest @18% per annum upon the total amount which becomes due as on the date mentioned against the respective defaulted installment and the same shall be payable till the realization of all the payment so due. Moreover, Dish TV, in its discretion, may/shall file contempt or execution petition or take any other legal recourse which may be appropriate as per law." (emphasis supplied).

According to the assessee, from the above said clause No.6 three things were pointed out:

(i) Firstly, the Agreement is dated 10th February, 2023, i.e., after the end of the concerned financial year 2021-22, relevant to AY 2022-23, the year under appeal.

(ii) Secondly, the payment of Rs. 1,35,00,000/- is payable in 14 installments, the last of the installment being 15.03.2024 (i.e., in FY 2023-24, relevant to AY 2024-25).

(iii) Thirdly, in any event, if your Appellant was to default any of the installments of the Settlement Agreement, as per Clause 6, Dish TV would be entitled to the Claimed Amount, viz., Rs.2,67,26,783/- In other words, the Settlement would stand invalidated.

7. However still addition of this settlement discount was made for the year under consideration.

We noticed that the amount of Rs. 57,26,783/- had already been account for in the subsequent year i.e 2023-24 and in this regard our attention was also drawn at paper book page No. 36, which contains reconciliation of Dish TV for the year ended 31/03/2024.

8. It was further submitted that since the Settlement Agreement was entered into only on 10.02.2023, i.e. beyond the previous year, relevant to AY 2022-23, the CIT(A) had failed to note this aspect and had incorrectly noted his observation on the assumption that the contract was entered into in FY 2021-22, relevant to AY 2022-23. Secondly, Ld. CIT(A) had also not noticed that Clause 6 of the Settlement Agreement contains specific condition which withholds the discount till at least FY 2023-24, relevant to AY 2024-25. Thirdly, in fact, the assessee had offered the amount in FY 2023-24, relevant to AY 2024-25.

9. Thus considering the totality of facts and circumstances as mentioned in detail above, I am of the view that discount of Rs. 57,23,783/- recovered from Dish TV is not taxable in the year under consideration. It is ordered accordingly. Consequently, this ground raised by the assessee stands allowed.

Ground No. 3 & 4

10. Both the grounds raised by the assessee relates to challenging the order of Ld. CIT(A) in upholding the addition of Rs. 5,84,385/- made by the AO u/s 69 r.w.s 115BBE of the Act.

11. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that the addition of Rs.5,84,835/- was made u/s.69 r.w.s. 115 BBE of the Act on account of difference in respect of sundry creditor namely M/s. Planetcast Media & Services Ltd., as the assessee could not justify this difference.

12 In this regard, it was submitted that the difference pertains to earlier period and not to the current year in question and submitted that in fact, it was pointed out in our letter to the assessing unit dated 21.03.2024 at para 6 (v) with respect to Planetcast. The ledger account of the assessee in the books of Planetcast is at paper book pages 37 to 41. Planetcast's ledger account in the books of assessee is at pages 43 to 53 of the Paper Book. The closing balance as per Planetcast's ledger as on 31.03.2022 was Rs.61,01,924/- and the closing balance as per assessee's books was Rs.95,18,336/-. Thus, there was a difference of Rs.34,16,412/- minus TDS not booked by Planetcast Rs.28,31,577/-. Copies of the TDS certificates were filed by the assessee with the assessing unit.

13. Since all the arguments raised before me were not addressed or dealt with by the Revenue authorities.

Therefore, without going into the merits of the claim, I am of the view that matter needs to be restored back to the file of the AO for factual verification of the above factual arguments of the assessee and then to decide the said issue afresh providing opportunity of hearing to the assessee

Ground No. 5 & 6:

14. Both the grounds raised by the assessee relates to challenging the order of Ld. CIT(A) in upholding the addition of Rs. 22,99,038/- made by the AO u/s 69 r.w.s 115BBE of the Act.

15. I have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that the Addition of Rs.22,99,038/- u/s.69 r.w.s. 115BBE of the Act was made, in this regard as already pointed out, it is pertinent to note that the AU itself at para 3.2 of the Assessment Order that had mentioned that the assessee has submitted detailed information in respect of purchases made by it and no negative inference was drawn on this issue.

16. However it was submitted that the balance in the books of the creditor, i.e M/s. CCN Den Network Pvt Ltd, shown as due from the assessee is greater than the balance in your assessee's books, which could only happen if some bills raised by the creditor, have not been recorded by the assessee. Hence there could not be any undisclosed purchase in assessee's books. To the contrary, perhaps because bills were disputed, lesser purchases have been shown in your Appellant's books as compared to the sales shown in the books of the creditor. In any event, there has been only one payment to the creditor of Rs.2,65,846/- to the creditor, i.e., M/s. CCN Den Network Pvt. Ltd., and no purchases have been recorded during the year. The difference must, therefore, only pertain to the opening balance as on 01.04.2021 (closing balance as on 31.03.2021) which would, therefore, pertain to an earlier period and not to the year ended 31.03.2022, relevant to AY 2022-23, the year of appeal

17. Since assessee has explained reasons according to which the said difference pertains to the said disallowance as on 01/04/2021 and not parties the year under consideration.

18. Therefore, without going into the merits of the claim, I am of the view that matter needs to be restored back to the file of the AO for factual verification of the above factual arguments of the assessee and then to decide the said issue afresh providing opportunity of hearing to the assessee.

19. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 05.01.2026

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 05/01/2026
RKR, Sr. PS.

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai