

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Amitabh Shukla, Accountant Member**

ITA No. 1025/Del/2025 : Asstt. Year : 2020-21

Proactive In & Out Advertising Pvt. Ltd., B Wing, Samkeet Apartment, Vileeparle (East), S.O. Mumbai, Maharashtra-400057	Vs	CIT(A)-26, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACCP6306R		

Assessee by : None

Revenue by : Ms. Ankush Kalra, Sr. DR

Date of Hearing: 20.01.2026

Date of Pronouncement: 20.01.2026

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2020-21, arises against the CIT(A)-26, New Delhi's order dated 08.01.2025, in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "the Act").

2. Case called twice. None appears at the assessee's behest.

It is accordingly proceeded *ex-parte*.

3. It next transpires during the course of hearing that the assessee/appellant is aggrieved against both the learned lower authorities' action invoking section 40A(2)(b) salary disallowance to its director Ms. Veenu Jain amounting to Rs. 18,00,000/- as excessive or unreasonable; as the case may be,

in assessment order dated 26.08.2022 and upheld in the lower appellate discussion.

4. The Revenue vehemently supports the impugned disallowance that the same has been admittedly found excessive in both the lower proceedings.

5. We find no merit in the Revenue's foregoing stand. This is for the precise reason that the assessee has filed its payee/director's income tax return in the very assessment year 2020-21 declaring income of Rs.82,96,410/- assessable at the maximum marginal rate. This being the clinching factual position, we notice that various judicial precedents i.e. PCIT Vs. Future First Info Services (P.) Ltd. (2022) 145 taxmann.com 35 (Del.), CIT vs. Indo Saudi Services (Travel) (P.) Ltd. (2009) 310 ITR 306, CIT Vs. V.S. Dempo & Co. Ltd. (2011) 336 ITR 209 (Bom.) as well as the CBDT's landmark Circular No. 6-P issued way back on 18.06.1967 have settled the issue against the department that when both the payer and payee are assessed at maximum marginal rate, the impugned disallowance is not maintainable being a revenue neutral case. We thus reverse both the learned lower authorities' action invoking section 40A(2)(b) of the Act in the assessee's case in very terms.

6. This assessee's appeal is allowed.

Order Pronounced in the Open Court on 07/01/2026.

Sd/-

(Amitabh Shukla)
Accountant Member

Dated: 15/01/2026

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR