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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ ITA 86/2024 and CM APPLs. 6532/2024 & 6533/2024
PR. COMMISSIONER OF INCOME TAX - 1 Appellant

Through: Mr.Prashant Meharchandani,
Sr.SC with Mr.Akshat Singh,
Jr.SC and Ms.Ritika Vohra,
Adv.

versus

M/S BHARTI HEXACOM LTD Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR

KAURAV

ORDER

05.02.2024

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1. Notice. Although the respondent is stated to have been placed on advance notice, none has appeared on its behalf when the matter was called.

2. Consequently, let learned counsel appearing for the appellant take steps for service upon the said respondent through all permissible modes including via approved courier service.

3. We take note of the disclosures which are made by Mr. Meharchandani, learned counsel for the appellant from a chart which has been submitted for our consideration and on the basis of which it is contended that the additions on account of amortization of variable licence fee under Section 35AAB of the Income Tax Act, 1961 ["Act"] would stand concluded in favour of the Revenue in light of the judgment of the Supreme Court in **Commissioner of Income Tax, Delhi v. Bharti Hexacom Ltd.** [2023 SCC OnLine SC 1340].



4. Similarly, insofar as the question of subscriber verification penalty is concerned, Mr. Meharchandani, learned counsel for the appellant lays reliance on the judgment of the Supreme Court in **Apex Laboratories Pvt. Ltd. v. Deputy Commissioner of Income Tax** [(2022) 7 SCC 98] and **Commissioner of Income Tax v. Prakash Chand Lunia and Anr.** [(2023) 454 ITR 61] to contend that the Income Tax Appellate Tribunal has taken an extremely narrow and pedantic view.

5. Proceeding further to the question of additions under Section 40(a)(ia) of the Act, it is pointed out that the Revenue would place its case on the judgment rendered by this Court in **Commissioner of Income Tax v. Idea Cellular Ltd.** [2010 SCC OnLine Del 757].

6. In view of the above, let the appeal be called again on 01.04.2024.

YASHWANT VARMA, J.

PURUSHAINDR KUMAR KAURAV, J.

FEBRUARY 5, 2024/MJ