

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

**Before Sh. H. S. Sidhu, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 4151/Del/2017 : Asstt. Year : 2011-12**

**ITA No. 4152/Del/2017 : Asstt. Year : 2012-13**

Deputy Commissioner of Income Tax, Circle-7(1), New Delhi	Vs	M/s DLF Brands Ltd., 1-E, Naaz Cinema Complex, Jhandewalan Extension, New Delhi-55
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAFCA7971E</b>		

**CO No. 196/Del/2017**

**(in ITA No. 4151/Del/2017 : Asstt. Year : 2011-12)**

M/s DLF Brands Ltd., 1-E, Naaz Cinema Complex, Jhandewalan Extension, New Delhi-55	Vs	Deputy Commissioner of Income Tax, Circle-7(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAFCA7971E</b>		

**Assessee by : Sh. R. S. Singhvi, CA**

**Revenue by : Ms. Ashima Neb, Sr. DR**

<b>Date of Hearing: 10.12.2019</b>	<b>Date of Pronouncement: 13.12.2019</b>
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**ORDER**

**Per Bench:**

The present appeals have been filed by the revenue and Cross Objection by the assessee against the orders dated 15.03.2017 and 28.03.2017 of the Id. CIT (A)-3, Delhi.

2. Since, the issues involved in both the appeals are common, they were heard together and are being disposed off by common order.

3. In ITA No. 4151/Del/2017, following grounds have been raised by the revenue:

*"1. Ld. CIT (A) erred in law in deleting the addition of Rs.30,29,304/- on account of prior period expenses.*

*2. The Id. CIT (A) has erred in deleting the addition on account of obsolete stock valuing Rs.1,90,00,000/- made by the AO without appreciating the facts of the case as the assessee has failed to furnish the supporting quantitative detail in support of its claim.*

*3. The Id. CIT (A) has erred in deleting the addition of Rs.86,53,353/- on account of interest u/s 36(1)(iii) of the I.T. Act made by the AO without appreciating the facts of the case that the amount borrowed has been utilized for purpose of business.*

*4. The Id. CIT (A) has erred in deleting the addition of Rs.2,51,18,850/- made by the A.O. u/s 14A without appreciating the facts of the case that disallowance has been correctly worked out as per Rule 8D2(iii) of the IT Rules by the A.O. "*

4. Ground No. 1 in 4152/Del/2017 relates to deletion of the prior period expenses claimed by the assessee. The Assessing Officer held that the prior period expenses cannot be allowed in the relevant accounting year for the purpose of computing early profits and gains. It was held that every accounting year is independent and so the expenses of the earlier year cannot be allowed as deduction in the current year. Before us during the arguments, the Id. AR submitted that the expenses were pertaining to bills issued by the IBM and received in the current year. These expenses have not been claimed in the earlier year. Since, the expenses have been crystallized in the current year only they have been claimed in the current year. The Id. DR strongly argued on the issue of taxability of individual years as independent and stand alone years with regard to taxation provisions.

5. Heard the arguments of both the parties and perused the material available on record. From the record, it transpire that the expenses have not been claimed in the earlier years, they could not have been claimed as the bills have not be received in the earlier years and the assessee has been continuously in losses for the earlier year, current year and subsequent year, thus, leading to conclusion that the revenue is not disadvantaged owing to claim of this expenditure in the current year. Reliance is placed on the judgment in the case of Saurashtra Cement and Chemicals Industries Ltd. 213 ITR 523 (Guj.) and Shri Ram Pistons & Rings Ltd. 174 Taxman 147 (Del.), Jindal Drilling and Industries 301 ITR 304 in allowing the deduction on account of prior period expenses which have not been claimed earlier owing to non-crystallization of amount. Hence, we decline to interfere with the order of the Id. CIT (A).

6. Ground No. 2 of the revenue appeal in ITA No. 4151/Del/2017 deals with the obsolete stock, the Assessing Officer made addition on the grounds that the complete details of the obsolete inventory has not been given. The Assessing Officer also held that the obsolete stock could have been sold as scrap sale. The Id. CIT (A) deleted the addition on the grounds that the determination of the obsolete stock is on estimate basis. During the arguments, before us the Id. DR argued that the amount debited on account of obsolete stock cannot be equated with guarantees provided by the manufacturing unit on defective pieces which is a result of faulty manufacturing problem. It was argued that the stock debited has to be quantifiable instead of on estimate basis. The Id. AR agreed to furnish the details of obsolete and slow moving stock. Hence, in the interest of justice the matter is restore back to the file of the Id. CIT (A) to go through the details of the stock statement submitted by the assessee and take a decision with regard to quantum allowable in accordance with the provisions of the Income Tax Act, 1961.

7. Ground no. 3 relates to disallowance of interest u/s 36(1)(iii) of the Income Tax Act, 1961. The Assessing Officer observed that the assessee has borrowed monies from its group company and paid interest of Rs.8.92 crores. It was held that the borrowed money has been in turn given as loans to group companies and not charging interest on par with the interest paid. The Assessing Officer held that the average cost debited on interest free advances an investments in the shape of purchase of shares or investment in capital work in progress against which the interest is not allowable as deduction u/s 36(1)(iii).

8. During the arguments before us, the Id. AR submitted that the assessee has got sufficient own funds to the tune of Rs.100 crores, as mentioned in the assessment order at para no. 5. The Id. DR supported the Assessing Officer's observations. We find that this is a repeated issue stands adjudicated in the case of the assessee for the assessment year 2009-10 in ITA 4760/Del/2012 and also for the A.Y. 2010-11 by the Tribunal in ITA No. 1749/Del/2015 dated 09.04.2018. Hence, keeping in view the principle of consistency, we hereby decline to interfere with the order of the Id. CIT (A).

9. Ground no. 4 relates to disallowance of amount u/s 14A. Prima facie it was brought to our notice, an undisputed fact that the assessee has not earned any dividend or other exempt income during the year. Hence, relying on the following judgments,

- *PCIT Vs IL&FS Energy Development Company Ltd. (Delhi High Court)*
- *Cheminvest Ltd. v. Commissioner of Income Tax (2015) 378 ITR 33 (Del),*
- *CIT v. Corrttech Energy Pvt. Ltd. [2015] 372 ITR 97 (Guj)*

10. We hold that the disallowance on account of Section 14A in the absence of earning of any exempt income is unwarranted. Accordingly, the order of the Id. CIT (A) is hereby confirmed.

11. Regarding the CO No. 196/Del/2017 and ground no. 1 of revenue appeal in ITA No. 4151/Del/2017, it has been brought to our notice that the ground no. 1 stands un-adjudicated by the Id. CIT (A). On going through the record, we find that the plea of the assessee is correct. Both the parties agreed to the facts. Hence, the matter is hereby remanded back to the file of the Id. CIT (A) to adjudicate on this issue in accordance with the provisions of the Income Tax Act.

12. In the result, both the appeals of the revenue are dismissed and Cross Objection of the assessee is allowed.

Order Pronounced in the Open Court on 13/12/2019.

Sd/-

**(H. S. Sidhu)**  
**Judicial Member**

**Dated: 13/12/2019**

\*Subodh\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**

		Date	<u>Initial</u>	
1.	Draft dictated on computer	13.12.2019		PS
2.	Draft placed before author	13.12.2019		PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk			PS
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Date of uploading			