

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

**Before Sh. Amit Shukla, Judicial Member**

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

**(E-Court Module)**

**ITA No. 4155/Del/2017 : Asstt. Year : 2012-13**

DCIT, Circle-7(1), New Delhi-110002 <b>(APPELLANT)</b>	DLF Homes Developers Ltd., 9 <sup>th</sup> Floor, DLF Centre, Sansad Marg, New Delhi 0110001 <b>(RESPONDENT)</b>
---	---

**Assessee by : Sh. Satyajeeet Goel, Adv.**

**Revenue by : Ms. Nidhi Srivastava, CIT DR**

**Date of Hearing: 04.08.2020**

**Date of Pronouncement: 31.08.2020**

**ORDER**

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

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-3, Delhi dated 16.03.2017.

2. Following grounds have been raised by the revenue:

*"1. Ld. CIT (A) has erred in deleting the addition made by the AO on account of school running expenses amounting to Rs.27,47,546/- without appreciating the facts of the case that the school running expenses cannot be claimed as an expenditure for business purpose in the case of the assessee.*

*2. The Id. CIT (A) has erred in deleting the addition made by the AO on account of non refundable Golf Club Membership amounting to Rs.4,74,17,236/- which is a revenue receipt.*

*3. The Id. CIT (A) has erred in deleting the disallowance made by the AO of Rs.143,22,59,240/-*

*u/s 14A read with Rule 8D(2)(ii) & (iii) of the I.T. Act without appreciating the facts of the case.”*

**School Running Expenses:**

3. The similar matter has been adjudicated by the Coordinate Bench of ITAT Delhi in ITA No. 2567/Del/2016 for the assessment year 2011-12 in favour of the assessee wherein it was held that running of the school is integrally related to the business activities of the assessee and has been rightly treated so by the Id. CIT (A). In the absence of any material difference in the facts of the case before us, we hereby decline to interfere with the order of the Id. CIT (A).

**Non-Refundable Golf Club Membership:**

4. The similar matter has been adjudicated by the Coordinate Bench of ITAT Delhi in ITA No. 2567/Del/2016 for the assessment year 2011-12 in favour of the assessee wherein the Id. CIT (A) held that the approach of the assessee in spreading out the membership fee receipts for the period of membership cannot be faulted with. The decision of the Id. CIT (A) has been accepted by the ITAT, Hon'ble High Court of Delhi and the SLP filed by the revenue has been dismissed by the Hon'ble Apex Court. In the absence of any material difference in the facts of the case before us, we hereby decline to interfere with the order of the Id. CIT (A).

**Disallowance u/s 14A:**

5. During the year, the assessee earned dividend income of Rs.40,32,638/- on account of investments in shares worth Rs.2007.06 cr. The total interest free fund available with the assessee was Rs.2482.74 cr. The AO has disallowed an amount of Rs.143.22 cr. The Id. CIT (A) has deleted the addition relying on the judgment of Hon'ble Jurisdictional High Court in the case of Maxopp Investment Ltd. Vs CIT 247 CTR 162 and holding that the Assessing Officer has not recorded the procedural dissatisfaction required to be recorded in accordance with the provisions of sub-Section 2 of Section 14A. The Id. CIT (A) held that the *suo moto* disallowance of Rs.3,90,760/- made by the Assessing Officer is sufficient to meet the expenses disallowable. Since, the assessee has sufficient own funds require for the investments, *suo moto* disallowed Rs.3,90,760/- on account of expenditure and since no dissatisfaction has been recorded by the Assessing Officer, we hereby decline to interfere with the order of the Id. CIT (A).

6. In the result, the appeal of the revenue is dismissed.  
Order Pronounced in the Open Court on 31/08/2020.

Sd/-

**(Amit Shukla)**  
**Judicial Member**

**Dated: 31/08/2020**

\*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**