

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'C' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.7286/Del./2017
(ASSESSMENT YEAR : 2012-13)**

M/s. Havells India Limited, 904, 9 th Floor, Surya Kiran Building, K.G. Marg, Connaught Place, New Delhi – 110 001. (PAN : AAACH0351E) (APPELLANT)	vs.	DCIT (LTU), New Delhi. (RESPONDENT)
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ASSESSEE BY : Ms. Deepashree Rao, CA
Ms. Shivangi Jain, CA
REVENUE BY : Shri Anuj Garg, Sr. DR

Date of Hearing : 24.01.2023
Date of Order : 06.02.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal filed by the assessee is directed against the order of the Id.CIT(Appeals)-22, New Delhi dated 27.10.2017 and pertains to AY 2012-13.

2. The grounds of appeal taken by the assessee read as under:-

“1. That the impugned order of CIT (Appeals)-22, New Delhi is bad in law and wrong on the facts and in the circumstances of the case and legal position.

2. That on the facts and in the circumstances of the case and the legal position, the learned CIT (Appeals) has erred in confirming the Order passed by the AO re-computing the book profit u/s 115JB by adding the amount of Rs.3,89,27,433/- on account of Sales incentive under

'Shahenshah Scheme' treating the same as Unascertained and contingent liability.

3. That on the facts and in the circumstances of the case and the legal position, the learned CIT (Appeals) has erred in confirming the Order of the AO when:

i) the addition made by the AO in the assessment proceedings U/S 143(3) are debatable additions.

ii) the additions U/S 143(3) are debatable, the rectification proceedings u/s 154 are illegal and void-ab-initio.”

3. Brief facts of the case are as under :-

In the order u/s 143(3) dated 25.02.2016, it was held that the amount of Rs.3,89,27,433/- being provision for Shehanshah Scheme, was not an ascertained liability i.e. it was held to be a contingent liability and consequently, the corresponding addition was made in the assessment order passed. The total income, as per normal provision of the Act, was assessed at Rs.22,743,00,686/-. However, since the tax payable u/s 115JB on book profit, shown in the return, at Rs. 374,18,90,311/- was more than the tax payable on assessed income, as per the normal provision of the Act, the tax liability of the appellant was determined u/s 115JB. The order u/s 143(3) dated 25.02.2016 was further rectified by passing an order u/s 154/143(3) dated 08.06.2016 assessing at Rs.225,86,00,686/- under the normal provision of the Act. Further, the addition of provision for Shehan shah Scheme of Rs.389,27,433/- was also made u/s 115JB by the AO.

4. Upon assessee's appeal, Id. CIT (A) referred to his predecessor's order wherein similar addition was confirmed, hence he confirmed the AO's action.

5. Against this order, assessee is in appeal before us. We have heard both the parties and perused the records.

6. Ld. Counsel of the assessee submitted that this issue is squarely covered in favour of the assessee by the decision of ITAT in assessee's own case in ITA Nos.1259/Del/2017 & 7745/Del/2017 for AYs 2012-13 & 2013-14 respectively vide order dated 23.11.2022. In the said order, ITAT had deleted the addition under normal provisions by referring to series of orders in assessee's own case for earlier years. ITAT had directed that disallowance in this regard is to be deleted.

7. Hence, once the disallowance has been deleted under normal provisions and it has been held that it is not an unascertained liability, disallowance of the same under section 15JB of the Income-tax Act, 1961 (for short 'the Act') is not permissible. Accordingly, respectfully following the precedents in assessee's own case, we set aside the orders of the authorities below and delete the addition.

8. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on this 6th day of February, 2023.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 6th day of February, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-22, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.