IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "C": DELHI

BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA Nos. 945 to 947/Del./2022
Assessment Years 2010-11 to 2012-13

The ACIT, Circle-1 Noida 201301	vs.	M/s. Jaiprakash Associates Limited, Sector-128, Noida 201304 **PAN AABCB1562A**
(Appellant)		(Respondent)

For Revenue:	Smt Abha Rani Singh, CIT DR
For Assessee :	Shri Ashwani Kumar Garg, Advocate

Date of Hearing :	01.12.2022
Date of Pronouncement :	07.02.2023

ORDER

PER ANIL CHATURVEDI, A.M.

The above appeals by Revenue are directed against the separate Orders of the Ld. CIT(A)-I, Noida, dated 28.02.2018 in Appeal No.412/2016-17/Noida for A.Y. 2010-11, order dated 28.02.2018 in Appeal No. 413/2016-

17/Noida for A.Y. 2011-12 and order dated 28.02.2018 in Appeal No. 414/2016-17/Noida for A.Y. 2012-13.

2. Before us at the outset, Ld. AR submitted that though the appeals of the Revenue are for 3 different assessment years but the issues involved in all the three appeals are identical and therefore he has common submissions to make. The aforesaid contentions of Ld. AR has not been controverted by Ld. DR. In such a situation since common issues are involved in all the appeals, all the appeals were heard together and are being disposed of by this common consolidated order for the sake of brevity. We, however refer to the relevant facts from ITA.No.945/Del./2022 for the A.Y. 2010-11 which are as under :

2.1. The assessee is a company which is stated to be engaged in the business of manufacturing and sale of cement, engineering construction and hotel business. Assessee electronically filed its return of income for A.Y. 2010-11 on 13.10.2010 declaring income of Rs.

75,51,64,714/-. Assessee thereafter on 30.03.2012 filed revised return of income declaring total income at Rs. 70,32,57,749/-. The case of the assessee was selected for scrutiny and thereafter assessment was framed u/s. 143(3) of the I.T. Act, 1961 vide order dated 30.03.2013 and the total income was determined at Rs. 254,79,86,323/-

2.2. Aggrieved by the order of the A.O, the assessee carried the matter in appeal before the Ld. CIT(A), who vide order dated 28.02.2018 in appeal no. 412/2016-17/Noida granted substantial relief to the assessee. Aggrieved by the Order of the Ld. CIT(A), the Revenue is now in appeal and has raised the following grounds :

1. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs.1,38,580/- made by the A0 on account of Disallowance of depreciation of Iraqi Assets without appreciating the facts mentioned by the A0 in the assessment order.

2 That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 1,98,40,431/- made by the A0 on account of Disallowance of Depreciation on

purely temporary Erections without appreciating the facts mentioned by the AD in the assessment

3. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 2,73,900/- made by the A0 on account of Disallowance of Interest without appreciating the facts. mentioned by the A in the assessment order.

4. That the CIT (Appeals) has erred in law and on facts by deleting the additions of Rs 73,68,989/- made by the AO on account of Disallowance of Deduction on Account of Retention Money without appreciating the facts mentioned by the A0 in the assessment order.

5. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 1,86,83,800/- made by the A0 on account of Disallowance of Manufacturing Expenses without appreciating the facts mentioned by the A0 in the assessment order.

6. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 63,48,430/- made by the A0 on account of Disallowance of Miscellaneous

Expenses without appreciating the facts mentioned by the A in the assessment order.

7. The CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 1,07,91,88,917/- made by the A0 on account of Disallowance of Deduction w/ 801A without appreciating the facts mentioned by the A0 in the assessment order.

8. The CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 45,78,81,929/- made by the A0 on account of Disallowance of Deduction on account of contribution to Jaiprakash Associates Employees Gratuity Fund Trust without appreciating the facts mentioned by the A in the assessment order.

9. The CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 2,72,49,734/- made by the A.O. on account of Disallowance of Golf Course Depreciation without appreciating the facts mentioned by the A.O. in the assessment order.

3. Ground no. 1 is with respect to deleting the addition of Rs. 1,38,580/- on account of disallowance of depreciation of Iraqi Assets.

4. AO noticed that in the statement of fixed assets, assessee has shown furniture and fixture of Rs. 11,83,658/- and motor vehicle of Rs. 1,01,073/- and the fixed assets were stated to have been located in Iraq. Assessee had claimed depreciation on the assets located in Iraq. AO noted that in the assessment year 1994-95, depreciation on fixed assets at Iraq was not allowed. AO held that since there is no evidence of the existence or the use of assets for the purpose of business, the depreciation claimed on such assets amounting to Rs. 1,38,580/- cannot be allowed. He accordingly denied the claim of depreciation.

5. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) at para 19 of his order noted that the issue of denial of depreciation was covered in favour of the assessee by the decision of Hon'ble ITAT, Delhi Benches in assessee's own case. He therefore following the

decision of the Tribunal directed the AO to allow claim of depreciation.

6. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

7. Before us, learned DR supported the order of AO.

8. Learned AR on the other hand submitted that identical issue arose in assessee's own case before the Tribunal in assessment year 2009-10 and the Hon'ble Tribunal in ITA No. 563/LKW/2014 order dated 29.04.2015 has decided the issue in favour of the assessee. He pointed to the relevant facts at para 4 of the order at page 38 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years, no interference to the order of Ld. CIT(A) is called for.

9. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the denial of claim of depreciation on Iraqi assets. We find that identical issue arose before the

Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

> *2. Ground No. 1 is as under:*
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> > *"That the Ld. CIT (A) has erred in law and on facts in deleting the addition of Rs1,56,786/- made on account of depreciation of Iraqi assets without appreciating the facts and material brought on record by the Assessing Officer."*
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> *3. Learned D. R. of the Revenue supported the assessment order whereas learned AR of the assessee supported the order of learned CIT(A). He also submitted that this issue is covered in favour of the assessee by the Tribunal decision in assessee's own case for various assessment years from 2001-02 to 2006-07 and all the Tribunal decisions are available on pages 1 to 84 of the paper book.*
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> *4. We have considered the rival submissions. We find that this issue was decided by CIT(A) by following the Tribunal orders in assessee's own case for various, assessment years. He has also given a finding that there is no change in the facts in the present year. Learned DR of the Revenue could not point out any difference in the facts of the present year and therefore,*

we do not find any reason to take a contrary view in the present year. As per the Tribunal order brought on record by Learned A.R. of the assessee; it was held by Tribunal in earlier years that the compensation received by the assessee is to be brought to the concerned block of assets and the said bock of assets is to be reduced accordingly. This finding of the Tribunals is in line with the provisions of the Act and therefore, we decline to interfere in the order of CIT(A) on this issue Ground No. 1 is rejected

10. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

11. Ground no. 2 is with respect to the disallowance of depreciation of Rs. 1,98,40,431/- on temporary erections.

12. During the course of assessment proceedings, AO noticed that assessee had claimed 100% depreciation on "Purely Temporary Erections" valued at Rs. 2,39,23,301/- being WDV. AO also noted that in earlier years also identical issue arose and in A.Y. 1994-95 for the reasons noted by the AO in his order dated 26.03.1997, AO held the assessee to be eligible for depreciation only at the rate of 5%. He further noted that though for A.Y. 1994-95 to 2006-07, identical additions were made by AO but was deleted by Ld. CIT(A), but however Revenue has filed appeal before Hon'ble High Court. He therefore following the order his predecessor worked out the additional depreciation at Rs. 1,98,40,431/- which according to him was not allowable and accordingly disallowed the same.

13. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) vide para 19 of his order noted that the issue of denial of depreciation was covered in favour of the assessee by the decision of Hon'ble ITAT, Delhi

Benches in assessee's own case. He therefore, following the decision of the Tribunal, directed the AO to delete the denial of claim of depreciation.

14. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

15. Before us, learned DR supported the order of AO.

16. Learned AR on the other hand submitted that identical issue arose in assessee's own case before the Tribunal in assessment year 2009-10 and the Hon'ble Tribunal in ITA No. 563/LKW/2014 order dated 29.04.2015 has decided the issue in favour of the assessee. He pointed to the relevant facts at para 7 of the order at page 38 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years, no interference to the order of Ld. CIT(A) is called for.

17. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the denial of claim of depreciation

on temporary erections. We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

5. Ground No. 2 is as under

"2(a) That the Ld. CIT(A) has erred in law and on facts I in deleting the addition of Rs.6,52,16,092/- made on account of depreciation on temporary erections without appreciating the facts and material brought on record by the Assessing Officer.

2(b) That the Ld. CIT(A) has erred in law and facts in treating the project site-offices of the assessee, built of iron, cement and bricks, etc. as temporary structures without appreciating that these structures were designed to last for the entire duration of projects which usually take ten to fifteen years for completion.

6. Learned D. R. of the Revenue supported the assessment order whereas learned A. R. of the assessee supported the order of learned CIT(A). He also submitted that this issue is also covered in favour of the assessee by the Tribunal decision in assessee's own

case for assessment years 2001-02 to 2006-07, copy, of which is available in the paper book.

7. We have considered the rival submissions, perused the material on record and gone through the orders of the authorities below and the Tribunal orders in assessee's: own case for earlier years. We find that CIT(A) has given, a clear finding that the issue in dispute is squarely covered in favour of the assessee by the Tribunal order in earlier years in assessees own case. He has also given a finding that there is no change in the facts of the present year. Learned DR of the Revenue could not point out any difference in facts in the present year. As per the Tribunal decision available on record also, we find that in assessment years 2001-02 and 2002-03, the Tribunal has followed earlier Tribunal decision for assessment year 94-95 and 96-97. Hence, it is seen that this issue has consistently been decided in favour of the assessee and no difference in facts could be pointed out by Learned D.R. of the Revenue Hence, we do not find any reason to take a contrary view; Ground No. 2 is also rejected.

18. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of

earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

19. Ground no. 3 is with respect to addition of Rs. 2,73,900/- on account of disallowance of interest.

20. During the year under consideration, AO noticed that assessee had advanced interest free loan aggregating to Rs. 30 lakh. According to AO, assessee was not having any business transactions with the parties to whom the interest free loan was advanced. AO noted that on one hand assessee was borrowing money from financial institutions and paying interest and on the other hand it had advanced interest free advances to the parties without any business transaction. He noted that on the total borrowing, the average rate of interest paid by the assessee was 9.31%. He

therefore on the aggregate interest free amount advanced of Rs. 30 lakh, worked out the interest at 9.31% and thus disallowed Rs. 2,73,900/-.

21. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) vide para 19 of his order noted that the issue of disallowance of interest was covered in favour of the assessee by the decision of Hon'ble ITAT, Delhi Benches in assessee's own case. He therefore following the decision of the Tribunal directed the AO to delete the disallowance.

22. Aggrieved by the order of Ld. CIT(A), Revenue is now in appeal before the Tribunal.

23. Before us, learned DR supported the order of AO.

24. Learned AR submitted that identical issue arose in the Revenue appeals in assessee's own case for A.Y. 2006-07 before the Hon'ble Tribunal. The Tribunal in ITA no. 338/Luc/2009 order dated 30.10.2009 had decided the

issue in favour of the assessee. He pointed to the relevant paras at page 32 to 35 of the paper book. He therefore submitted that since there are no change in the facts of the present case that of earlier years no interference to the order of Ld. CIT(A) is called for.

25. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to addition of interest that was made by AO but deleted by CIT(A). We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2006-07 before the Tribunal in ITA No. 338/Luc/2009 and the issue was decided by the co-ordinate bench of Tribunal by observing as under:

> *9. The next issue vide ground No. 1(iii) relates to the deletion of addition of Rs. 1,71,000/- made by the Assessing Officer on account of disallowance of interest paid to the bank and financial institutions to the extent of interest free loans/advances given by the assessee to various parties.*

10. The learned counsel for the assessee submitted that the similar issue was also involved in the year 2000-2001 in ITA No. 498/Luc/05 (supra), 26 this is covered issue.

11. The Learned DR, in his rival submissions, although could not controvert the aforesaid contention of the learned counsel for the assessee, however, submitted that the disallowance was rightly made by the Assessing Officer. The reliance was placed on the judgment of Hon'ble Punjab & Haryana High Court in the case of CIT vs. Abhishek Industries Ltd. [2006] 286 ITR 1 (P&H).

12. After considering the submissions of both the parties, it Is noticed that identical issue was involved in assessee's own case for assessment year 2000-2001 and this Bench of the Tribunal, vide order dated 315 October 2008 in ITA No. 498/Luc/05 (supra) had given the relevant finding in para 12 and 13 which read as under:

> *"12. We have heard learned representatives of both the parties at length Shri R. C. Sharma, CIT, D. R. relied on the decision of Hon'ble Supreme Court in the case of S. A. Builders Limited vs. CIT (2007) 288 ITR 1 (SC). On the other had Shri Kanchan Kaushal, Learned Counsel for the*

assessee submitted that the decision of Hon'ble Supreme Court in the case of S. A. Builders (supra) is not applicable to the facts of the present case. He further submitted that all the balance that have been considered for the purpose of disallowance are old balance coming as carried forward balance from the earlier He also stated that no disallowance under the head interest" was made in any of the earlier years under assessments made us 143(3) of the Act. It was also claimed by the Learned Counsel for the assessee that no fresh advance has been given in the current year. He further submitted that the case of S. A. Builders (supra) is on very specific facts / issues. According to him, the question for consideration was, when interest bearing borrowed funds are diverted to sister concern, the interest paid on borrowed funds is allowable. According to Learned Counsel for the assessee, it did not deal with an issue where the assessee had interest free funds available. He, therefore submitted that the learned CIT(A) has rightly deleted the addition. In our view, thore Is merit in the above contention of Leaned Counsel for the assessee that the decision relied upon by the learned D. R. IS not applicable lo the facts of the present case. In our considered view, this issue is squarely covered in favour of the assessee by

the order of the Tribunal dated 17/11/2006 in 1.T.A. No. 187/Luc/04 relating to assessment year 2000-2001: The relevant findings of the Tribunal are as under:

> *"21. We have considered the rival submissions and have perused the record of the case. In principle, we agree with the Id. DR that the earlier year's decision can be followed only when the facts remained the same both with regard to sources of funds utilized for financing the non-interest hearing loans and advances and not only if the parties to whom non-interest hearing loans and advances were given remained the same. However, in the present case, we find that in assessment year 199-2000, in I.T.A.No. 21/Luc/05, the Tribunal has observed in para 55 as under:*
>
> *"55. We have considered the rival submissions and have perused the record of the case. It is settled law that if assessee has utilized its non-interest bearing funds for giving non-interest bearing advances then no disallowance is called for. The AO has merely gone by the fact that assessee had given interest free advances to different concerns of assessee's group. He has not commented*

upon the actual sources from where these advances were given. In the block assessment for the period ending on 2.7.1999 it has been clearly observed as noted above that assessee was having sufficient own funds to finance the interest free advances. These facts being not controverted, no disallowance is called for. We accordingly confirm the order of the Id. CIT(A) on this issue. The ground is dismissed.

22. Since the finding regarding financing of non-interest bearing advances from own funds has n0l been controverted by the Department, following the order of the Tribunal for assessment year 1999-2000, we confirm the order of the Id. CIT(A) on this issue.

13. The facts are similar and, therefore, following the order of the Tribunal for assessment year 2000-2001, we do not see any merit in this ground of appeal. Accordingly, we dismiss the same."

13. Since the facts are similar, so respectfully following the aforesaid referred to earlier order of the Tribunal, we do not see merit in this ground of the departmental appeal. Accordingly, the same is dismissed.

26. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2006-07 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

27. Ground no. 4 is with respect to deleting the addition of Rs. 73,68,989/- on account of disallowance of deduction on account of retention money.

28. AO on perusing the computation of income noticed that assessee had claimed deduction of Rs. 73,68,989/- on account of retention money. The assessee was asked to explain the nature and as to why retention money be not added to income. Assessee made the submissions which was not found acceptable to AO. AO

noted assessee was following mercantile system of accounting and in A.Y. 2001-02, assessee has changed the method whereby the money deducted by the clients was recognized as Revenue in the year in which it was released by the clients after fulfillment of contractual obligation. AO noted that had the assessee followed the earlier system with respect to accounting of retention money, the Revenue and profits of the year would have increased by that amount. He noted that identical issue arose in assessee's own case in earlier years. He thereafter for the reasons stated in the order made addition of Rs. 73,68,989/- to the income of the assessee.

29. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) vide para 19 of his order noted that the issue of addition of retention money was covered in favour of the assessee by the decision of Hon'ble ITAT, Delhi Benches in assessee's own case. He therefore following the decision of the Tribunal directed the AO to delete the addition.

30. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

31. Before us, learned DR supported the order of AO.

32. Learned AR on the other hand reiterated the submissions made and further submitted that identical issue arose in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of the Tribunal vide order 29.04.2015 in ITA 563/LKW/2014 decided the issue in assessee favour. He pointed to relevant finding at page 40 to 41 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years, no interference to the order of Ld. CIT(A) is called for.

33. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the addition of retention money made by AO but deleted by CIT(A). We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide

order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

> *13. On a query from the Bench, it was submitted by Learned AR of the assessee that during the present year i.e. assessment year 2009-10, retention money was held by the parties to the extent of Rs. 1,455.17 lacs whereas in the same year, the assessee offered to tax an amount of Rs. 8,039.29 lacs on expiry of deferred liability period and the closing balance was to the extent of Rs. 13,012.34 lacs. He also submitted that in the next year, the closing balance was reduced to Rs. 6,701.21 lacs and was reduced to nil at the close of the financial year 2010-11 i.e. 31.03.2011 relevant to assessment year 2011-12.*
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> *14. We have considered the rival submissions. We find that CIT(A) has; decided the issue in favour of the assessee by following the Tribunal decision in assessee's own case for various earlier years. No difference in facts could be pointed out by Learned D.R. of the Revenue. Moreover, during the present year, the assessee has reduced an amount of Rs. 1,455.17 lacs from its income on account of retention money but the assessee has offered a larger amount of Rs.8,039.29 lacs to tax being retention money not offered to tax in earlier years but offer to tax in present year on account*

of expiry of deferred liability period Hence, it is seen that if the present year is considered in isolation, the amount offered to tax is more than the amount of income reduced from the income on account of retention money. This is also very important that at the end of the financial year 2010 - 11, the entire amount of retention money was offered to tax and considering these facts that no difference in facts could be pointed out by Learned D.R. of the Revenue, we do not find any reason to take a contrary view. Accordingly, ground No. 4 is also rejected.

34. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

35. Ground no 5 on account of disallowance of manufacturing expenses amounting of Rs. 1,86,83,800/-.

36. AO noted that in the Cement Division assessee has claimed of Rs. 7,47,35,443/- as repairs to building. The assessee was asked to furnish the details and the breakup details and nature of the expenditure. AO noted that the expenditure included amounts spend on construction, reconstruction like laying of marble, granite etc. and other expenditure of enduring in nature. He noted that since assessee has not given the full details, he considered 25% of such expenditure to be capital in nature and disallowed Rs. 1,86,83,800/-.

37. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) while deleting the addition has given a finding that AO has not brought on record any material to support its conclusion of the amount being expenditure of being capital in nature. He therefore

held the disallowance made by the AO cannot be sustained. He accordingly deleted the addition.

38. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

39. Before us, learned DR supported the order of AO.

40. Learned AR on the other hand reiterated the submissions made and further submitted that identical issue arose in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of the Tribunal vide order 29.04.2015 in ITA 563/LKW/2014 decided the issue in assessee favour. He pointed to relevant finding at para 15 to 17 of the order which is placed at 41 to 42 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years no interference to the order of Ld. CIT(A) is called for.

41. We have heard the rival submissions and perused the material available on record. The issue in the present

ground is with respect to the disallowance of manufacturing expenses amounting of Rs. 1,86,83,800/-. We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

15. Ground no. 5 is under:

> *"5. That the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 52,01,960/- made on account of manufacturing expenses being 7.5% of the total expenditure incurred on repair to building without appreciating the facts and material brought on record by the Assessing Officer."*

16. Learned DR, of the Revenue supported the assessment order whereas learned AR of the assessee supported the order of learned CIT(A). He also submitted that this issue is also covered in favour of the assessee by the Tribunal decision in assessee's own case for assessment years 2003-04 to 2006-07, copy of which is available in the paper book.

17. We have considered the rival submissions. We find that this issue was also decided by learned. CIT(A) as per Tribunal decision in assessee's own case in earlier years. No difference in facts could be pointed out by Learned D.R. of the Revenue on this issue also. Therefore, we do not find any reason to take a contrary view: in the present year on this issue also. Ground No: 5 is rejected.

42. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and those of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

43. Ground no. 6 is with respect to addition of Rs. 63,48,430/- made on account of miscellaneous expenses.

44. AO on perusing the details of expenses noticed that assessee had debited of Rs. 18,79,07,188/- as miscellaneous expenses which included Rs. 1,26,96,866/- as miscellaneous expense for Cement Division. AO noted that the nature of expenses was not clarified by the assessee and the same was not verifiable. He accordingly considered an amount of Rs. 1,26,96,866/- to be unverifiable and made disallowance of 50% of the same. He thus disallowed Rs. 63,48,430/-.

45. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) while deleting the addition at para 21 of the order noted that AO has having accepted the correctness of the books of the account, he could not have to proceeded to disallow 50% of the expenses as being unverifiable. He further noted that there was no material on record to support the conclusion of the AO and the disallowance has been made purely on the basis of personal view of the AO. He accordingly deleted the addition.

46. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

47. Before us, learned DR supported the order of AO.

48. Learned AR on the other hand reiterated the submissions made before lower authorities and further submitted that identical issue arose in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of the Tribunal vide order 29.04.2015 in ITA 563/LKW/2014 decided the issue in assessee favour. He pointed to relevant finding at para 18 to 20 of the order which is placed at 42 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years, no interference to the order of Ld. CIT(A) is called for.

49. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the addition of Rs. 63,48,430/-

made on account of miscellaneous expenses. We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

18. Ground No.6 is as under:-

> *"6. That the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 51,29,656/- made on account of miscellaneous expenses without appreciating the facts and material brought on record by the Assessing Officer."*

19. Learned DR of the Revenue supported the assessment order whereas learned AR of the assessee supported the order of learned CIT(A). He also submitted that this issue is also covered in favour of the assessee by the Tribunal decision in assessee's own case for earlier assessment years, copy of which is available in the paper book.

20. We have considered the rival submissions. We find that this issue was also decided by learned CIT(A) as per Tribunal decision in assessee's own case in earlier years. No difference in facts could be pointed out by

learned DR of the revenue on this issue also. Therefore, we do not find any reason to take a contrary view in the present year on this issue also. Ground no. 6 is rejected.

50. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

51. Ground no. 7 is with respect to deleting the addition of Rs. 107,91,88,917/- by denying the claim of deduction u/s. 80IA of the Act.

52. AO noticed that assessee had claimed deduction of Rs. 107,91,88,917/- in respect of three Captive Power

Plants units the details where are tabulated at page 12 of the order. AO noted that identical claim of deduction u/s 80IA in A.Y. 2009-10 was denied by the A.O. He noted that since the facts of the case in the year under consideration are identical to that of A.Y. 2009-10, he following the order of his predecessor for A.Y. 2009-10 denied the claim of deduction u/s. 80IA.

53. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) at para 19 of his order noted that the issue of denial of claim of deduction u/s. 80IA was covered in favour of the assessee by the decision of Hon'ble ITAT, Delhi Benches in assessee's own case. He therefore following the decision of the Tribunal directed the AO to allow the claim of deduction u/s. 80IA of the Act.

54. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

55. Before us, learned DR supported the order of AO.

56. Learned AR on the other hand reiterated the submissions made before lower authorities and further submitted that identical issue arose in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of the Tribunal vide order 29.04.2015 in ITA 563/LKW/2014 decided the issue in assessee favour. He pointed to relevant finding at para 23 of the order which is placed at 43 & 44 of the paper book. He submitted that since the facts of the case in the year under consideration are identical to that of earlier years, no interference to the order of Ld. CIT(A) is called for.

57. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the denial of claim of deduction u/s. 80IA of the Act. We find that identical issue arose before the Tribunal in assessee's own case in A.Y. 2009-10 and the co-ordinate bench of Tribunal vide order dated 29.04.2015 has decided the issue in favour of the assessee by observing as under:

Ground No, 7 is as under

> *"7. That the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.1,12,05,26,953/- on account of disallowance of claim for deduction u/s 80-1A of the Income Tax Act, 1961 without taking into account that assessee did not fulfill conditions which are required for claiming exemption u/s. 80IA."*

22. Learned D.R. of the Revenue supported the assessment order whereas learned A. R. of the assessee supported the order of learned CIT(A). He also submitted that in assessment year 2007-08, the assessment was completed by the Assessing Officer /s 143(3) as per order dated 31/12/2009, copy of which is available on pages 177 to 184.of the paper book. He further pointed out that as per this assessment order for assessment year 2007-08, no disallowance was made by the Assessing Officer on account of deduction claimed by the assessee u/s 80IA. It is also submitted: that on page No. 176 of the paper book is copy of computation filed by the assessee along with the return of income for assessment year 2007-08 and as per the same, the assessee claimed deduction of Rs.6,589.29 lacs u/s 80IA in that year. He contended that when the same deduction was allowed by the Assessing Officer himself in assessment year 2007-08, the claim of the

assessee in the present year i.e, assessment year 2009-10 cannot be disputed.

23. We have considered the rival submissions. We find that this is the main objection of the Assessing Officer that in the absence of accounts and balance sheet of the assessee at the time of commencement of business, it is not possible to ascertain the investment made by the assessee initially and thus quantify the magnitude of capital introduced. It was the objection of the Assessing Officer that in the absence of accounts of the assessee for the initial years, it is reaffirmed that all the three Captive Power Plants (CPPs) i.e. 25 MW Plant Rewa, 25.MW Plant Bela Plant and 38.5 MW plant were initially were integral part of same unit to whom power was to be supplied and later, these CPPs were formed by splitting the existing business. The third objection was that the CPPs in question are not completely separate from that of the principal unit to which the concerned CPPs were supplying power. These objections of the Assessing officer are to be examined and decided for allowing deduction for the first time but having allowed the deduction for the same three CPPS in assessment year 2007-08 as per assessment order Assessing Officer on 13/12/2009 u/s 143(3), the Assessing Officer cannot reject the claim of the assessee for deduction u/s 80IA in respect of same 3 CPPs in a subsequent year i.e. assessment year 2009-10 on the

basis that initial capital is not known or that it is formed by splitting/reconstruction of the existing business etc. Hence, in view of the principle of consistency, we are of the considered opinion that there is no infirmity in the order of CIT(A) on this issue in view of the fact that in assessment year 2007-08, the Assessing Officer has himself allowed deduction to the assessee u/s 80IA in respect of the same 3 CPPs. We, therefore; decline to interfere in the order of CIT(A). Ground No. 7 is also rejected.

58. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to demonstrate that the order of the Tribunal in assessee's own case for A.Y. 2009-10 has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reasons to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

59. Ground no. 8 is with respect to the deleting the addition of Rs. 45,78,81,929/- on account of contribution Employees Gratuity Fund Trust.

60. AO noted that in the revised return, assessee had claimed Rs. 45,78,81,929/- as deduction of the amount contributed to Jaiprakash Associates Employees Gratuity Fund Trust. AO noted that since the contribution made by the assessee was not an approved "Gratuity Fund" the same cannot be allowed as deduction. He accordingly denied the claim of deduction and made addition of Rs. 45,78,81,929/.

61. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) while deciding the issue at para 22 of his order has noted that since the status of trust having changed from unapproved trust to approved trust the disallowance was not sustainable. He accordingly deleted the addition made.

62. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

63. Before us, learned DR supported the order of AO.

64. Learned AR supported the order of CIT(A) and further submitted that the Commissioner of Income Tax vide order 13.11.2014 has granted the approval to group gratuity scheme with effect from 30.03.2009, the copy of which is placed at page no. 21 of the paper book. He therefore submitted that since that gratuity fund has been approved, no interference to the order of Ld. CIT(A) is called for.

65. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to denying the deduction of Rs. 45,78,91,929/- made to gratuity fund by holding the trust to be unapproved fund. We find that the office of the Commissioner of the Income Tax, Central Kanpur vide order dated 30.11.2014 has granted the approval to the trust from 30.03.2009 (Copy of which is placed at 21 of the paper book). When the trust to whom the assessee has

contributed has gained the status of approved trust, we find no reason to interfere with the order of Ld. CIT(A) more so when the order granting approval to the trust has not been withdrawn by the authorities. **Thus the ground of revenue is dismissed.**

66. Ground no. 9 is not deleting the depreciation of Rs. 2,72,49,734/- on the golf course.

67. AO noted that assessee has claimed depreciation at 15% on the written down value of the Gold Course at Greater Noida by treating it as Plant & Machinery and thereby claimed deprecation of Rs. 8,17,49,202/-. A.O. was of the view that the proper rate of deprecation should have been at 10%. He accordingly worked out the excess depreciation at Rs. 2,72,49,734/-and made its addition.

68. Aggrieved by the order of AO, assessee carried the matter before the Ld. CIT(A). CIT(A) while deciding the issue at para 19 of his order has noted that the issue was decided

by the Tribunal in assessee's favour in earlier years and thus the issue was covered in assessee's favour. He accordingly deleted the addition made.

69. Aggrieved by the order of Ld. CIT(A), Revenue is now in before us.

70. Before us, learned DR supported the order of AO.

71. Learned AR on the other hand reiterated the submissions made before lower authorities and further submitted that identical issue arose in assessee's own case in A.Ys. 2003-04 to 2005-06 and the co-ordinate bench of the Tribunal vide order dated 12.10.2015 in ITA no. 3220/Del/2011 and ITA Nos. 3545 to 3547/Del/2009 has decided the issue in favour of the assessee. He pointed to relevant finding at para 10 to 12 of the order which is placed at 46 & 52 of the paper book. He submitted that since the facts of the case in the year under consideration

are identical to that of earlier years no interference to the order of Ld. CIT(A) is called for.

72. We have heard the rival submissions and perused the material available on record. The issue in the present ground is with respect to the claim of depreciation on Golf Course. We find that identical issue arose before the Tribunal in assessee's own case in A.Ys. 2003-04 to 2005-06 and the co-ordinate bench of Tribunal vide order dated 12.10.2015 has decided the issue in favour of the assessee by observing as under:

> *10. We have discussed hereinabove the background facts of the case as well as the respective submissions of both the rival representatives. Based on the acceptance of the claimed depreciation @ 25% on golf course by the AO in the A. Y 2001-02 the ITAT had decided an identical issue in favour of the assessee upholding the first appellate order for the A. Ys 2002-03, 2003-04 and 2005-06. The issue was as to whether the golf course managed by the assessee is to be treated as a hotel building on which depreciation is to be allowed @ 20% or is it to be treated as a 'plant' on which 25% depreciation is to be allowed. The AO had treated the*

golf course akin to hotel building and 20% depreciation for A.Ys. 2002-03 and 2003-04. For A.Y 2005-06 he had allowed depreciation as applicable to building @ 10%. The Tribunal in the above A. Ys. found that on the same set of facts in the assessee's own case, the impugned asset was treated as plant for A.Y 2001-02 by the AO himself and depreciation @25% was allowed in view thereof. The order of the Tribunal was questioned by the Revenue before the Hon'ble High Court and the Delhi High Court vide its order dated 5.4.2011 in ITA Nos. 293, 420 and 421/DEL/2011 has set aside the impugned order of the ITAT for fresh consideration specifically dealing with the aspect on merits. The Hon'ble High Court in the previous paras has been pleased to discuss the fact that the AO had passed order u/s 154 of the Act in respect of the A.Y. 2001-02. The Hon'ble High Court has observed that the AO had taken steps immediately after passing of the assessment order pertaining to A. Y 2001-02 by reducing the depreciation granted earlier @ 20-25%. However, for doing this; the AO has invoked the wrong provisions of section 154 of the Act as it was not a case of clerical mistake from which it could be corrected by invoking provisions of section 154 of the Act. Therefore, on this technical ground, the Hon'ble High Court was pleased to set aside the order of the A.O. passed u/s. 154 of the Act. In view of these

developments, the Hon'ble High Court has observed that the Tribunal could not have arrested its decision on the basis of original order passed in respect of A.Y 2001-02 and should have considered the issue on merits or whether golf course managed by the assessee is to be treated as hotel building as is to be treated as plant entitled to 20-25% depreciation thereon as the case may be.

11. In compliance of the above stated directions of the Hon'ble High Court of Delhi, we have heard the matter afresh. To proceed with the issue further, we will have to examine as to what is the difference between a building and a plant under the facts and circumstances of the present case. The assessee has treated the golf course as plant and the AO was of the view that it is appurtenant to hotel etc., hence it is hotel building and entitled for the lower rate of depreciation. Considering the above submissions, we are of the considered opinion that a golf course by no stretch of imagination be termed as building far less a hotel building. An independent road, bridge, culverts and tube-wells were never held as building until they were specifically included under 'building' for the purpose of depreciation by the I.T. [4th amendment] Rules, 1983. We agree that a health club, gymnasium restaurant, bar, banquet/and conference hall etc can be treated as a part of hotel building but a

golf course operated mainly on the basis of regular membership and not independent for its revenue on the cottages, health club and hotel cannot be treated as part of the hotel building. The assessee had taken on lease 222 acres of land from Greater Noida, Industrial Development Authority on which 182 acres of land was to be used for construction of the golf course with attendant facilities and remaining 40 acres was to be used for residential purposes including a hotel. 'It remained the contention of the assessee that the golf course was never provided as a free utility to the residents and hotel guests. It is an independent profit centre and is operated on a commercial basis. In this regard reference was made to the audited accounts of the assessee for the F.Y 2001-02 to 2004-05 made available at pages 13 to 15 of the supplementary paper book showing that out of total operating revenue of Rs. 1386 lakhs for these years, as much as Rs. 821 lakhs that is more than 50% was derived from membership and golf receipts. Thus golf course cannot be seen as a mere adjunct to real estate around it. An asset may be seen as an adjunct to another asset only if it subserves that other asset and has not independent utility and revenue earning capacity. In fact the gymnasium, health club, restaurant and "bar, etc are the attendant facilities of the golf course. A golf course is a highly specialized technical installation. It is designed and developed to

enable the game of golf to be played conformably to Professional Golfers Association [of the United States] standards. Golf course design and construction is, therefore, a highly evolved professional field catered by internationally renowned designers and developers. Golf itself is a highly evolved sport. A copy of the Rules of Golf approved by R & A Rules Limited [Golf's world rules and development body] and the United States Golf Association is enclosed at paper book pages 81 to 133 of the supplementary paper book. These rules show the sophistication and technicalities of the game.

12. As per these rules, the golf course consists of a series of holes. Each hole has at least five distinct features which have specific design parameters in terms of (a) shape and topography (b). compaction, hardness, roughness and smoothness (c) systems for measurement of temperature and moisture level (d) the irrigation system (e) drainage system (f) fumigation system and (g) specified types of grass and other vegetation. The submissions of the assessee remained that the aforesaid design parameters are achieved by using specific types of tap soil, sand, boulder, gravel, concrete HDPE sheets, geo textiles, perforated PVC pipes, cf. The various systmes use highly sophisticated pumps, sensors, electromagnetic valves, satellite control panels, sprinklers, computers and a network of underground pipes, cables and electrical circuits. A map

plan of the assessee company's golf course, available at page 1 of the supplementary paper book shows the different parts of the golf course. Thus we agree with the submission of the ld. A.R that the golf course is not merely a premises in which golf is played but is also an apparatus with which the game is played and the business of golf course is carried on. We concur with the submissions of the assessee that the golf course, therefore, satisfies the functional test laid down by the Hon'ble courts for deciding as to whether the premises, construction or installation is a plant. The Id. A.R relied upon the decisions in the case of Tulsi [SK] & Sons Vs. CIT 187 [supra], CIT Vs. Mazagaon Dock Ltd 191 ITR 460. [Mum] CIT Vs. Electro Metallurgical Works Pvt. 207 IT 494 [Mum] CIT. Vs. Ispat Ltd 210 ITR 1018 [Rajl and CIT Vs. Karnataka Power Corporation 247 ITR 268 [SC] wherein same propositions have been laid down in order to determine whether the building structure or installation is a plant. It has been held that for determining the same the functional test is to be applied. If the structure or installation is merely a premises in which business is carried out it is not a plant. In case, however, the structure or construction is the means or apparatus with which business is carried on or the equipment with which the business is carried on cannot function without such specialised technical constructions then it is a 'plant'. The golf course is

designed and developed to serve the special requirements of the game of golf. We have already discussed herein above as to how the golf course is designed and developed to serve the special requirements of the game and the business of the game of golf cannot be carried on without such specialized technical construction as the land meant for golf course. The decisions relied upon by the Id. Sr. DR having distinguishable facts are not helpful to the revenue. In view of the above discussions, the contentions of the Id. Sr. DR that the golf course is nothing but a mere improvement of land only and depreciation on land cannot be allowed, cannot be accepted. We thus hold that the golf course in the present case is a plant and hence the assessee is entitled to claim depreciation thereon @ 25%. We are thus of the considered view that the Id. CIT(A) was justified in deleting the addition made by the A by disallowing the depreciation at the claimed rate by the assessee. The first appellate order in this regard is thus upheld. The ground raised in all the appeal of the revenue are dismissed.

73. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case in the year under consideration and that of earlier years nor has placed any material on record to

demonstrate that the order of the Tribunal in assessee's own case for A.Ys. 2003-04 to 2005-06 or earlier years has been set aside/ stayed or overruled by higher judicial forum. We therefore find no reason to interfere with the order of the Ld. CIT(A) and **thus the grounds of Revenue is dismissed.**

74. **In the result, appeal of the Revenue ITA.No.945/Del./2022 for the A.Y. 2010-11 is dismissed.**

ITA.Nos.946 & 947/Del./2022 – A.Ys. 2011-12 & 2012-13:

75. The grounds raised by Revenue in ITA 946 & 947 of A.Y. 2011-12 and 2012-13 reads as under:-

ITA No. 946/Del/2022

1. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs.1,18,658/ made by the AO on account of Disallowance of depreciation of Iragi Assets without appreciating the facts mentioned by the A in the assessment order.
2. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 1,00,72,245/- made by the A0 on account of Disallowance of Depreciation on purely temporary Erections without appreciating the facts mentioned by the A in the assessment order.
3. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 2,78,700/ made by the

AO on account of Disallowance of Interest without appreciating the facts mentioned by the AO in the assessment order
4. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 3,23,44,598/- made by the A on account of Disallowance of Manufacturing Expenses without appreciating the facts mentioned by the A0 in the assessment order
5. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 49,89,534/- made by the AO on account of Disallowance of Miscellaneous Expenses without appreciating the facts mentioned by the A in the assessment order
6. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 124,14,51,867/- made by the AO on account of Disallowance of Deduction us 801A without appreciating the facts mentioned by the A in the assessment order
7. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 16,90,48,105/- made by the A0 on account of Disallowance of Deduction on account of contribution to Jaiprakash Associates Employees Gratuity Fund Trust without appreciating the facts mentioned by the A0 in the assessment order.
8. The CIT(Appeals) has erred in law and on facts by deleting the additions of Rs. 2,31,62,273/-made by the A0 on account of Disallowance of Golf Course Depreciation without appreciating the facts mentioned by the A in the assessment order.
9. That the appellant craves to leave, add, alter and amend any of the grounds of appeal on or before hearing.
10 That the order of the Ld. CIT(A) deserves to be set-aside and the order of the AO be restored.

ITA No. 947/Del/2022

1. That The CIT(Appeals) has erred in law and on facts by deleting the additions of Rs.1,06,186/ made by the A on account of Disallowance of depreciation of Iraqi

Assets without appreciating the facts mentioned by the A in the assessment order.
2. That the CIT(Appeals) has erred in law and on facts by Rs.71,85,539/- made by the A0 deleting the additions of on account of Disallowance of Depreciation on purely temporary Erections without appreciating the facts mentioned by the A in the assessment
3. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 2,54,100/ made by the A on account of Disallowance of Interest without appreciating the facts mentioned by the A in the assessment order.
4. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 2,20,26,010/- made by the A0 on account of Disallowance of Manufacturing Expenses without appreciating the facts mentioned by the A in the assessment order
5. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 71,31,760/- made by the A0 on account of Disallowance of Miscellaneous Expenses without appreciating the facts mentioned by the A in the assessment order.
6 That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 64,59,63,184/- made by the AO on account of Disallowance of Deduction u/s 801A without appreciating the facts mentioned by the A in the assessment order
7. That the CIT(Appeals) has erred in law and on facts by deleting the additions of Rs 1,98.26 362/- made by the A0 on account of Disallowance of Golf Course Depreciation without appreciating the facts mentioned by the A0 in the assessment order.
8. That the appellant craves to leave, add, alter and amend any of the grounds of appeal on or before hearing.
9. That the order of the Ld CIT(A) deserves to be set-aside and the order of the A0 be restored.

76. Before us, both the parties have admitted that the grounds raised in A.Y. 2011-12 and 2012-13 are identical to that of A.Y. 2010-11 and there are no change in the facts except for the year and amount involved. We have hereinabove for the reasons stated, have dismissed the grounds of the Revenue. Since the facts in the present appeals are identical to that of A.Y. 2010-11, therefore, following the reasons stated hereinabove while deciding ITA.No.945/Del./2022 for the A.Y. 2010-11 and for similar reasons, **we dismiss all the grounds of Revenue in both the assessment years.**

77. **In the result, appeals of the Revenue ITA.Nos.946 & 947/Del./2022 for the A.Ys. 2011-12 & 2012-13 are dismissed.**

78. To sum-up, all the appeals of the Revenue are dismissed.

Order pronounced in the open court on 07.02.2023.

Sd/-	Sd/-
[ANUBHAV SHARMA]	[ANIL CHATURVEDI]
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Delhi, Dated 07th February, 2023

NV/-

Copy to

1.	The appellant
2.	The respondent
3.	Ld. CIT(A) concerned
4.	CIT concerned
5.	DR ITAT "C" Bench, Delhi
6.	Guard File

//By Order//

Assistant Registrar, ITAT, Delhi Benches,
Delhi.