

आयकर अपीलिय अधिकरण
गुवाहाटी 'डीबी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI 'DB' BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री राजपाल यादव, उपाध्यक्ष (कोलकाता क्षेत्र)

एवं

डॉ. मनीष बोरड, लेखा सदस्य

के समक्ष

Before

SRI RAJPAL YADAV, VICE PRESIDENT (KZ)

&

DR. MANISH BORAD, ACCOUNTANT MEMBER

I.T.A. No.: 360/GTY/2019

Assessment Year: 2016-17

**Meghalaya Power Transmission Corporation
Limited.....Appellant**
[PAN: AAICM 1936 G]

Vs.

ACIT, Circle-Shillong.....Respondent

I.T.A. No.: 361/GTY/2019

Assessment Year: 2016-17

**Meghalaya Power Generation Corporation
Limited.....Appellant**
[PAN: AAICM 1937 H]

Vs.

ACIT, Circle-Shillong.....Respondent

I.T.A. No.: 362/GTY/2019
Assessment Year: 2016-17

Meghalaya Power Distribution Corporation Limited.....Appellant
[PAN: AAICM 1935 F]

Vs.

ACIT, Circle-Shillong.....Respondent

I.T.A. No.: 363/GTY/2019
Assessment Year: 2016-17

Meghalaya Energy Corporation Limited (Formerly known as Meghalaya State Electricity Board).....Appellant
[PAN: AACCM 3684 K]

Vs.

ACIT, Circle-Shillong.....Respondent

I.T.A. No.: 364/GTY/2019
Assessment Year: 2016-17

Meghalaya Energy Corporation Limited (GPF Trust).....Appellant
[PAN: AABTM 6839 L]

Vs.

ACIT, Circle-Shillong.....Respondent

Appearances by:

Sh. K.M. Roy, Adv., appeared on behalf of the Assessee.

Sh. N.T. Sherpa, JCIT, appeared on behalf of the Revenue.

Date of concluding the hearing : January 9th, 2023

Date of pronouncing the order : February 28th, 2023

ORDER

Per Manish Borad, Accountant Member:

The captioned appeals filed by the assessee pertaining to the Assessment Year (in short "AY") 2016-17 are directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the

“Act”) by Id. Commissioner of Income-tax (Appeals), Shillong [in short Id. “CIT(A)”] dated 29.05.2019 arising out of the assessment order framed u/s 143(3) of the Act dated 11.12.2018.

2. The assessee has raised the following grounds:

I.T.A. No. 360/GTY/2019 Meghalaya Power Transmission Corporation Limited:

“1. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs. 144242/- on account of payment made for POL included in Purchase Related Expenses and therefore the addition is liable to be deleted.

2. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs.2104250/-u/s 40(a)(ia) on account of payment made for Filing Fee with ROC, Audit Fee and Consultancy Charges and therefore the addition is liable to be deleted.

3. For that the appellant craves leave to add, alter, amend or modify any or all the grounds of appeal prior to or during the course of hearing.”

I.T.A. No. 361/GTY/2019 Meghalaya Power Generation Corporation Limited:

“1. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs. 411252/- on account of payment made for POL included in Purchase Related Expenses and therefore the addition is liable to be deleted.

2. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs.475750/-u/s 40(a)(ia) on account of payment made for Filing Fee with ROC, Audit Fee and Consultancy Charges and therefore the addition is liable to be deleted.

3. For that the appellant craves leave to add, alter, amend or modify any or all the grounds of appeal prior to or during the course of hearing.”

I.T.A. No. 362/GTY/2019 Meghalaya Power Distribution Corporation Limited:

“1. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs. 1860795/- u/s40(a)(ia) on account of

payment made to Legal & Professional, Audit Fee and Consultancy Fee and therefore the addition is liable to be deleted.

2. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs. 78663132/- on account of Bad Debts written off and therefore the addition is liable to be deleted.

3. That Learned CIT(A) erred in facts as well as in law in not deleting the addition to the extent of Rs. 584888574/- on account of difference in reconciliation between inter corporate accounts and therefore the addition is liable to be deleted.

4. For that the appellant craves leave to add, alter, amend or modify any or all the grounds of appeal prior to or during the course of hearing.”

I.T.A. No. 363/GTY/2019 Meghalaya Energy Corporation Limited (Formerly known as Meghalaya State Electricity Board):

“1. That Learned CIT(A) erred in facts as well as in law in not allowing the expenditure to the tune of Rs.173628423/- being various expenses incurred by the holding company and therefore the addition is liable to be deleted.

2. For that the appellant craves leave to add, alter, amend or modify any or all the grounds of appeal prior to or during the course of hearing.”

I.T.A. No. 364/GTY/2019 Meghalaya Energy Corporation Limited (GPF Trust):

“1. That Learned CIT(A) erred in facts as well as in law in not deleting the entire addition to the tune of Rs. 32420575/- u/s 14A but restricting the deletion to the extent of Rs.4851419/-and therefore the addition is liable to be deleted.

2. That Learned CIT(A) erred in facts as well as in law in not deleting the entire addition to the tune of Rs. 32420575/- but enhancing the disallowance to Rs.64282320/- and therefore the addition is liable to be deleted.

3. For that the appellant craves leave to add, alter, amend or modify any or all the grounds of appeal prior to or during the course of hearing.”

3. As the issues raised in these appeals are common and the facts are identical, therefore, as agreed by both the parties, they are heard together and disposed off by way of this common order for the sake of convenience and brevity.

4. At the outset, Id. Counsel for the assessee vehemently argued referring to the written submissions placed for each of the appeals and on the other hand. Id. D/R supported the order of both the lower authorities.

5. We have heard rival contentions and perused the records placed before us. First, we take up ITA No. 360/GTY/2019 in the case of Meghalaya Power Transmission Corporation Limited.

ITA No. 360/GTY/2019 in the case of Meghalaya Power Transmission Corporation Limited:

6. The first issue for our consideration raised by the assessee in ground no. 1 relates to disallowance of purchase related expenses of Rs. 1,44,242/-. We notice that the assessee is a company engaged in power transmission and hundred percent holding is with Meghalaya Energy Corporation Ltd. and its nominees. Loss of Rs. 2,98,51,729/- declared in the e-return filed on 07.10.2017 and the same was subjected to complete scrutiny. One of the issues for consideration by Id. AO is regarding purchase related expenses of Rs. 1,44,242/-. The assessee claimed that the expenditure is incurred relating to petrol, oil, lubricants for the employees of divisional office for necessary purchase for urgent work and line maintenance. Id. AO without finding any defect in such claim made *ad-hoc* disallowance and the same is confirmed by Id. CIT(A)

also. We, however, considering the fact that the assessee being a limited company subjected to statutory audits, regular books are maintained and the alleged expenses are towards petrol oil lubricants for the employees of divisional office do not find any reason to doubt the genuineness of the said expenditure. We, therefore, reverse the finding of Id. CIT(A) and delete the said *ad-hoc* disallowance of purchase related expenses of Rs. 1,44,242/-. Hence, ground no. 1 raised by the assessee is allowed.

6.1. Ground no. 2 is regarding disallowance u/s 40(a)(ia) of the Act for non-deduction of tax at source for and expenditure of Rs. 21,04,250/-. At the outset, Id. Counsel for the assessee submitted that since information about deduction of tax at source on the alleged sum is not available and therefore, the case of the assessee falls u/s 40(a)(ia) of the Act therefore, in view of the amendment made in Section 40(a)(ia) of the Act, from AY 2015-16 the disallowance may be restricted only to the extent of 30%. We notice that through Finance Act-II, 2014 w.e.f. 01.04.2015 the amendment is brought in Section 40(a)(ia) of the Act and as per the said amendment 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in Section 139(1) of the Act, the said sum subjected to proviso to Section 40(a)(ia) of the Act shall not be deducted in computing the income chargeable under the head 'Profits and gains of business or profession'. Since the year under appeal is AY 2016-17 therefore, the said amendment is applicable and therefore, the disallowance u/s 40(a)(ia) of the Act needs to be sustained only to the extent of 30% i.e. Rs. 6,31,275/-

as has been requested by Id. Counsel for the assessee to which there is no dispute at the end of the Revenue. Thus, ground no. 2 raised by the assessee is partly allowed.

6.2. Ground no. 3 is general in nature which needs no adjudication.

6.3. In the result, the appeal filed by the assessee in ITA No. 360/GTY/2019 is partly allowed.

ITA No. 361/GTY/2019 in the case of Meghalaya Power Generation Corporation Limited:

7. The first issue for our consideration raised by the assessee in ground no. 1 relates to disallowance of purchase related expenses of Rs. 4,11,252/-. We notice that the assessee is a company engaged in power transmission and hundred percent holding is with Meghalaya Energy Corporation Ltd. and its nominees. Loss of Rs. 37,15,11,256/- declared in the e-return filed on 07.10.2017 and the same was subjected to complete scrutiny. One of the issues for consideration by Id. AO is regarding purchase related expenses of Rs. 4,11,252/-. The assessee claimed that the expenditure was incurred relating to petrol, oil, lubricants, for the employees of divisional office for necessary purchase for urgent work and line maintenance. Id. AO without finding any defect in such claim made *ad-hoc* disallowance and the same was confirmed by Id. CIT(A) also. We, however, considering the fact that the assessee being a limited company is subject to statutory audits, regular books are maintained and the alleged expenses are towards petrol, oil, lubricants for the employees of divisional office,

do not find any reason to doubt the genuineness of the said expenditure. We, therefore, reverse the finding of Id. CIT(A) and delete the said ad-hoc disallowance of purchase related expenses of Rs. 4,11,252/-. Hence, ground no. 1 raised by the assessee is allowed.

7.1. Ground no. 2 is regarding disallowance u/s 40(a)(ia) of the Act for non-deduction of tax at source for and expenditure of Rs. 4,75,750/-. At the outset, Id. Counsel for the assessee submitted that since the information about deduction of tax at source on the alleged sum is not available and therefore, the case of the assessee falls u/s 40(a)(ia) of the Act and therefore, in view of the amendment made in Section 40(a)(ia) of the Act from AY 2015-16 the disallowance may be restricted only to the extent of 30%. We notice that through Finance Act-II, 2014 w.e.f. 01.04.2015 the amendment is brought in Section 40(a)(ia) of the Act and as per the said amendment 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in Section 139(1) of the Act, the said sum subjected to proviso to Section 40(a)(ia) of the Act shall not be deducted in computing the income chargeable under the head 'Profits and gains of business or profession'. Since the year under appeal is AY 2016-17 therefore, the said amendment is applicable and therefore, the disallowance u/s 40(a)(ia) of the Act needs to be sustained only to the extent of 30% i.e. Rs. 1,42,725/- as has been requested by Id. Counsel for the assessee to which there is no dispute at the end of the Revenue. Thus, ground no. 2 raised by the assessee is partly allowed.

7.2. Ground no. 3 is general in nature which needs no adjudication.

7.3. In the result, the appeal filed by the assessee in ITA No. 361/GTY/2019 is partly allowed.

ITA No. 362/GTY/2019 in the case of Meghalaya Power Distribution Corporation Limited:

8. Ground no. 1 is regarding disallowance u/s 40(a)(ia) of the Act for non-deduction of tax at source for and expenditure of Rs. 18,60,795/-. At the outset, ld. Counsel for the assessee submitted that since the information about deduction of tax at source on the alleged sum is not available and therefore, the case of the assessee falls u/s 40(a)(ia) of the Act and therefore, in view of the amendment made in Section 40(a)(ia) of the Act from AY 2015-16 the disallowance may be restricted only to the extent of 30%. We notice that through Finance Act-II, 2014 w.e.f. 01.04.2015 the amendment is brought in Section 40(a)(ia) of the Act and as per the said amendment 30% of any sum payable to a resident, on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in Section 139(1) of the Act, the said sum subjected to proviso to Section 40(a)(ia) of the Act shall not be deducted in computing the income chargeable under the head 'Profits and gains of business or profession'. Since the year under appeal is AY 2016-17 therefore, the said amendment is applicable and therefore, the disallowance u/s 40(a)(ia) of the Act needs to be sustained only to the extent of 30% i.e. Rs. 5,58,238/- as has been requested by ld. Counsel for the assessee to which

there is no dispute at the end of the Revenue. Thus, ground no. 1 raised by the assessee is partly allowed.

8.1. Ground no. 2 relates to disallowance of bad debts written off of Rs. 7,86,63,132/-. Ld. CIT(A) has dealt with this issue in para 6.2 & 6.3 of the impugned order and same reads as follows:

"6. Ground No 3.

The ground is against disallowance of provision for bad debt amounting to Rs. 7,86,63,132/-

6.1 Relevant page of AO's order is extracted as under:

"From the audited accounts of the assessee company, it is seen that provision for bad and doubtful debts Rs 7,36,63,132/- is clustered under the head "Other Expenses". In the ITR, no disallowance u/s 36(1)(viii) is shown . The A/R explained that the error was made while filing return and has agreed to the disallowance."

" Accordingly, the amount is added back to the total income."

"(Addition Rs. 7,86,63,132/-)"

6.2 In the written submission, it was stated that there was a reversal of opening balance lying in provision for doubtful debt amounting to Rs. 13,15,81,526/- Thus there was credit balance of Rs. 13,15,81,526/- in the account. During the year there was further provision of Rs. 7,86,63,132/- After netting the same, provision for bad debt account was showing credit balance which is disclosed as income in note 26 of the Account. The net of Rs. (131581526-78663132) or (Rs. 52918394/- less Rs. 816349/-) or Rs 5,21,82,045/-which was actually written off was offered as income. Hence, no disallowance was required.

6.2.1. In his comment on the submission of assessee, the AO stated that the sum of Rs. 7,86,63,132/- was a provision and that even the narration is very clear in this regard.

6.3 I have considered the matter. Assessee is making provision for bad and doubtful debt on certain receivables from consumers. In immediate proceeding year, provision of Rs. 14,34.53,695/- was created. In the next year, there was a reversal of Rs. 13,15,81,526/- which the as claimed was forming part of income. If the sum Rs.

13,15,81,526/- was debited in the P & L A/C of earlier year. the reversal of entry in this year has no connection with the fresh provision for bad and doubtful debt. If the sum of Rs. 13,15,81,526/- was offered to tax in earlier year, then the same cannot be subjected to tax in this year. But the provision of Rs. 13,15,81,526/- has no nexus with the provision made in this year. Therefore, the two sums cannot be netted off. For allowing of bad debt assessee has to prove that the debt or part thereof had been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year. The debt should also be written off as irrecoverable. Assessee also has not shown that the provision for bad debt was actually written off in the year as irrecoverable. Be that as it may, assessee had netted off this year provision with amount of earlier year which is reversed in this year. There is no relationship between the provision of earlier year with the provision for this year. The claim of assessee cannot be allowed.

Ground taken is dismissed”

8.2. Further, we notice that before us the claim of the assessee is that the alleged sum has not been debited to profit and loss account but is linked to the reversal of opening balance lying in provision for doubtful debts and therefore, disallowance was uncalled for. Since this claim was not made by the assessee before Id. CIT(A), we deem it proper to restore this issue to the file of Id. AO before whom the assessee shall file necessary evidence in support of its claim that the alleged sum has not been claimed as expenditure in the profit and loss account towards the provision of bad doubtful debts. Needless to mention that proper opportunity of being heard should be provided to the assessee. The assessee is also directed to remain vigilant and file necessary documents, if considered necessary, in support of its grounds of appeal and should not take adjournment, unless otherwise required for reasonable cause. In case after providing sufficient opportunity to

the assessee, there is no compliance by the assessee, then ld. AO can adjudicate the issue in accordance with law.

8.3. Ground no. 3 relates to difference in reconciliation between associated companies receivable *vis-à-vis* outstanding position. The claim of the assessee is that the said difference cannot be treated as income since the same is running account and is not in the nature of income. We find that ld. CIT(A) has dealt with this issue in para 7 of the impugned order and the same reads as follows:

"7. Ground No 4.

The ground is against addition of Rs 58,48,88,574/-

7.1. Relevant parts of AO's order appearing in page 3 is extracted as under:

"It is seen that the assessee company has shown inter-company payables of Rs.21,99.77,949/- and Trade payables of Rs. 396,84,43,550/- under "Other Current Liabilities" in its Balance Sheet. However, the inter-company receivables shown of the associate concerns are Rs. 21,75,72,859/- from MeECL, Rs. 63,83,33,002/- from MePTCL and Rs. 274,76,27,084/- from MePGCL. The total inter-company receivables comes to Rs 360.65.32.925/- showing a discrepancy of Rs 58,48.88,574. The assessee was unable to reconcile the figures and therefore the amount is to be added back as unexplained credits."

7.2. In the written submission, it was stated that the difference had arisen due to pending reconciliation of account with sister concerns. It was argued that such difference should not have any impact in the income.

7.3. I have considered the matter. Assessee's liability shown in the account is more by Rs. 58,48,88,574/- than what was shown in the books of accounts of the creditors. The explanation given for the discrepancy cannot be accepted. If the parties are all sisters concern, I fail to understand how the discrepancies cannot be reconciled even after the passage of so much time. Since the assessee had failed to

resolve the discrepancy even at this stage of appeal, there is no option other than upholding the order of the AO.

Ground is dismissed”

8.4. From perusal of the above finding, we notice that the said addition has arisen since the assessee failed to reconcile the balances. It is not in dispute that the said addition is only towards inter-company receivables shown of the associate concerns of MeECL, MePTCL and MePGCL. Before us, the assessee has not filed any reconciliation statement. Since it is an admitted fact that there is a discrepancy in the inter-company payable and the inter-company receivable, we deem it proper to restore this issue to Id. AO before whom the assessee shall file complete reconciliation statement so as to explain that there is no difference of the alleged amount of Rs. 58,48,88,574/-. In case the assessee is able to reconcile the said difference to the satisfaction of Id. AO, the alleged addition shall stand deleted. Thus, ground no. 3 is allowed for statistical purposes.

8.5. Ground no. 4 is general in nature which needs no adjudication.

8.6. In the result, the appeal filed by the assessee in ITA No. 362/GTY/2019 is partly allowed for statistical purposes.

ITA No. 363/GTY/2019 Meghalaya Energy Corporation Limited (Formerly known as Meghalaya State Electricity Board):

9. Through ground no. 1 the assessee has challenged the action of Id. CIT(A) confirming the disallowance of total expenditure of Rs. 17,36,28,423/- claimed by the assessee in the profit and loss

account. We notice that based on the information available and the audited profit and loss account wherein against the other income at Rs. 2,58,27,501/-, the assessee has claimed expenditure of Rs. 17,36,32,424/- and on looking to these figures both the lower authorities came to a conclusion that since the income shown by the assessee is income from other sources, therefore the expenses claimed in the profit and loss account cannot be allowed as there is no nexus between income earned and expenditure incurred.

9.1. We, however, on perusal of the financial statement, notice that in the preceding year against the other income of Rs. 5.09 Cr, the assessee claimed expenditure at Rs. 19.82 Cr. The assessee company is wholly owned by the Govt. of Meghalaya and hundred per cent share-holding is with Govt. of Meghalaya. It has been claimed by the assessee that the expenditure has been incurred as per the directions given by the State Govt. from time to time. Further, we notice that the assessee company has been incorporated with the objectives of acting as a holding company of the distribution, generation and transmission of subsidiaries and for coordination and smooth functioning by providing ancillary services to subsidiaries as defined in "The Meghalaya Power Sector Reforms Transfer Scheme, 2010". Further, w.e.f. 01.04.2012 the distribution, generation and transmission activities of the company have been transferred to the respective distribution, generation and transmission companies. In view of the above, we find that the assessee company being a holding company has claimed certain expenditures in the profit and loss account. This aspect of the assessee company being owned by the Govt. of Meghalaya and the various changes brought in from 01.04.2012

on account of “The Meghalaya Power Sector Reforms Transfer Scheme, 2020” the financial statements have been prepared. We, however, are of the considered view that ld. AO ought to have considered this factual aspect before disallowing the total amount of expenditure claimed in the profit and loss account. We, thus, restore this issue to the file of ld. AO for afresh adjudication after considering the submissions of the assessee who shall be granted sufficient opportunity of being heard. Thus, ground no. 1 is allowed for statistical purposes.

9.2. Ground no. 2 is general in nature which needs no adjudication.

9.3. In the result, the appeal filed by the assessee in ITA No. 363/GTY/2019 is allowed for statistical purposes.

ITA No. 364/GTY/2019 Meghalaya Energy Corporation Limited (GPF Trust):

10. Ground no. 1 relates to disallowance u/s 14A of the Act. The assessee has not offered any *suo moto* disallowance in the computation of income. Ld. AO on observing that the investments being made, computed the disallowance u/s 14A of the Act at Rs. 3,24,20,575/-. In the profit and loss account only two types of expenditure has been claimed; firstly, towards interest accrued on provident fund deposits from its employees and secondly, the bank charges of Rs. 351/-. When the matter travelled before ld. CIT(A), he on observing that exempt income is of Rs. 48,51,419/- curtailed the disallowance u/s 14A of the Act to the extent of exempt income

in view of the settled judicial propositions and the disallowance so confirmed by Id. CIT(A) is in challenge before us.

10.1. We notice that the status of the assessee is an association of persons of the employees of the Meghalaya Energy Corporation Ltd. Further, we notice that the provident fund deducted from the employees is appearing on the liability side of the balance sheet which also shows the opening balance, subscription received during the year, interest accrued, disbursement/withdrawal during the year. The said sum is partly invested in mutual funds and other equities and partly given as loan and advance to the holding company. From perusal of the impugned orders, it is discernible that for the purpose of calculating the disallowance total investments u/s 14A of the Act investments considered are at Rs. 49.90 Cr. This investment consists of both the investments made in mutual funds as well as other investments which may be fetching exempt income or which may not be fetching exempt income. The coordinate Bench of Kolkata ITAT in the case of *REI Agro Ltd. vs. DCIT* reported in [2013] 144 ITD 141 (Kolkata - Trib.) held that only dividend bearing securities should be considered for the purpose of disallowance under Rule 8D(2)(iii) of the Income Tax Rules, 1962. Therefore, the exercise needs to be carried out by Id. AO in this regard as to what are the investments which have fetched exempt income and only those should be considered for computing the disallowance u/s 14A of the Act. However, in no case such disallowance should exceed the exempt income earned by the assessee. The assessee is directed to file necessary details before Id. AO who shall examine the issue afresh in light of the settled judicial precedence after giving the assessee reasonable

opportunity of being heard. Therefore, this ground raised by the assessee is allowed for statistical purposes.

10.2. Ground no. 2 relates to disallowance of interest expenditure at Rs. 6,42,82,320/-. We notice that the assessee has claimed the expenditure towards accrued interest on G.P.F. subscriptions at Rs. 6,91,33,739/-. Ld. AO firstly computed the disallowance u/s 14A of the Act at Rs. 3,67,13,164/- and thereafter, while dealing with the interest expenditure came to a conclusion that the said expenditures are not allowable as the assessee did not have any business which generated any revenue. But while computing the disallowance, reduced the disallowance made u/s 14A of the Act and confirmed the remaining amount as the interest disallowed as having no direct nexus to income at Rs. 3,24,20,575/-. When the issue came before Id. CIT(A), he, on one hand, reduced the disallowance u/s 14A of the Act to the extent of the exempt income but enhanced the interest disallowance to Rs. 6,42,82,320/-. The basis of disallowance by the Revenue authority is that there is no nexus between the interest expenditure and the income earned thereon. We, however, fail to find any merit in such finding of the Revenue authorities because the assessee is a G.P.F. Trust and is an association of persons. Source of funds are from the subscriptions collected from its employees on account of provident fund. These funds are invested for earning income and part of such funds are given as loan and advance to the holding company. One cannot question the fact that there is no nexus between the funds received and the funds applied towards investments. Therefore, outrightly the disallowance of the total interest expenditure is uncalled for. Ld. Counsel for the assessee also raised an issue that

no show cause notice was issued to the assessee before the enhancement of the addition made by ld. CIT(A). This being a violation of principles of natural justice, we direct ld. CIT(A) to give proper opportunity to the assessee and examine the issue afresh in light our observations made herein above. Therefore, this ground raised by the assessee is also allowed for statistical purposes.

10.3. Ground no. 3 is general in nature which needs no adjudication.

10.4. In the result, the appeal filed by the assessee in ITA No. 364/GTY/2019 is allowed for statistical purposes.

11. In the result, the appeals filed by the assessee in ITA Nos. 360 & 361/GTY/2019 are partly allowed, ITA No. 362/GTY/2019 is partly allowed for statistical purposes and in ITA Nos. 363 & 364/GTY/2019 are allowed for statistical purposes.

Kolkata, the 28th February, 2023

Sd/-
[Rajpal Yadav]
Vice President

Sd/-
[Manish Borad]
Accountant Member

Dated: 28.02.2023

Bidhan (P.S.)

Copy of the order forwarded to:

- 1. Meghalaya Power Transmission Corporation Limited, Lumjingshai, Short Round Road, Shillong-793 001.**
- 2. Meghalaya Power Generation Corporation Limited, Lumjingshai, Short Round Road, Shillong-793 001.**
- 3. Meghalaya Power Distribution Corporation Limited, Lumjingshai, Short Round Road, Shillong-793 001.**
- 4. Meghalaya Energy Corporation Limited (Formerly known as Meghalaya State Electricity Board), Lumjingshai, Short Round Road, Shillong-793 001.**
- 5. Meghalaya Energy Corporation Limited (GPF Trust), Lumjingshai, Short Round Road, Shillong-793 001.**
- 6. ACIT, Circle-Shillong.**
7. CIT(A), Shillong.
8. CIT-
9. CIT(DR), Guwahati Bench, Guwahati.

//True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata