

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER AND  
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA Nos.1719 & 1720/Del/2022  
(Assessment Years : 2015-16 & 2017-18)

DCIT Central Circle – 17, New Delhi  <b>PAN No. AAACH 0351 E</b> <b>(APPELLANT)</b>	Vs.	Havells India Ltd. 904, 9 <sup>th</sup> Floor, Surya Kiran Building, K. G. Marg, Connaught Place, New Delhi-110 001  <b>(RESPONDENT)</b>
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Assessee by	Shri Divyansh Jain, Adv.
Revenue by	Shri Javed Akhtar, CIT-DR

Date of hearing:	23.05.2023
Date of Pronouncement:	25.05.2023

**PER ANIL CHATURVEDI, AM :**

These two appeals filed by the Revenue are directed against the order dated 27.05.2022 passed by the Commissioner of Income Tax (Appeals) - 27, New Delhi for Assessment Years 2015-16 & 2017-18.

2. Before us, at the outset, both the parties submitted that though the appeals filed by the Revenue are for two different assessment years but the facts and issues involved in both the appeals are identical except for the assessment year and the amounts involved and therefore the submissions made by them while arguing one appeal would be equally applicable to the other appeal also and thus both the appeals can be heard together. In view of the aforesaid submissions of both the parties, we, for the sake of convenience,

proceed to dispose of both the appeals by a consolidated order. We, however, proceed with the facts in ITA No.1719/Del/2022 for A.Y. 2015-16.

3. Brief facts of the case as culled out from the material on record are as under :-

4. Assessee is a company stated to be engaged in the business of manufacturing of switchgears, capacitors, cables & wires and other electronic appliances. Assessee filed its return of income for A.Y. 2015-16 on 02.11.2015 declaring total income at Rs.483,50,84,680/-, which was thereafter revised on 08.02.2016 at the revised total income at Rs.478,72,17,350/-. AO has noted that a search and seizure operation u/s 132 of the Act was conducted on 06.02.2018 in Havells Group of cases. Consequently, notice u/s 153A of the Act was issued on 20.05.2019 and served upon the assessee and in response to the notice, assessee filed its return of income on 13.09.2019 declaring total income at Rs.479,24,26,520/-. The case was thereafter taken up for scrutiny and consequently, assessment was framed u/s 153A of the Act vide order dated 18.06.2021 and the total income was determined at Rs.485,79,89,434/- *inter alia* by disallowing Rs.6,55,62,914/- by treating the provision made for "Shahenshah Scheme" to be a contingent liability.

5. Aggrieved by the order of AO, assessee carried the matter before CIT(A). CIT(A) after considering the detailed submissions of the assessee deleted the addition. The deletion was deleted for the reason that in the case of assessee on identical facts in Assessment Years 2007-08, 2008-09, 2009-10 & 2014-15, the Tribunal had decided the

issue in favour of the assessee. Aggrieved by the order of CIT(A), Revenue is now in appeal before the Tribunal and has raised the following grounds:

1. *The order of the CIT(A) is erroneous and not tenable in law and on facts.*
2. *The Ld CIT(A) has erred in deleting addition made by the AO on 'Shahensha Scheme' amounting to Rs.6,55,62,914/- as the expenses claimed by the assessee company are contingent liability, which is not allowable expenditure during the year under consideration.*
3. *The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal."*

6. Similar issue has also been raised by Revenue in ITA No.1720/Del/2022 for A.Y. 2017-18.

7. Before us, Learned DR submitted that assessee had made provision in respect of Shahensha Scheme amounting to Rs.6,55,62,914/-. He submitted that the aforesaid provision was a contingent liability as there was no vested right in distributor to claim the amounts till he makes a journey for holiday and no basis was provided by the assessee to point out as to how 1 point was being treated as to Rs.1/- of expenditure for the purpose of creating provision. He further submitted that the accumulation of points was contingent on several events like continuing sales, timely and continuing payments being made etc. He further pointed out to the fact that in assessee's own case in A.Y. 2008-09, CIT(A) had upheld the order of AO. He further submitted that AO has also noted the fact that the Department has accepted the order of ITAT on merits for A.Y. 2008-09 and Department has recommended appeal for A.Y. 2006-07 also. He therefore submitted that CIT(A) was not justified in deleting the addition.

8. Learned AR on the other hand reiterated the submissions made before AO and CIT(A) and further submitted that identical disallowances was made by AO in the past in A.Ys. 2006-07 to 2009-10 & 2014-15 and in all those years the Tribunal has decided the issue in favour of the assessee. He further submitted that in such a situation no fault can be formed to the CIT(A). He thus supported the order of CIT(A).

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 treatment of provision made to Shahenshah Scheme. It is the contention of the Revenue that the provision made is in the nature of contingent liability and therefore not allowable for deduction. CIT(A) while deciding the issue has noted that on identical facts in assessee's own case for various assessment years has decided the issue in favour of the assessee and has dismissed the appeal of Revenue. We find that the Co-ordinate Bench of Tribunal, while deciding identical issue in assessee's own case for A.Y. 2006-07 (ITA No.4813 & 5530/Del/2010 order dated 30.09.2019) has given a finding that the provision created by the assessee is on a scientific basis. Before us, no distinguishing feature in the facts of the case under consideration and that of earlier years has been pointed by Revenue. Further, Revenue has also not placed any material to demonstrate that the order of the Co-ordinate Bench of Tribunal in assessee's own case for earlier years has been set aside/stayed/overruled by higher judicial forum. In such circumstances, we find no reason to interfere with the order of CIT(A) and **thus the grounds of Revenue is dismissed.**

10. **In the result, the appeal of Revenue in ITA No.1719/Del/2022 for A.Y. 2015-16 is dismissed.**

11. Now, we take up Revenue's appeal in ITA No.1720/Del/2022 for A.Y. 2017-18.

12. Since the facts and issues raised in other appeal i.e. ITA No.1720/Del/2022 are identical to the facts and issues raised in ITA No.1719/Del/2022, our decision in ITA No.1719/Del/2022 shall apply mutatis mutandis to ITA No.1720/Del/2022.

13. **In the combined result, both the appeals of Revenue are dismissed.**

**Order pronounced in the open court on 25.05.2023**

**Sd/-**

**(ANUBHAV SHARMA)  
JUDICIAL MEMBER**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 25.05.2023

Priti Yadav\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	23.05.2023
Date on which the typed draft is placed before the dictating Member	24.05.2023
Date on which the approved draft comes to the Sr.PS/PS	24.05.2023
Date on which the fair order is placed before the Dictating Member for Pronouncement	24.05.2023
Date on which the fair order comes back to the Sr. PS/ PS	25.05.2023
Date on which the final order is uploaded on the website of ITAT	25.05.2023
Date on which the file goes to the Bench Clerk	25.05.2023
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	