

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

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

Sl. No	ITA/CO No(s)	Asst. Year(s)	Appeal(s) by	
			Appellant	Respondent
1.	ITA No.2581/Del/2023	2014-15	M/s. Info Edge (India) Ltd. GF-12A, 94, Meghdoot Building, Nehru Place, New Delhi – 110019	ACIT Circle – 10(1) Delhi
2.	ITA No.2658/Del/2023	2015-16	-do-	-do-
3.	ITA No.2659/Del/2023	2017-18	-do-	-do-
4.	ITA No.2660/Del/2023	2018-19	-do-	-do-
5.	ITA No.2661/Del/2023	2020-21	-do-	-do-
6.	ITA No.2657/Del/2023	2014-15	Dy. CIT, Circle – 10(1) New Delhi	M/s. Info Edge (India) Ltd. GF-12A, 94, Meghdoot Building, Nehru Place, New Delhi – 110019
7.	ITA No.2645/Del/2023	2015-16	-do-	-do-
8.	ITA No.2646/Del/2023	2017-18	-do-	-do-
9.	ITA No.2647/Del/2023	2018-19	-do-	-do-
10.	ITA No.2648/Del/2023	2020-21	-do-	-do-
11.	ITA No.2649/Del/2023	2021-22	-do-	-do-

Assessee by	Shri S. K. Aggarwal, C.A. and Ms. Jyoti Yadav, C.A.
Revenue by	Shri Dayainder Singh Sidhu, CIT(D.R.)

Date of hearing:	19.11.2024
Date of Pronouncement:	29.11.2024

ORDER

PER PRADIP KUMAR KEDIA, AM :

The captioned eleven appeals arise from the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) - Delhi in respective assessment orders passed by the Assessing Officer tabulated hereunder:

Sr. Nos.	ITA/CO Nos.	CIT(A) Order dated	Assessment Order dated	Remarks
1.	ITA No.2581/Del/2023	CIT(A)- NFAC Delhi order dated 18.07.2023	Assessment order dated 31.12.2016	Assessment Order under section 143(3) of the Income Tax Act, 1961.
2	ITA No.2658/Del/2023	CIT(A)- NFAC Delhi order dated 24.07.2023	Assessment order dated 29.12.2016	-do-
3.	ITA No.2659/Del/2023	-do-	Assessment order dated 30.12.2019	-do-
4.	ITA No.2660/Del/2023	-do-	Assessment order dated 15.06.2021	-do-
5.	ITA No.2661/Del/2023	-do-	Assessment order dated 21.09.2022	-do-
6.	ITA No.2657/Del/2023	CIT(A)-NFAC Delhi order dated 18.07.2023	Assessment order dated 31.12.2016	-do-
7.	ITA No.2645/Del/2023	CIT(A)-NFAC Delhi order dated 24.07.2023	Assessment order dated 29.12.2017	-do-
8.	ITA No.2646/Del/2023	-do-	Assessment order dated 30.12.2019	-do-
9.	ITA No.2647/Del/2023	-do-	Assessment order dated 15.06.2021	-do-
10.	ITA No.2648/Del/2023	-do-	Assessment order dated 21.09.2022	-do-
11.	ITA No.2649/Del/2023	-do-	Assessment order dated 28.12.2022	-do-

2. The issues being common and being related to the same assessee from different assessment years the respective appeals of the assessee as well as the Revenue have heard together and a common order is being passed hereunder.

3. We shall first take up the A.Y. 2014-15 for adjudication purposes.

ITA No.2581/Del/2023 (Assessee' s appeal) for A.Y. 2014-15

4. As per the grounds of appeal, the assessee has challenged; (i) Additions under section 14A of the Act and (ii) Short credit of TDS.

4.1 With reference to disallowance of expenses made under section 14A of the Act in relation to exempt income, the learned Counsel for the assessee submitted that the assessee has made *suo moto* disallowance of Rs.4,34,170/- towards expenditure incurred in relation to exempt income of Rs.8,71,80,000/- earned by way of dividend on investments made in subsidiary companies, associate companies and mutual funds. The Assessing Officer while framing the assessment invoked section 14A of the Act read with section 8D of the Income Tax Rules, 1963 and computed disallowance of Rs.1,09,68,286/- under section 14A of the Act in terms of statutory formula provided under Rule 8D of the Rules. Consequently, after deduction of *suo moto* disallowance of Rs.4,34,170/-, an additional disallowance of Rs.1,05,34,116/- has been made by the AO. In the first appeal, the CIT(A) in its order dated 18.07.2023 modified the disallowance of expenditure carried by the AO and directed the Assessing Officer to exclude the investments which did not yield exempt income. The CIT(A) thus upheld the invocation of procedural provision of Rule 8D of the Act but however scaled-down the disallowance to Rs.43,18,934/- by exclusion of investments not yielding exempt income. The assessee has challenged the partial confirmation of the disallowance under section 14A of the Act.

4.2 It is the case of the assessee before the Tribunal that AO invoked section 14A and also Rule 8D thereon without pointing out any defect in the *suo moto* disallowance carried out by the assessee of Rs.4,34,170/- for the purposes of section 14A of the Act. The Assessing Officer has failed to record his dissatisfaction with the

correctness of the claim of the assessee in respect of expenditure incurred in relation to income which did not formed part of the total income under the Act. It is contended on behalf of the assessee that the Hon' ble Delhi High Court in the case of *HT Media Ltd. vs. Pr. Commissioner of Income Tax (2017) 85 taxmann.com 113 (Delhi)* has held that Rule 8D cannot be applied unless the Assessing Officer is dissatisfied with the correctness of *suo moto* disallowance carried out by the assessee. The assessee also placed reliance on the judgment delivered in the case of *Joint Investments (P.) Ltd. vs. Commissioner of Income Tax (2015) 59 taxmann.com 295 (Delhi)* and *PCIT vs. Caraf Builders & Constructions (P.) Ltd. (2019) 101 taxmann.com 167* for the purposes of the computation of disallowance *qua* the investment which have only yielded exempt income only and Investments not yielding exempt income cannot be reckoned. The assessee thus claims that in the absence of dissatisfaction of the AO on the *suo moto* disallowance, the disallowance carried out by the assessee under section 14A is not justified. Further, the upholding of part disallowance by re-computing the disallowance vis-à-vis investment yielding exempt income as directed by the CIT(A) is also not justified in the absence of any satisfaction recorded by the AO as contemplated under section 14A of the Act. The learned Counsel thus insists for deletion of entire disallowance carried under section 14A under challenge.

4.3 We have considered the rival submissions with regard to the objection of the assessee on disallowance of expenditure incurred in relation to exempt income not forming part of total income in terms of section 14A of the Act. From the facts culled out above and on perusal of records before us, we note that Rule 8D prescribes statutory formula for computation of disallowance under S. 14A. Rule 8D has come into force w.e.f A.Y. 2008-09. Therefore, the statutory Rule 8D would ordinarily apply for computation of disallowance barring exceptional circumstances. An appraisal of financial statements filed by the assessee would reveal that major portion

of funds have been applied towards investments in subsidiaries, associations and mutual funds etc. The source of tax free dividend income is investment in the shares as a corollary. It is difficult to say that assessee has not been incurring any expense or some meaningful expense towards holding of investments and earning dividend income thereon. The *suo moto* disallowance carried out by the assessee is prima facie insufficient to cover possible expenses attributable to such large exempt income arising from huge investments. Section 14A inneres the concept of reasonableness. The statutory formula provided in Rule 8D is to meet for expenditure in relation to exempt income and therefore, need to be ordinarily followed as noted earlier. The Assessing Officer, in the present case, has issued show-cause notice as to why disallowance under section 14A should not be computed as per Rule 8D of the Rules. The Assessing Officer also recorded that assessee has earned substantial dividend income which is claimed to be exempt. A reference was made to Section 14A of the Act and also expressly recorded his 'satisfaction' that provision of section 14A are applicable in this case and for the purposes of quantification of disallowance Rule 8D of the I. T. Rules was invoked. Thus, the case made out by the assessee that satisfaction was not recorded is found to be contrary to observations made in assessment order.

4.4 As noted, the assessee has challenged the disallowance confirmed by the CIT(A) laying heavy emphasis on non-recording of requisite 'satisfaction' for invoking section 14A r.w. Rule 8D of the I.T. Rules. To address this aspect of controversy, we note that the expression 'accounts' used in section 14A is not confined to books of account but also includes financial statements. As noted earlier, the assessee has deployed substantial funds towards the Investments. Thus, the financial statements itself indicate existence of adequate and prima facie material to support formation of adverse 'satisfaction'. The satisfaction contemplated under section 14A, as recorded by the AO, having regard to the accounts thus cannot be discredited.

It would be pertinent here to say that phraseology employed in section 14A(2) of the Act suggests that what is required to trigger section 14A among others is that AO is 'not satisfied' with the correctness of the claim of the assessee having regard to its accounts. It nowhere strictly indicates that the "satisfaction" is required to be explicitly reduced in writing. The language employed in section 14A is not akin to 'record his reasons' employed in section 148(2) of the Act. When seen in the context, such difference in phraseology in the context of different clauses of the Act would permit us to draw inference that the expression "is not satisfied" is in variance with the expression "record reasons" as a jurisdictional requirement as noted with reference to section 148(2) of the Act. Thus, the indication of prima facie presence of satisfaction can be deemed to be substantial compliance of the provisions without there being any explicit assertion about the same. As noted, the affirmative steps by way of SCN on the issue in the first instance tantamount to subsistence of 'satisfaction' in the instant case. Be that as it may, the Assessing Officer in the instant case has also duly recorded the satisfaction in writing as contemplated under section 14A of the Act. The requirement of section thus stands addressed in the present case as the satisfaction is duly discernible in the action of the AO. Applying the aforesaid view in the context, we are of the opinion that requisite satisfaction was expressed in unequivocal terms and was otherwise also subsisting for invoking section 14A and Rule 8D. Consequently, we hold that the objection of the assessee on this score is unfounded.

4.5 Thus, in the totality of the facts and circumstances, we are of the considered opinion that the CIT(A) has rightly upheld the action of the AO with some modification towards exclusion of investments not yielding exempt income which is in accord with law. Hence, we decline to interfere with the order of the CIT(A) restricting the disallowance either to the extent of the exempt income claimed or

computation of disallowance under Rule 8D with reference to investments yielding exempt income.

4.6 The relief sought by the assessee for accepting the *suo moto* disallowance made by the assessee is thus not sustainable in law.

4.7 Ground No.1 of the appeal of the assessee is dismissed.

5. Second issue relates to short credit of TDS granted by the AO.

5.1 It is pointed out on behalf of the assessee that the Assessing Officer, while framing the assessment order, has granted TDS credits of Rs.25,91,76,255/- as against the TDS of Rs.26,29,08,452/- claimed in the return. Thus, short credit of TDS to the extent of Rs. 37,32,197/- is stated to have been given. The learned Counsel for the assessee at the time of hearing fairly submits that the CIT(A) has referred the issue back to the file of the AO. However, the grievance of the assessee has not been sorted out as yet and thus seeks suitable remedy from the Tribunal in this regard.

5.2 The CIT(A) has dealt with the issue as under:

“4.4 Ground No. 5 relates to Short grant of TDS: In this ground of appeal, the appellant contended that the AO has acted wrongly in giving short TDS credit of Rs. 37,32,197/- by considering TDS of Rs. 25,91,76,255/- instead of TDS claimed at Rs. 26,29,08,452/- and duly shown in Form 26AS. In this regard, the appellant further stated that the rectification application dated 16.05.2017 filed before the AO, is still pending for disposal till date. This issue has been examined and it is seen that the appellant had claimed TDS of Rs. 36,30,15,406/- in it's original ITR and revised it at Rs. 26,29,08,452/- in the revised return of income. During the appellate proceedings, the appellant submitted copy of 26AS which shows amount paid/credited at Rs.54,13,92,489/- and TDS collected at Rs.35,42,32,411/- pertaining to FY 2013-14 and 2014-15. The appellant didn't furnished exact party-wise details for which TDS credit was not granted. Also, the appellant didn't segregate the TDS pertaining to the present financial year 2013-14 only. Thus, it is difficult to ascertain the quantum of TDS appearing in 26AS for FY 2013-14.

Accordingly, the appellant is directed to furnish the details of TDS appearing in the 26AS statement pertaining to FY 2013-14 before the AO and then AO shall verify the details and allow the credit of TDS as per the provision of section 199 of the Act read with rule 37BA of the IT Rule. Thus, this ground of appeal is allowed for statistical purpose. ”

5.3 In the light of the submissions made on behalf of assessee, the Assessing Officer is directed to look into the grievance of the assessee and implement the directions provided in first appellate order on the issue in letter & spirit. The AO shall grant relief expeditiously towards TDS credits in accordance with law.

5.4 In the result, appeal of the assessee in ITA No.2581/Del/2023 for A.Y. 2014-15 is partly allowed.

ITA No. 2658/Del/2023 (Assessee' s appeal) for A.Y. 2015-16 :

6. As per the grounds of appeal, the assessee has challenged the additions under section 14A of the Act amounting to Rs.5,13,36,775/-.

6.1 At the time of hearing, the learned Counsel for the assessee contended that the additions made under section 14A is susceptible on two counts; (i) the assessee has made *suo moto* disallowance of Rs.10,82,975/- under section 14A of the Act and no reasonable satisfaction *qua* the accounts have been formed by the AO as to how the *suo moto* disallowance is not correct. In the absence of satisfaction, the AO is not entitled in law to apply statutory formula provided in Rule 8D and enhance the disallowance made by the assessee. (ii) the Assessing Officer has taken gross investments for the purposes of computation of disallowance rather than only those investments which have actually yielded the exempt income by way of dividend.

6.2 The issue has been dealt with in A.Y. 2014-15 (supra). In consonance with the view expressed therein, the challenge to aspects of ‘satisfaction’ raised by the assessee is not sustainable. More so, the AO has actually recorded *prima facie* satisfaction in writing the instant case which meets the requirement of law in the facts of the case. However, the disallowance under section 14A cannot exceed the exempt income. Also, the disallowance is required to be made with reference to investments yielding exempt income only. To this limited extent, the order of CIT(A) stands modified.

6.3 Ground No.1 of the assessee pertaining to 14A is thus partly allowed.

7. Ground No.2 relates to short credit of Dividend Distribution Tax (DDT).

7.1 It is the case of the assessee that due to wrong mentioning of assessment year in the Challan prepared by the assessee, the AO and the CIT(A) is not granted credit of DDT amounting to Rs.4,90,33,460/- paid for the obligations arising *qua* A.Y. 2015-16. The learned Counsel for the assessee contended that the credit for Challan should be directed to be granted to it as credit of the aforesaid DDT amount has not been availed in any other year. The wrong mentioning of A.Y. in DDT Challan has occurred due to bonafide clerical error of the assessee and denial of credit due to mentioning of wrong assessment year in the Challan would lead to double payment of taxes and unjust enrichment. The assessee thus sought suitable relief in the matter.

7.2 On perusal of the first appellate order, it is seen that assessee claims to have committed mistake in putting A.Y. 2016-17 instead of A.Y. 2015-16 in DDT Challan and the AO has not granted credit of DDT in A.Y. 2015-16.

7.3 In view of the fact that the credit as per the DDT Challan appears in A.Y. 2016-17, the AO has declined to accept the credit in relation to A.Y. 2015-16. The matter requires to be looked into administratively by the Competent Authority of the Income-tax Department. It is not within the domain of the ITAT to examine such aspects. We are thus not in a position to give any direction in this regard. The issue requires to be resolved between the assessee and the Revenue in accordance with law. We thus decline to interfere with the order of the CIT(A) in the matter.

7.4 Ground No.2 pertaining to Short credit of DDT is thus dismissed.

8. Ground No.3 concerns denial of credit of tax relief of Rs.71,76,466/- claimed by the assessee under section 90/91 of the Act by the AO.

8.1 It is the case of the assessee that the claim was duly substantiated by TDS certificates relating to foreign tax credit. The CIT(A) has referred the issue back to the file of the AO. However, the Assessing Officer has not disposed of the application seeking relief despite the directions by the CIT(A). The assessee seeks suitable relief.

8.2 In the light of the facts pointed out, we direct the Assessing Officer to expediently consider the case made out by the assessee seeking tax credit and pass suitable order in accordance with law.

8.3 Ground No.3 of the assessee pertaining to denial of credit of tax relief u/s 90/91 is allowed for statistical purposes.

9. Ground No.4 concerns short credit of TDS granted by AO.

9.1 As directed in A.Y. 2014-15 (supra). The Assessing Officer is directed to verify the claim of TDS credit and grant credit towards TDS in accordance with law.

9.2 Ground No.4 of the assessee's appeal is allowed for statistical purposes.

10. In the result, appeal of the assessee is partly allowed.

ITA No.2659/Del/2023 for A.Y. 2017-18 (Assessee's Appeal):

11. As per Ground No.1, the assessee has raised the grievance towards additions under section 14A of the Act.

11.1 It is the case of assessee that the Assessing Officer has made additional disallowance of Rs.5,99,07,606/- under Section 14A by invoking Rule 8D without pointing out any defect in *suo moto* disallowance done by the assessee. The CIT(A) in first appeal restricted the disallowance to Rs.2,82,14,475/- to the extent of exempt income.

11.2 The assessee contends that in the absence of any satisfaction recorded *qua* accounts maintained by the assessee, no additional disallowance is permitted in law.

11.3 In consonance with the view expressed in A.Y. 2014-15 (supra) in similar facts; the disallowance made under section 14A is required to be lower of the two namely; (i) amount of disallowance with reference to only those investments which yielded exempt income. (ii) amount of exempt income claimed.

11.4 The Ground No.1 of the assessee is partly allowed.

12. Ground No.2 is relates to short credit of Dividend Distribution Tax (DDT) amounting to Rs.3,70,65,230/-.

12.1 As stated, the assessee has committed a bonafide mistake in putting wrong assessment year in the Challan, the credit for which has not been availed in any year.

12.2 As noted earlier, the matter is required to be resolved administratively by the Competent Authority. It is not practicable for the Tribunal to express any view in the matter either way. The assessee is advised to take steps for correction of Challan in accordance with law and in the alternative take up the matter administratively with the Competent Authority in the Income-tax Department.

12.3 Ground No.2 is thus dismissed.

13. Ground No.3 relates to short credit of TDS to the extent of Rs.38,42,652/-.

13.1 In consonance with the directions given for earlier years (supra), the AO may examine the grievance of the assessee in accordance with law in an expeditious manner.

13.2 The Ground No. 3 of the assessee is allowed for statistical purposes.

ITA No.2660/Del/2023 for A.Y. 2018-19 (Assessee' s Appeal):

14. Ground No.1 concerns disallowance of addition under section 14A of the Act.

14.1 In consonance with the view expressed in A.Y. 2014-15, 2015-16 & 2017-18 (supra), the AO shall determine the disallowance excluding the investment not yielding exempt income subject to upper limit to the extent of exempt income.

14.2 Ground No.1 of the assessee' s appeal is partly allowed.

15. Ground No.2 relates to short credit of TDS amounting to Rs.1,27,83,061/-.

15.1 In parity with the view expressed in preceding years, the Assessing Officer shall look into the correctness of the claim of the short credit of TDS and decide the issue in accordance with law.

15.2 Ground No.2 is allowed for statistical purposes.

ITA No.2661/Del/2023 for A.Y. 2020-21 (Assessee' s Appeal):

16. Ground No.1 relates to non grant of TDS, TCS and Advance Tax Credit.

16.1 It is the case of the assessee that aspects of the rectification order has not been considered by learned CIT(A) while adjudicating the ground related to non-grant of credit of taxes paid and dismissed the ground. The appellant urged for a direction to grant the entire credit of Rs.1,09,99,85,277/- as per rectified order.

16.2 The grievance of the assessee is restored to the file of the AO with a direction to examine the factual aspects of the claim and decide the issue in accordance with law.

16.3 Ground No.1 of the assessee' s appeal is allowed for statistical purposes.

17. Ground No.2 concerns non grant of DDT Credit.

17.1 As viewed in the earlier paragraph, we are constraint to express our inability to give any directions in the matter. The grievance of the assessee calls for resolution administratively with the Competent Authority as provided in the scheme of the Act.

17.2 The Ground No.2 of the assessee is dismissed.

ITA No.2657/Del/2023 for A.Y. 2014-15
ITA No.2645/Del/2023 for A.Y. 2015-16
ITA No.2646/Del/2023 for A.Y. 2017-18
ITA No.2647/Del/2023 for A.Y. 2018-19
ITA No.2648/Del/2023 for A.Y. 2020-21
ITA No.2649/Del/2023 for A.Y. 2021-22

(Revenue' s appeal)

18. The Revenue as per its captioned appeals, has challenged the allowability of ESOP of compensation as Revenue expenditure.

18.1 The Revenue in its captioned appeals, has challenged the relief granted by the CIT(A) against the disallowance of ESOP compensation expenditure on the ground that such expenditure is not actual expenditure and such expenditure is not revenue in character. The learned Counsel of the assessee, on the other hand, pointed out that the issue is covered in the assessee' s own case in prior years i.e. A.Ys. 2007-08 to 2013-14 by the order of the Tribunal and thus no interference with the order of the CIT(A) is called for.

18.2 The CIT(A) has dealt with the issue in A.Y. 2014-15 as under:

“4.2 Ground No. 3 relates to disallowance of Rs. 35,35,76,158/- on account of Employee Stock Option Scheme Compensation: In this ground of appeal, the appellant's main contention is that the AO has disallowed the above expenditure merely relying upon the earlier years assessment orders wherein disallowance has been made on similar grounds. On verification of the assessment order as well as rectification order, it is noticed that the AO had inadvertently made a disallowance of Rs. 19,10,00,000 vis-à-vis 19,07,072/- as charged in the Profit & Loss Account. Vide rectification order dated 18.04.2017, this mistake has been rectified by the AO and the disallowance of Employee Stock Option Scheme Compensation was reduced from Rs. 353,576,158/- to Rs. 164,483,230/-. Besides, the appellant submitted that this issue is squarely covered in favour of the appellant in appellant's own case for A.Y. 2007-08 to A.Y. 2013-14. During the course of appellate proceedings, the appellant had also relied on a number of jurisdictional as well as non-jurisdictional judicial pronouncements in support of its contention raised in the above ground of appeal. The appellant mainly relied upon the decision of High Court of Karnataka in the case of Commissioner of Income Tax, LTU vs Biocon Ltd. [2020] 121 taxmann.com 351 (Karnataka), wherein it is held that Section 37(1) of the Income-tax Act, 1961 Business expenditure Allowability of (Discount of issue of ESOP) - Assessment year 2004-05 Assessee floated Employees Stock Option Plans (ESOP) - It provided employees discount - There was difference between grant price to employees and market price as on date of grant of ESOPs - ESOPs were vested in employee over a period of four years Deduction of discount on ESOP over vesting period was in accordance with accounting in books of account, which had been prepared in accordance with SEBI Guidelines - Whether on exercise of option by an employee, actual amount of benefit that had to be determined was only a quantification of liability, which would take place at a future date - Held, yes Whether discount on issue of ESOPs was not a contingent liability but was an ascertained liability Held, yes - Whether issuance of shares at a discount would be an expenditure incurred for purposes of section 37(1) as primary object of aforesaid, exercise was not to waste capital but to earn profits by securing consistent services of employees and therefore, same could not be construed as short receipt of capital - Held, yes - Whether thus, discount on issue of ESOP was allowable deduction under section 37(1) - Held, yes [Para 10][In favour of assessee]

After consideration of appellant's submission, it reveals that the issue of addition is fully covered by the decision of the appellate authorities in appellant's own case wherein it has been held that ESOP expense is an allowable expenditure. In this case, the Honourable ITAT vide ITA No. 2968/Del/2017, dated 08.01.2020 Delhi Bench "C", New Delhi in the appellant's own case for A.Y. 2012-13 has considered the claim identical and allowed the same Further, the AO had verified the claim of the appellant in AY 2007-08 to 2013-14 and found the ESOP deduction claimed by the appellant in line with the principles laid down in the case of Biocon Ltd but didn't accept it on the plea that the Revenue has not accepted the decision of Hon'ble Karnataka High Court in the case of Biocon Ltd. Also, the issue is squarely covered by the decision of the jurisdictional Hon'ble Delhi High Court in the case of Lemon Tree Hotels (P) Ltd [2019] 104 taxmann.com 26 (Delhi)), wherein the findings of the Delhi ITAT has been concurred in which it was held that ESOP compensation is allowable as revenue expenditure and in the case of New Delhi

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Television Limited [2018] 99 taxmann.com 401 (Delhi)/[2017] 398 ITR 57 (Delhi) wherein it was held that expenditure arising on account of ESOP compensation is an ascertained liability It is also seen that a SLP was filed by the Revenue before the Hon'ble Supreme Court against the order of the Delhi High Court in the case of Lemon Tree Hotels (P) Ltd, which was later on withdrawn by the Revenue (Diary No. 1580/2019). In view of the above facts and circumstances of the case, earlier decisions in the appellant's own case and decisions relied upon, I am of the considered view that the ESOP expenses claimed by the appellant is an allowable expenditure u/s 37 of the Act. Hence, the AO is directed to delete the above disallowance on account of Employee Stock Option Scheme. Thus, this ground of appeal is allowed. ”

18.3 It is observed that the CIT(A) has followed the decision of the Co-ordinate Bench wherein the additions on account of ESOP compensation was deleted in assessee' s own case in A.Y. 2007-08 to 2013-14. We thus see no reason to take a different view in the matter. The grievance of the Revenue thus does not hold any water.

18.4 In the result, all the appeals of the Revenue in ITA Nos.2657, 2645, 2646, 2647, 2648 & 2649/Del/2023 for A.Ys. 2014-15, 2015-16, 2017-18, 2018-19, 2020-21 & 2021-22 are dismissed.

19. In the combined result, captioned appeals of the assessee are partly allowed whereas all the Revenue appeals captioned above are dismissed.

Order pronounced in the open court on 29.11.2024

Sd/-

**(SUDHIR PAREEK)
JUDICIAL MEMBER**

Sd/-

**(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER**

Date:- 29.11.2024

*Priti Yadav, Sr. PS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI