

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND**

SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

**ITA No.3661/Del/2023
[Assessment Year: 2020-21]**

Jindal Pipes Limited, Plot No.5, 2 nd floor, Puspa Road, New Delhi-110005	Vs.	Deputy Commissioner of Income Tax, Central Circle-20, Room No.269A, 2 nd Floor, ARA Centre, Jhandewalan Extension, Delhi-110055
PAN :AAACJ2055K		
(Appellant/Assessee)		(Respondent/Revenue)

**ITA No.3926/Del/2023
[Assessment Year: 2020-21]**

Deputy Commissioner of Income Tax, Central Circle-20, Room No.269A, 2 nd Floor, ARA Centre, Jhandewalan Extension, Delhi-110055	Vs.	Jindal Pipes Limited, Plot No.5, 2 nd floor, Puspa Road, New Delhi-110005
PAN :AAACJ2055K		
(Revenue)		(Assessee)

Appellant by	Shri Ved Jain, Adv. & Shri Ayush Garg, CA
Respondent by	Shri Dayainder Singh Sidhu, CIT-DR

Date of Hearing	18.11.2026
Date of Pronouncement	16.02.2026

ORDER

PER KRINWANT SAHAY, AM:

Appeals in these cases have been filed by the assessee as well as by the Revenue arising out of the order of ld. Commissioner of Income Tax (Appeals)-27, New Delhi, dated 17.10.2023 against the

assessment order dated 27.09.2022 passed under section 143(3) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter 'the Act') pertaining to Assessment Year 2020-21.

2. Grounds of appeal raised by the assessee are as under:-

1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eye of law and on facts.

2. (i) On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the disallowance of Rs. 26,79,000/- made by the AO on account of Fees for technical services invoking the provisions of section 37(1) of the Income Tax Act.

(ii) That the abovesaid disallowance has been confirmed ignoring the submission of the assessee that these expenses have been incurred wholly and exclusively for the purpose of business activities of the assessee and are allowable expenditure under section 37(1) of the Income Tax Act.

(iii) That the abovesaid addition has been confirmed despite the fact that addition has been made by the AO without concluding the independent enquiry conducted during the course of assessment proceedings to the logical end.

(iv) That the disallowance has been confirmed arbitrarily rejecting the detailed explanation and evidences brought on record by the assessee in this regard.

3. (i) On the facts and circumstances of the case the learned CIT(A) has erred both on facts and in law in confirming the addition of Rs. 18,52,306/- made by the AO invoking the provision of section 14A read with rule 8D of the Income Tax Rules.

(ii) That the abovesaid has been confirmed ignoring the fact that the addition has been made by the AO without recording any satisfaction as to the contention of the assessee that having not incurred any expenses for earning tax free income, no disallowance is called for under section 14A of the Act.

(iii) That the abovesaid addition has been confirmed rejecting the contention of the assessee that when own funds are more than investments and no borrowed funds have been used by

the assessee to make the investments, the disallowance made by the AO is uncalled for.

(iv) That the abovesaid addition has been confirmed rejecting the detailed submissions and explanation given by the assessee in this regard.

4. On the facts and circumstances of the case, the Ld. CIT(A), ITD has erred both on facts and in law in confirming the above disallowances relying upon the judgements which are contrary to the facts of the present case of the assessee.

5. On the facts and circumstances of the case, the learned CIT(A) has grossly erred both on facts and in law in confirming the abovesaid disallowance by indulging in surmises without bringing on any direct evidence against the assessee, only on the basis of presumption and assumption.”

3. The Revenue has raised following grounds of appeal:-

1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in deleting the disallowance u/s 37 of the Act, made on account of Power and Fuel Expenses' of Rs. 18,33,27,280/-.

2. Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in restricting the disallowance on account of disallowance u/s 14A r.w.r. 8D of Rs. 1,74,10,450/- to Rs. 18,52,306/-.

3. Whether on the facts and circumstances of the case, the Ld. CIT(A) has erred in ignoring the CDBT's Circular No. 5/2014 dated 11.02.2014

3. During the proceedings before us, the ld. Counsel for the assessee has filed a written submission and argued on the lines of the submissions.

4. Per contra, the ld. CIT-DR relied upon the order of the ld. CIT(A) for the ITA No.3661/Del/2023 and relied upon the order of the AO for ITA No.3926/Del/2023. A

5. Appeal on different grounds and related facts are produced as under:-

1. "These are cross appeals filed by the revenue as well as assessee against the CIT(A) order passed on 17.10.2023. The ld. AO has made the following additions during the year under consideration:

Revenue Appeal	Assessee Appeal	Issue	Addition made by AO	CIT(A)
Ground 1	-	Disallowance of "Power and Fuel expenses" under section 37 of the Act	18,33,27,280	Deleted by CIT(A)
Ground 2 & 3	Ground 3	Disallowance u/s 14A read with Rule 8D	1,74,10,450	Restricted to Exempt income = 18,52,306
-	Ground 2	Disallowance of Fees for Technical services from Pioneer Inspection Services	26,79,000	Confirmed by CIT(A)

Gr. No	Particulars	AO Order	CIT(A) Order	Remarks
1 of Revenue Appeal	Disallowance of "Power and Fuel expenses" under section 37 of the Act of Rs. 18,33,27,280	Pg. 7 Para 4.2 to Pg. 14	Pg. 40 para 5.1 to pg. 43 para 5.2	<p><u>Disallowance of "Power and Fuel expenses" under section 37 of the Act of Rs. 18,33,27,280/-</u> Ground No. 1 of Revenue appeal is regarding the deletion of disallowance of Rs. 18,33,27,280/- on account of Power and Fuel expenses. The reasoning given by the AO is exactly same as given in AY 2016-17 and AY 2018-19 as can be seen from the assessment order attached at PB pg. 246-252 and PB pg. 253-265 respectively. The assessee respectfully submits that the issue is squarely covered by the orders of the Hon'ble ITAT in the assessee's own case for AY 2016-17 and AY 2018-19, where identical disallowances were deleted.</p> <p><u>Issue covered by the ITAT order passed in the assessee own case for AY 2016-17 and AY 2018-19</u></p> <p>2. In the assessee's own case, the AO has made the similar disallowances in AY 2016-17 and AY 2018-19 on account of Power and Fuel expenses. The CIT(A) has deleted the said disallowances in both the years and the Revenue has carried the matters in appeal before Hon'ble Tribunal.</p> <p>3. Recently, the Hon'ble bench vide the order dated 30.05.2025 (ITA No. 3984 & 3895/Del/2023) has held in Para 7 and 8 (PB pg. 270-272) as under- 7. The second issue arises out of the disallowances made on account of power and fuel expenses claimed by the assessee. The issue is common for both the years. The assessee company during the years had incurred power and fuel expenses of Rs.12,79,82,440 in AY 2016-17 and Rs.11,42,04,999/- for AY 2018-19 through its 5 MW captive power plant which was installed at 22 Milestone, Delhi-Hapur Road, P.O. Jindal Nagar, Ghaziabad for the purpose of utilization of generated electricity at its manufacturing plants located at the same address. During the assessment proceedings, the AO, on the basis of segmental</p>

			<p>information of primary segments reported in financial statements observed that Power-Electricity Division was showing losses of Rs.12,79,82,440/- in AY 2016-17 and, accordingly, required the assessee to submit segregated balance sheet and P&L Account for this segment and to establish that the power has actually been supplied. <u>The necessary evidences were filed.</u> It was submitted that there are no separate segment of Power and Electricity division as the segment was not generating any revenue from selling of electricity. That it is only the requirement of auditor to show Power Electricity Division as a separate segment in the financial statements.</p> <p>8. The ld.CIT(A) has appreciated that no revenue was generated from these reported segments and the electricity generated was used for manufacturing activities on assessee's plants only. More so, the necessity arose out of the fact that the captive power plant based on bio mass and major fuel uses rice husk which is considered to be an environment friendly fuel and practically there is no emissions when compared with conventional fuel. The ld. CIT(A) has also appreciated that the captive power plant was established in 2011 and before that the assessee procured electricity supply from UP Electricity Board. However, <u>before FY 2015-16 the AO has never doubted the genuineness of power and fuel expenses as evident from the copies of assessment orders for AYs 2013-14, 2014-15 and 2015-16 relied before us. Thus, there was no substance in the conclusion of the AO that the assessee has failed to establish that captive power plant has actually generated and supplied powers for the manufacturing activities of the assessee and the ld.CIT(A) has rightly deleted the addition.</u>"</p> <p>4. Thus, the Hon'ble ITAT has already examined and considered the issue of disallowance of Power and Fuel expenses. The ITAT has accepted the contentions of the assessee and dismissed the ground raised by the Revenue.</p> <p>5. Therefore, the issue is directly covered and no addition can survive in the present year, where facts are identical.</p> <p>6. The Hon'ble ITAT has categorically relied on the fact that prior to AY 2015-16, the AO never questioned Power & Fuel expenses despite the same captive power plant being in operation. The assessee has placed the following assessment orders on record:</p> <ul style="list-style-type: none"> • AY 2013-14 – PB pg. 226–231 • AY 2014-15 – PB pg. 232–238 • AY 2015-16 – PB pg. 239–245 <p>7. These orders confirm that no disallowance on this</p>
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				<p>issue was ever made.</p> <p>8. In light of the binding ITAT decision for AYs 2016-17 and 2018-19 (PB pg. 270–272), the consistent acceptance of expenses in earlier assessment years (PB pg. 226–245), and there is no change in facts relating to the present year under consideration, the disallowance of ₹18,33,27,280/- u/s 37 is unsustainable. The order of the CIT(A) deleting the disallowance deserves to be upheld in full.</p>
<p>2 and 3 of Revenue Appeal</p>	<p>Addition u/s 14A read with Rule 8D of Rs. 1,74,10,450</p>	<p>Pg. 14 Para 4.3 to Pg. 19</p>	<p>Pg. 44 para 6 to pg. 45 para 6.5</p>	<p><u>Disallowance u/s 14A read with Rule 8D</u></p> <p>9. The AO has made the disallowance u/s 14A read with rule 8D of Rs. 1,74,10,450/-, by wrongly calculating the amount of disallowance in assessment order, ignoring the submission of the assessee that dividend income and agricultural income to the extent of Rs. 18,52,306/- was earned by the assessee company during the year under consideration.</p> <p>10. During the course of assessment proceedings, the assessee has submitted its reply dated 06.09.2022 (PB pg. 119-125) that-</p> <ul style="list-style-type: none"> • That for the relevant assessment year, assessee has earned agricultural income in the form of rental income from agricultural land amounting to Rs 6,52,500/-. Further, agricultural income was earned out of investment made in earlier years and no fresh investment is made during the year under consideration. • Further, assessee earned dividend income to the tune of Rs. 11,99,806/-. Out of total dividend income, Rs. 10,75,750/- earned from investments made in Jindal Drilling and Industries Limited and Rs. 1,24,056/- was earned from Investment in mutual funds. • Net worth of the assessee company is Rs. 49657.99 Lakhs as on 31.03.2020 which is more than its investments so investments were made out of own funds. <p>11. On appeal before CIT(A), the CIT(A) in para 6.4 and 6.5 (Page 45 of its order) has restricted the disallowance to the extent of exempt income earned during the year, i.e., Rs. 18,52,306/-, following the jurisdictional High court that the disallowance u/s 14A cannot exceed the amount of exempt income of the relevant year.</p> <p>12. The Revenue in Ground 2 and 3 has now carried the matter before your honour against the action of CIT(A), relying upon the CBDT Circular No. 5/2014 dated 11.02.2014.</p> <p><u>CIT(A) has rightly restricted the disallowance u/s 14A to the extent of exempt income earned during the year</u></p> <p>13. Firstly, it is submitted that it is undisputed fact that the assessee has earned agricultural income of Rs.</p>

				<p>6,52,500/- (Ledger at PB pg. 146), and dividend income of Rs. 11,99,806/- (Ledger at PB pg. 147-148), the total exempt income earned for the year under consideration is Rs. 18,52,306/-. However, the ld. AO has disallowed Rs. 1,74,10,450/- which is approximately 9.4 times the amount of exempt income.</p> <p>14. It is also a well settled law that the total amount of disallowance under section 14A can under no circumstances exceed the amount of exempt income. In this regard reliance has been placed on the following judgments-</p> <ul style="list-style-type: none"> • Delhi High Court in the case of Joint Investments Pvt Ltd Versus Commissioner of Income Tax, [2015] 372 ITR 694 (Del), dated 25.02.2015 • Delhi High Court in the case of Commissioner of Income Tax Versus RRPR Holding Pvt. Ltd, 2024 (1) TMI 72, dated 22.12.2023 • Delhi High Court in the case of Pr. Commissioner of Income Tax Versus M/s Religare Enterprises Ltd, 2023 (6) TMI 617, dated 12.04.2023 • Delhi High Court in the case of Pr. Commissioner of Income Tax Versus Moderate Leasing And Capital Services Pvt Ltd, 2018 (1) TMI 1401 • Delhi High Court in the case of Pr. Commissioner of Income Tax Versus Oscar Investment Ltd., 2017 (11) TMI 126 <p>15. Further, reliance is also placed on High Court of Punjab and Haryana dated 14.11.2017, in the case of Principal Commissioner of Income Tax, Patiala vs State Bank of Patiala, IT APPEAL NO. 359 OF 2017 which has been affirmed by the Honourable Supreme Court vide SLP (Civil) Diary No. 24323 of 2018 by dismissing the SLP filed by the department.</p> <p>16. These judgments clearly lay down that section 14A provides for disallowance only to the extent of expenditure incurred "in relation to" exempt income, and cannot be stretched to create a disallowance exceeding the exempt income itself.</p> <p><u>Reliance on Revenue (Revenue Ground 3) on CBDT Circular No. 5/2014 dated 11.02.2014 is misplaced as the said Circular cannot override the expressed provisions of Section 14A read with Rule 8D</u></p> <p>17. The Revenue's reliance on CBDT Circular No. 5/2014 is entirely misconceived. The Circular cannot override either the plain statutory language or the judicial interpretation by various High Courts, which have consistently held that disallowance u/s 14A must be confined to the exempt income earned.</p> <p>18. It has been consistently held by courts that CBDT Circular dated 11th May 2014 cannot override the</p>
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				<p>expressed provisions of Section 14A read with Rule 8D. Reliance is placed on following judicial pronouncements-</p> <ul style="list-style-type: none"> • Madras High court in the case of PCIT Vs. Hyundai Steel India Pvt. Ltd., (formerly known as M/s. Hysco Steel India Pvt. Ltd.), 2020 (12) TMI 613 • Delhi High court in the case of PCIT Vs. IL & FS Energy Development Company Ltd., 2017 (8) TMI 732 • Delhi High court in the case of PCIT Vs. Tulip Telecom Ltd., 2022 (11) TMI 1572, dated 24.11.2022 <p>19. Moreover, the above judgements also affirms that a Circular cannot impose a burden on the taxpayer contrary to the Act, nor can it nullify judicial precedent. The Revenue's reliance on the Circular is therefore wholly untenable.</p> <p><u>Invocation of Amendment by Finance Act 2022 by the AO is also misplaced</u></p> <p>20. The AO's reliance on the Memorandum to the Finance Bill, 2022 (page 18 of the assessment order) is misplaced, as the amendment to section 14A made by the Finance Act 2022 is prospective and cannot apply to AY 2020-21. The amendment expands the scope of disallowance by introducing a new deeming fiction, and such substantive changes cannot operate retrospectively unless expressly stated.</p> <p>21. Reliance is placed on following judicial pronouncement-</p> <ul style="list-style-type: none"> • Delhi High court in the case of PCIT v. Era Infrastructure (India) Ltd., 2022 (7) TMI 1093 • Delhi High court in the case of PCIT V. M/s. Delhi International Airport Pvt. Ltd., 2022 (10) TMI 300 <p>22. Therefore, the AO's reliance on the Finance Bill 2022 Memorandum is legally unsustainable.</p>
Ground 3 of Assessee appeal	Addition u/s 14A read with Rule 8D of Rs. 1,74,10,450	Pg. 14 Para 4.3 to Pg. 19	Pg. 44 para 6 to pg. 45 para 6.5	<p><u>No Addition is legally permissible u/s 14A read with Rule 8D</u></p> <p>23. The assessee in Ground 3 has challenged the addition confirmed by CIT(A) of Rs. 18,52,306/- u/s 14A r.w.r. 8D. The submission of the assessee is as under-</p> <p><u>Satisfaction is mandatory for invoking provisions of Section 14A of the Act</u></p> <p><u>While rejecting the claim of the assessee that the Assessing Officer would have to indicate cogent reasons for applying provision of rule 8D</u></p> <p>24. At the outset, the AO has merely stated that disallowance under section 14A has to be made even if the assessee has not earned exempt income, and has placed reliance solely on CBDT Circular No. 5/2014 dated 10.02.2014. The AO has</p>

				<p><i>mechanically invoked Rule 8D without undertaking the statutory requirement of examining the assessee's books and without recording the mandatory dissatisfaction as required under section 14A(2).</i></p> <p>25. <i>It is submitted that it is a settled law that before invoking Rule 8D, the AO must first verify the correctness of the assessee's claim that no expenditure was incurred for earning exempt income. This is a jurisdictional requirement and cannot be bypassed. In the present case, the AO has not carried out any examination of the assessee's accounts and has not even attempted to identify any expenditure which, in his view, is relatable to exempt income.</i></p> <p>26. <i>It is further submitted that as per section 14A(2), the AO can resort to the prescribed method of computation under Rule 8D only after:</i></p> <p style="padding-left: 20px;"><i>(i) examining the accounts of the assessee, and</i></p> <p style="padding-left: 20px;"><i>(ii) recording dissatisfaction, based on objective reasons, regarding the correctness of the assessee's claim.</i></p> <p>27. <i>In the present case, the assessment order does not contain any such analysis or any cogent basis for dissatisfaction. A mere assertion that "Rule 8D applies" is not enough in law. The absence of such satisfaction vitiates the entire disallowance.</i></p> <p>28. <i>Reliance is placed on the following judgments which have consistently held that recording of satisfaction is a sine qua non before applying Rule 8D, and that there is a mandatory requirement for the AO to objectively record dissatisfaction regarding the correctness of the assessee's claim, having regard to the accounts of the assessee, and such satisfaction must be based on specific instances and not on mere general observations:</i></p> <ul style="list-style-type: none"> • <i>ITAT Mumbai in the case of DCIT-3 (4), MUMBAI VERSUS M/S. RELIANCE INDUSTRIES LTD. AND (VICE-VERSA), 2023 (10) TMI 1313</i> • <i>ITAT Mumbai in the case of Trent Limited Vs. Deputy Commissioner of Income Tax, ITA No. 4074/MUM/2024</i> • <i>ITAT Delhi in the case of DCIT Vs. M/S Nestle India Ltd, 2020 (7) TMI 567</i> • <i>Supreme Court in the case of SOUTH INDIAN BANK LTD. VERSUS COMMISSIONER OF INCOME TAX, 2021 (9) TMI 566</i> • <i>Delhi High court in the case of COMMISSIONER OF INCOME TAX-VI VERSUS TAIKISHA ENGINEERING INDIA LTD., 2014 (12) TMI 482</i> • <i>Delhi High Court in the case of EICHER MOTORS LTD. VERSUS COMMISSIONER OF</i>
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				<p>INCOME-TAX-III, 2017 (9) TMI 1043</p> <ul style="list-style-type: none"> • The SLP in the above decision has been dismissed by Supreme Court in the case of COMMISSIONER OF INCOME TAX – III VERSUS EICHER MOTORS LTD, 2018 (9) TMI 1328 • Supreme Court in the case of GODREJ & BOYCE MANUFACTURING COMPANY LIMITED VERSUS DY. COMMISSIONER OF INCOME-TAX & ANR, 2017 (5) TMI 403 • Delhi High Court in the case of PCIT Vs. DLF UTILITIES LIMITED, 2022 (9) TMI 90 • Delhi High Court in the case of MAXOPP INVESTMENT LTD., CHEMINVEST & OTHERS VERSUS COMMISSIONER OF INCOME TAX, COMMISSIONER OF INCOME TAX VERSUS ESCORTS FINANCE LTD, 2011 (11) TMI 267 <p>29. In view of the above, it is clear that Rule 8D cannot be invoked unless the AO first records dissatisfaction based on examination of accounts, which is completely absent in the present case. Therefore, the disallowance made by the AO is legally unsustainable.</p>
Ground 2 of Assessee Appeal	Disallowance of Fees for Technical services from Pioneer Inspection Services	Para 4.1 Page 3 to Page 7	Para 7.2 to Para 7.4 on Page 48	<p><u>Disallowance of Fees for Technical services from Pioneer Inspection Services u/s 37(1) of the Act</u></p> <p>30. The ld. AO has made the disallowance of Rs. 26,79,000/- on account of fees for technical services which was incurred by assessee company on account of inspection services obtained from M/s. Pioneer Inspection Services w.r.t Rig Jindal Star.</p> <p><u>Background of the services received from Pioneer Inspection Services</u></p> <p>31. Apart from pipe business, the assessee is also engaged in providing jack-up rigs such as “Jindal Star” and “Virtue-1” on charter-hire basis to ONGC during the relevant year, as already submitted in the reply dated 15.01.2022 (PB 101). These rigs are DNV-classed Mobile Offshore Drilling Units (MODUs), and their operation requires mandatory technical and underwater inspections prescribed.</p> <p>32. Before a rig is moved or parked, a seabed survey must be carried out, and during operation, a UWILD (Underwater Inspection In Lieu of Dry Dock) is required every 2.5 years, involving underwater NDT, UT testing and structural inspection of the spud cans and legs. For these specialised tasks, certified divers, NDT technicians and rope-access personnel are required. (From the note submitted on PB pg. 145)</p> <p>33. Pioneer Inspection Services, being a recognised</p>

				<p>offshore inspection and engineering service provider (website printout on record), carried out these essential surveys and inspections.</p> <p>34. During the year under consideration, Pioneer Inspection Services raised three invoices correspond to these mandatory activities. The same are paid through Banking channels as is evident from bank statement PB pg. 131-138. The details of these invoices are as follows:</p> <table border="1"> <thead> <tr> <th>Date of Invoice</th> <th>Particulars</th> <th>Amount</th> <th>GST</th> <th>TD S</th> <th>Net Amount</th> <th>PB Pg.</th> </tr> </thead> <tbody> <tr> <td>30.04.2019 (Received on 08.05.2019)</td> <td>Rope-access team for NDT inspection of leg chords and nodes</td> <td>4,00,000</td> <td>72,000</td> <td>40,000</td> <td>4,32,000</td> <td>127</td> </tr> <tr> <td>30.04.2019 (Received on 04.07.2019)</td> <td>(i) UWILD underwater inspection of Rig "Jindal Star" – ₹15,00,000 (ii) Operational delay charges – ₹7,50,000</td> <td>22,50,000</td> <td>4,05,000</td> <td>225,000</td> <td>24,30,000</td> <td>128</td> </tr> <tr> <td>13.05.2019</td> <td>(i) Towing gear inspection (LEEA + ASNT Level II inspector with MPI kit) – ₹24,000 (ii) Mobilization & demobilization of team/equipment – ₹5,000</td> <td>29,000</td> <td>5,220</td> <td>2900</td> <td>31,320</td> <td>129</td> </tr> <tr> <td colspan="2">Total</td> <td>26,79,000</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>35. The invoices clearly reflect the nature of work undertaken—₹4,00,000 for rope-access NDT of leg chords and nodes; ₹22,50,000 comprising ₹15,00,000 for the full UWILD inspection of Rig Jindal Star and ₹7,50,000 towards operational delay charges; and ₹29,000 towards towing-gear inspection and mobilization/demobilization.</p> <p>36. Thus, the assessee has duly deducted TDS on the above payments and deposited the same, as is evident from the TDS summary on PB pg. 139-143. The assessee has also submitted ledger confirmation (PB pg. 130), establishing complete reconciliation and genuineness of the expenditure.</p> <p>37. The ld. AO has made the disallowance of fees for technical services of Rs. 26,79,000/- paid to M/s. Pioneer Inspection services and CIT(A) has confirmed the same.</p> <p>38. Aggrieved by the same, the assessee is in appeal before your honours.</p>	Date of Invoice	Particulars	Amount	GST	TD S	Net Amount	PB Pg.	30.04.2019 (Received on 08.05.2019)	Rope-access team for NDT inspection of leg chords and nodes	4,00,000	72,000	40,000	4,32,000	127	30.04.2019 (Received on 04.07.2019)	(i) UWILD underwater inspection of Rig "Jindal Star" – ₹15,00,000 (ii) Operational delay charges – ₹7,50,000	22,50,000	4,05,000	225,000	24,30,000	128	13.05.2019	(i) Towing gear inspection (LEEA + ASNT Level II inspector with MPI kit) – ₹24,000 (ii) Mobilization & demobilization of team/equipment – ₹5,000	29,000	5,220	2900	31,320	129	Total		26,79,000				
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				<p>39. <i>The point-wise rebuttal of the allegations of the AO are as under-</i></p>						
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				<p>Hence the alleged transaction cannot be linked with a return of Income.</p> <p>genuineness of the assessee's expenditure. The assessee has no control over the compliance behaviour of an independent third-party vendor, nor does section 37(1) impose any condition that the allowability of expenditure depends on the payee filing its return of income. What is material is whether the assessee actually availed the services, whether payment was made through identifiable banking channels, and whether TDS was duly deducted and deposited — all of which stand fully established in the present case. The assessee has furnished the complete particulars of the payee including PAN AARFP3868Q, registered address B47/1 Bhagyoday Society, Sector-12, Kharghar, Navi Mumbai-410210, and GST registration 27AARFP3868Q1Z1. The assessee has also placed on record the payee's ITR for AY 2019-20 (PB 144). These details conclusively prove the identity and existence of the service provider. Once the assessee has established identity, genuineness of services and payment through proper channels with TDS deduction, the assessee's burden under law stands fully discharged. The payee's subsequent non-filing, if any, cannot be a ground to disallow an otherwise genuine business expenditure.</p>
			<p>Point 3. The assessee failed to discharge the onus squarely upon it of establishing what service was rendered in lieu of fee claimed to be paid and as to how the payment was</p>	<p>The allegation that the assessee failed to establish what services were rendered, or how the payment was wholly for business purposes, is contrary to the detailed material already furnished during assessment proceedings. The assessee has clearly explained the nature of</p>

				<p><i>wholly related to the business under section 37(1) of the Act.</i></p>	<p><i>its rig-operations business, including providing DNV-classed jack-up rigs to ONGC on charter-hire basis, and the mandatory technical inspections required under class rules and insurance conditions. A detailed note explaining the seabed survey, UWILD inspection, underwater NDT/UT testing, and rope-access inspections was submitted (PB 145). Further, each invoice raised by Pioneer Inspection Services corresponds directly to these mandatory offshore inspection activities, and the relevant descriptions, break-ups, dates and amounts are already on record (PB pg. 126-129). These services are indispensable for operating and maintaining a Mobile Offshore Drilling Unit (MODU) and are prerequisite for safety clearance, class compliance, and insurance approval.</i></p>
				<p>Point 4. & 5. <i>The AO contends that on verification Pioneer Inspection Services' address was found to be a residential premise and no business activity was going on there; further, a notice under section 133(6) was issued to the Pioneer Inspection Services and, reply was received from it with a request for more time, hence basic facts about the service could not be verified.</i></p>	<p><i>The allegation of the AO that the address of Pioneer Inspection Services was "a residential property with no business activity" is factually incorrect. The assessee has already placed on record (i) the official website printout of the service provider, and (ii) the third-party listing from IndiaMART, both of which clearly acknowledge the existence of Pioneer Inspection Services, its line of business, services offered, and its operating address. These independent sources corroborate the identity and business activity of the vendor.</i></p> <p><i>Further, the notice issued by the AO under section 133(6) was never brought to the assessee's knowledge, nor any show cause was issued to the assessee on the alleged non-</i></p>

				<p>compliance. In any case, the director of Pioneer Inspection Services did respond to the notice and requested additional time to furnish the details. It is therefore not a case where the party failed to reply. A temporary delay on the part of a third-party vendor cannot be used to draw an adverse inference against the assessee, particularly when the assessee has already produced complete invoices, ledger confirmation, bank payment proofs and TDS evidences, all of which substantiate the genuineness of the transaction.</p> <p>Further reliance is placed on following judicial pronouncement wherein it has been held that no addition can be made on the ground that notices issued u/s 133(6) of the Act were not replied/complied- Supreme Court in the case of CIT vs. Orissa Corporation Pvt. Limited, 1986 (3) TMI 3 Bombay High court in the case of CIT Vs. M/S Nikunj Eximp Enterprises Pvt Ltd., 2013 (1) TMI 88</p>
			<p>Point 6 to 8 The AO alleges that the assessee has not furnished sufficient supporting documents to justify the claim of expenses paid to Pioneer Inspection Services. According to the AO, no agreement, email correspondence, or other documentary evidence was filed to show why these services were required, what specific work was performed, or whether Pioneer possessed the</p>	<p>The allegations of the AO in points 6 to 8 are factually incorrect and contrary to the material placed on record. The assessee has already furnished complete documentary evidence demonstrating the nature and necessity of the services, including (i) detailed note explaining why seabed survey, UWILD inspection, underwater NDT/UT testing and rope-access inspection were mandatory for a DNV-class MODU deployed with ONGC (PB 145), (ii) original invoices raised by Pioneer Inspection Services describing the specific work performed (PB 127-129), (iii) ledger confirmation (PB 130),</p>

				<p>technical competence to render such services. The AO further contends that the assessee failed to demonstrate any business necessity for the expenditure, and therefore, in the absence of such corroborative evidence, the entries in the books and payments through banking channels are not adequate to establish the genuineness of the services.</p>	<p>(iv) bank payment proofs (PB 131-138), (v) TDS deduction and deposit (PB 139-143), and now the (vi) website printouts and third-party listings establishing the vendor's competence and line of business.</p> <p>The AO's assertion that the assessee failed to explain "what prompted the requirement of the services" is incorrect, because the assessee has clearly explained that the services were mandatory class and insurance requirements for operating and parking a jack-up rig hired to ONGC. The competence of the service provider is also established through its website and IndiaMART website (third party), which confirm that Pioneer is an established offshore inspection and engineering company providing precisely the type of NDT, UWILD and rope-access services availed by the assessee. Thus, the assessee has demonstrated what work was done, why it was needed, and how it is wholly connected with the assessee's rig-operations business.</p> <p>Further, the AO's comment that "mere book entries" or "payment through banking channels" are not decisive is misplaced, because in the present case the assessee has provided far more than book entries, the assessee has produced invoices, technical explanations, vendor identity proofs, bank records, and TDS evidence, all of which cumulatively establish the genuineness of the expenditure. Once the assessee has discharged its primary onus with complete documentation, the disallowance cannot be sustained merely on conjecture</p>
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					or the AO's subjective doubts.
				<p>40. In view of the above submissions, it is respectfully submitted that the assessee has fully discharged its onus under section 37(1) by furnishing complete documentary evidence, including detailed notes on the nature of services, original invoices, ledger confirmations, bank payment proofs, TDS deduction and deposit, and independent verification of the identity and business activity of Pioneer Inspection Services through its official website and third-party listing.</p> <p>41. Every allegation raised by the AO has been specifically met and rebutted with facts on record. The expenditure relates to mandatory technical inspections required for operating and maintaining a DNV-class jack-up rig hired to ONGC, and is therefore wholly and exclusively for the purposes of business.</p> <p>42. The disallowance made by the AO and confirmed by the CIT(A) is based on conjectures, misreading of documents, and irrelevant considerations such as third-party non-response to section 133(6), which cannot override the documentary evidence submitted by the assessee.</p> <p>43. Accordingly, the addition of Rs. 26,79,000/- deserves to be deleted in full.</p>	

6. We have considered the findings given by the AO in the assessment order and by the Id. CIT(A) in its appellate order. We find that all the grounds of appeal filed by the Revenue as well as raised by the assessee are covered in assessee's own case in ITA Nos.3924 & 3895/Del/2023 for the Assessment Years 2016-17 and 2018-19, vide order dated 30.05.2025. The relevant paragraph of the aforesaid order is reproduced hereunder:-

"2. Heard and perused the records. The assessee company is engaged in the business of manufacturing of ERW, black and galvanized steel pipes and tubes in different thickness conforming to the various national and international standards. In the relevant years before this Bench, the assessee's returns were selected for scrutiny leading to certain disallowances

which have been deleted by the ld.CIT(A) for which the Revenue is in appeal. The cases were heard together as they have common questions involved and wherever needed, facts for AY 2016-17 in ITA No.3924/Del/2023 shall be reproduced and considered.

3. The first issue arises out of disallowance on account of technical know-how fee paid to M/s Jindal Drilling and Industries Ltd. (JDIL) by invoking section 37(1) of the Act and the issue pertains to AY 2016-17. During the assessment proceedings, the AO had called for various information which were supplied by the assessee and, as per the assessee, it has placed bids with ONGC and as per the bid requirement, the assessee was required to have three years of experience in jack up rig drilling activities. Since the assessee did not have such experience, so, the assessee entered into technical collaboration agreement with M/s JDIL who had vast experience in the field of offshore jack up rig drilling operations for the purpose of placing bids with ONGC and rendering services to ONGC upon awarding of contracts. All the necessary documents in regard to this agreement were filed before the AO. However, the AO concluded that the assessee has failed to furnish any proof of receiving services of technical persons of rig managers/rig superintendent of M/s JDIL and, accordingly, the addition of Rs.4,08,81,700/- was made.

4. In the appellate proceedings before the CIT(A), the assessee re-asserted the claim that in terms of agreement with JDIL, only rig manager/rig superintendent and assistance in operation and maintenance were provided by M/s JDIL and no equipment was provided by JDIL to assessee during the year under consideration. The assessee was only charged by JDIL @ \$850 per day for providing rig manager/rig superintendent and providing assistance in operation and maintenance and the invoices issued by the assessee were accepted by ONGC and this establishes the rendering of services as received by the assessee from JDIL. It was submitted that the Rig Division of the assessee has reported a profit of Rs.24.03 crore during AY 2016-17 and incurred expenses of Rs.4.08 crore on technical services obtained from JDIL which shows that the assessee company was able to generate additional profit by providing drilling services.

5. We find that the ld. CIT(A) analysed the nature of the services rendered by the assessee, highlighting the acceptance of invoices by ONGC and the corresponding technical know-how fee tax deductions. These deductions were substantiated by the

requisite documentation, such as the submission of Form 16A and other evidences that validated the actual rendering of services. Moreover, the CIT (A) highlighted that the services had been accepted and utilized by ONGC, who duly made payments to the assessee for the same. The ld. CIT(A) also noted the deduction of TDS on the payments made for technical services rendered, as evidenced by the quarter-wise Form 16A issued to JDIL, which conclusively demonstrated that the fees paid by the assessee were for legitimate services provided. This highlights the assessee's stance that all payments were appropriately documented and in accordance with the tax provisions. The ld. CIT(A) further observed that the Rig division of the assessee company reported a profit of R. 24.03 crore during AY 2016-17, while incurring an expense of R4.08 crore on technical services obtained from JDIL. This highlights that the technical services procured contributed directly to the assessee's ability to provide drilling services and generate additional profit. The ld. CIT(A) further confirmed that the incurred expenditure was essential for enhancing the company's operational capacity, and thus, the expense is fully justified in light of the division's profitability. Further there is substance in the contention of ld. Counsel, that the disallowance of the technical know-how fees has resulted in the same income being taxed twice, once as an expense in the hands of the assessee and again as income in the hands of M/s JDIL. The technical know-how fees paid or payable by the assessee company to JDIL is a legitimate business expense for the assessee, while it is recognized as income for JDIL. The ld. CIT(A), in its order rightly observed that both the assessee and JDIL fall within the same tax bracket under the provisions of the Income Act, therefore, no additional benefit has accrued to either the assessee company or JDIL from the transaction.

6. Even otherwise, the genuineness of the expense on technical services obtained from JDIL had been accepted by the Assessing Officer during the assessment proceedings for AY 2013-14, AY 2014-15, and AY 2015-16. No additions with respect to the technical fees were made to the income of the assessee for these years, as is evident from the assessment orders placed in the paper book at pages 91-98, 99-109, and 110-117 respectively. Further, the Assessing Officer disallowed the technical know-how fees without pointing out any specific discrepancies or bringing forward any new material facts to warrant such a disallowance. This clearly shows that the disallowance was made merely on account of a change of opinion, which is contrary to the Doctrine of Principle of Consistency as upheld in various judicial pronouncements. Thus the grounds raised this issue need not interference.

7. The second issue arises out of the disallowances made on account of power and fuel expenses claimed by the

assessee. The issue is common for both the years. The assessee company during the years had incurred power and fuel expenses of Rs.12,79,82,440 in AY 2016-17 and Rs.11,42,04,999/- for AY 2018-19 through its 5 MW captive power plant which was installed at 22 Milestone, Delhi-Hapur Road, P.O. Jindal Nagar, Ghaziabad for the purpose of utilization of generated electricity at its manufacturing plants located at the same address. During the assessment proceedings, the AO, on the basis of segmental information of primary segments reported in financial statements observed that Power-Electricity Division was showing losses of Rs.12,79,82,440/- in AY 2016-17 and, accordingly, required the assessee to submit segregated balance sheet and P&L Account for this segment and to establish that the power has actually been supplied. The necessary evidences were filed. It was submitted that there are no separate segment of Power and Electricity division as the segment was not generating any revenue from selling of electricity. That it is only the requirement of auditor to show Power Electricity Division as a separate segment in the financial statements.

8. The ld.CIT(A) has appreciated that no revenue was generated from these reported segments and the electricity generated was used for manufacturing activities on assessee's plants only. More so, the necessity arose out of the fact that the captive power plant based on bio mass and major fuel uses rice husk which is considered to be an environment friendly fuel and practically there is no emissions when compared with conventional fuel. The ld. CIT(A) has also appreciated that the captive power plant was established in 2011 and before that the assessee procured electricity supply from UP Electricity Board. However, before FY 2015-16 the AO has never doubted the genuineness of power and fuel expenses as evident from the copies of assessment orders for AYs 2013-14, 2014-15 and 2015-16 relied before us. Thus, there was no substance in the conclusion of the AO that the assessee has failed to establish that captive power plant has actually generated and supplied powers for the manufacturing activities of the assessee and the ld.CIT(A) has rightly deleted the addition. Accordingly, the issue with corresponding grounds, in both the years, deserve to be allowed.

9. The third issue is disallowance u/s 14A of the Act pertaining to AY 2018-19. The AO made a disallowance of Rs.1,35,01,735/- by taking 1% of the total average investment irrespective of the fact that whether any exempt income has been received from such investment during the year or not. The ld. CIT(A) has restricted the addition to 1% of the average investment in respect of the investments which have earned exempt income during the year. The ld. counsel has pointed out

that during the year the assessee had received rent from agricultural land of Rs.7 lakhs and against this, the assessee had disallowed Rs.4,245/- being expenses incurred in relation to this exempt income from agricultural land and declared Rs.69,57,550/- net exempt income. The total investment in the agricultural land is of Rs.29,42,500/-. The ld.CIT(A) has taken this investment as the base and 1% of the same has been disallowed which comes to Rs.2,94,250/-. The law in this regard is no more res integra and the Hon'ble Delhi High Court in the case of ACB India Ltd. vs. ACIT, ITA 615/2014 and Cargo Motors Pvt. Ltd. vs. DCIT (2022) 10 TMI 571, vide order dated 07.10.2022 has held that it is not all investment, but only that which is expressly spelt out in Rule 8D(2)(iii) r.w.s. 14A and Rule 8D(i) which is to be reckoned for the purpose of calculation of average of half percent. The ld. CIT(A) has merely directed the AO to apply the correct ratio of the jurisdictional High Court decisions and only investment yielding exempt income have to be considered for the purpose of Rule 8D. We find no substance in the ground of challenge of the Revenue. The same is accordingly decided against the Revenue.

10. In the light of the aforesaid discussions, there is no substance in the grounds as raised. The appeals of the Revenue are dismissed."

7. Since all the issues are covered in assessee's favour, therefore respectfully following the ratio laid down by the Tribunal in assessee's own case (supra), appeal of the assessee is allowed and the appeal of the Revenue is dismissed.

8. In the result, the appeal of the assessee is allowed and appeal of the Revenue is dismissed.

Order pronounced in the open court on 16th February, 2026.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER
Dated 16.02.2026

Shekhar

Sd/-
[KRINWANT SAHAYA]
ACCOUNTANT MEMBER

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,