

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : F : NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITA No.5403/Del/2015
Assessment Year: 2011-12

ITA No.1963/Del/2018
Assessment Year : 2013-14

DCIT,
Circle-19(2),
New Delhi.

Vs PVR Ltd.,
61, Basant Lok,
Vasant Vihar,
New Delhi.

PAN: AAACP4526D

ITA No.2080/Del/2018
Assessment year : 2013-14

CO No.47/Del/2022
(ITA No.1963/Del/2018
Assessment Year : 2013-14

CO No.41/Del/2016
(ITA No.5403/Del/2015)
Assessment Year : 2011-12

PVR Ltd.,
61, Basant Lok,
Vasant Vihar,
New Delhi.

Vs DCIT,
Circle-19(2),
New Delhi.

PAN: AAACP4526D

(Appellants)

(Respondents)

Assessee by

: Shri Sanjiv Kr. Choudhary,
Shri Anil Kr. Chopra &
Shri Praveen Kumar, CAs; &
Shri V.K. Garg, Advocate,

Revenue by

: Ms Monika Singh, CIT-DR

Date of Hearing : 28.08.2025
Date of Pronouncement : 29.10.2025

ORDER

PER ANUBHAV SHARMA, JM:

These are appeals preferred by the Revenue as well as the assessee and Cross Objections filed by the assessee against the orders of the Commissioner of Income Tax (Appeals) (hereinafter referred to as Ld. First Appellate Authority or 'the ld. FAA' for short) in appeals filed before him against the orders of the ld. Assessing Officer (hereinafter referred to as the Ld. AO, for short). Further details of the orders of the lower authorities are as under:-

ITA/CO No.	CIT(A) who passed the order	Appeal No. & Date of order of the CIT(A)	AO who passed the assessment order & Date of order	Section of the IT Act under which the AO passed the order
5403/Del/2015	CIT(A)-07, New Delhi.	58/14-15 Dated 12.06.2015	Addl.CIT, Range-14, New Delhi, date: 26.03.2014	143(3)
CO 41/Del/2016	- Do-	-Do-	- Do -	- Do -
1963/Del/2018	- Do -	10158/257/CIT (A)-7/Del/2016-17 Dated 24.01.2018	DCIT, Circle 19(2), New Delhi, dated, 15.03.2016	- Do -
2080/Del/2018	- Do	-Do-	-Do-	-Do-
CO No. 47/Del/2022	- Do -	-Do-	- Do -	- Do -

2. Heard and perused the record. The background of the present appeals are that assessee company is engaged in the business of film exhibition and production of cinema advertisement/product display and in-cinema sale of food and beverages. The case of the assessee was selected for scrutiny and the AO had examined certain issues for which additions or disallowances were made which was challenged before the Id.CIT(A) and where the assessee had succeeded.

3. After taking into consideration the submissions we find that grounds raised in respective appeals can be conveniently disposed of in the form of issues. The **first issue** arises out of entertainment tax subsidy (E-tax subsidy schemes) claimed as capital receipt by Assessee. Addition of same is made of Rs. 17,79,52,880/- by the Ld. AO treating it as revenue receipt. Addition stands deleted by the Ld. CIT(A) accepting it as capital receipt.

3.1 This issue of E-tax subsidy schemes relates to subsidy received from three states, which were involved in AY 2006-07 to 2010-11. (i.e. Uttar Pradesh, Maharashtra and Madhya Pradesh.) AO had made similar additions in AY 2006-07, 2007-08, 2008-09, 2009-10 & 2010-11 and Id. CIT(A) deleted addition based on her own orders in AY 2009-10 & 2010-11 and earlier years wherein ITAT order for AY 2006-07 were followed. Thus the issue is covered in favour of assessee and is no more Res Integra after the decisions of Hon'ble High Court at Delhi and Co-ordinate Benches of ITAT in the case of assessee itself. Thus

corresponding grounds in appeals of revenue have no substance. Same are rejected.

4. **Issue no. 2** arises out of deletion by the Id.CIT(A) of addition made by the AO on account expenses on leasehold improvements capitalized in books of assessee but claimed as revenue expense in the Computation of Income.—Rs.7,01,45,958/- as net of depreciation. Details of leasehold Expenses of similar nature as in earlier years is made available at Page 15 of the Paper Book. As in previous years the expenses relate to repairs, renovation, refurbishing and improvements of leasehold Multiplex premises for their efficient use and better ambiance in the course of extension of its existing multiplex business. Such expenses pertain to acoustic and civil work such as flooring, ceiling, water proofing, plastering, painting and floor repairing etc. The nature of expenses being directly for driving home and sustaining the benefits of immovable property justify capitalisation in books under the head Fixed Assets. However, in the depreciation chart as per the Act, such expenses were not added in the block of asset and no depreciation claimed thereon. Admittedly same disallowance was made by the AO on similar grounds as in AY 2010-11. This year Id. CIT(A) has deleted addition based on her own orders in earlier years. The issue stands covered issue in favour of assessee by the decision of Hon'ble High Court at Delhi and consolidated order of Tribunal in the case of assessee itself for A.Y 2008-09 to 2010-11 & 2014-15 dated 23.10.2024. Ld. Counsel has shown that

the said order of the Tribunal has been accepted by department as this issue was not pressed by the department in appeal before the Hon'ble High Court. Thus there is no substance in grounds corresponding this issue in respective appeals and same stand rejected.

5. **Third issue** arises out of deletion by the Id. CIT(A) of addition of Rs.58,76,780/- u/s 14A of the Act by computing disallowance as per Rule 8D only in respect of investments where exempt income was received rather than on all investments irrespective of exempt income received thereon. During the year, assessee received dividend income of Rs.2,62,30,705/- on dividend option MFs only. In ITR, assessee computed disallowance as per Rule 8D(2)(iii) at Rs. 15,96,820 after considering investments in all MFs (Both growth & Dividend) and excluding investments in subsidiaries where no dividend was received. During assessment proceedings assessee filed revised calculation of disallowance as per both Rule 8D(2)(ii) & 8D(2)(iii) at Rs.1,27,894/- considering investments only in dividend option MFs. However, the AO computed disallowance as per both Rule 8D(2)(ii) & 8D(2)(iii) at Rs.60,04,674/- considering entire investments including investments in growth option MFs and investments in subsidiaries where no exempt income was received. The AO allocated interest of Rs. 3,33,92,266/- including interest of Rs. 3,30,60,000/- paid on the opening balance of the debenture loan. Id. CIT(A) accepted revised claim of the assessee at Rs.1,27,894/- and deleted entire additional disallowance

as made by the AO. Department cannot dispute that the disallowance as per Rule 8D is to be computed only in respect of investments where exempt income was received and not on entire investments and the Amendment by Finance Act 2022 is not retrospective applicable as held by Hon'ble Jurisdictional high court in PCIT v. Era Infrastructure (India) Ltd., [2022] 141 taxmann.com 289 (Del.) This issue is covered issue in favour of assessee by the orders of this Tribunal in the case of assessee itself by consolidated order of the ITAT for AY 2008-09 to 2010-11 & 2014-15 dated 23.10.2024 (supra). Even otherwise the subject debenture loan was taken in prior years and there was no increase in the amount of debentures as well as investments made in mutual funds under dividend Scheme in this year. Thus no expenditure can be attributed to corresponding income. Ld. Counsel has also stated that the AO made a similar disallowance under Section 14A in the preceding assessment year i.e. AY 2010-11 and in subsequent years. In computing the disallowance under Rule 8D, the AO did not consider the interest paid on debentures in the calculation under clause (ii), which suggests that the AO admitted that the debenture funds were not utilized for making investments that yielded exempt income. When interest paid on the debentures/borrowed funds allowed as deduction in earlier years, it was not open to the AO to disallow the said expenditure on the same debentures/borrowed funds in current year. Thus corresponding grounds in respective appeals to this issue have no substance and same is rejected.

6. **Issue no. 4** arises from deletion of disallowance made u/s 40(a)(ia) of the Act for Rs.2,02,22,353/- towards expenses on account of various charges paid to banks. The details of same are as follows;

Service fee on credit card sales	:	Rs.1,59,23,210
Bank Guarantee Commission	:	Rs. 16,08,974
Cash management charges	:	Rs. 25,79,094
Commitment charges	:	Rs. 1,11,075

6.1 The assessee submitted during the assessment proceedings that as per the binding CBDT Circular 56/2012 dated 31.12.2012 and judicial precedents no TDS applicable on any of the afore-mentioned bank charges. It was also submitted that assessee is not deemed to be in default under proviso to section 201(1) of the Act as payee bank has deposited tax on subject sum paid/credited to assessee. The AO disallowed the expenses stating that benefit of the Circular dated 31.12.2012 shall not be available to the assessee as the same is applicable w.e.f. 1.1.2013. Ld. Counsel has submitted that disallowance was made by AO without mentioning any specific section under which tax was deductible. Ld. CIT(A) gave benefit of the CBDT Circular holding same is applicable retrospectively. Reliance was rightly placed before us also on the decision of Hon'ble Delhi High Court in **PCIT v. Make My Trip India (P.) Ltd. [2019] 104 taxmann.com 263 (Delhi HC)**. Going through impugned findings we find no reason to interfere the corresponding grounds have no substance. Same stand rejected.

7. **Issue no. 5** arises out of addition in Book Profit for computing MAT on account of following items being rejected;

• Provision for Gratuity	-	Rs. 16,41,749/-
• Provision for Leave Encashment	-	Rs. 51,99,758/-
• Provision for Bonus	-	Rs.62,57,278/-
Disallowance u/s 14A	-	Rs. 60,04,674/-

7.1 The AO treating the provisions for Gratuity, Leave encashment and Bonus as unascertained liabilities under clause (c) of Explanation 1 to section 115JB. Addition on account of disallowance u/s 14A/Rule 8D made under clause (f) of Explanation 1 to section 115JB. Ld. CIT(A) considered the disputed provisions being statutory and ascertained liabilities, deleted the same. This issue is a covered issue in favour of assessee. All such provisions related to statutory liabilities which were ascertained and had been provided as per mandatory accounting standards. Provision for Gratuity is justified being as per actuarial valuation and actually paid to gratuity trust. Provision for Leave Encashment is to be provided under Shop & Establishment Act based on unavailed leave by employees and not a contingent one. Provision for Bonus is made as per payment of Bonus Act and is a statutory liability. Then the settled law is that there cannot be adjustment u/s 115JB of the Act for disallowance under Rule 8D being on notional basis. These being settled state of legal proposition, ld. CIT(A) has not erred in deciding the issues in favour of assessee. Further no such adjustment were made in preceding years.

8. **Issue no. 6** arises out of Cross Objections filed by Assessee claiming that tax subsidy held as capital receipt not liable to tax under normal provisions of the Act also not taxable under the provisions of section 115JB. Since issue no.1 is decided against the revenue this issue is rendered academic.

9. **Issue no. 7** arise out of grounds of CO as plea in alternative and without prejudice claim of the assessee in respect of main grounds of departmental appeal in respect of E tax subsidy and Leasehold improvement expenses. On dismissal of the said main grounds in departmental appeal which are covered in favour of assessee by the decision of the Hon'ble High Court as mentioned therein are dismissed, these Grounds of CO become infructuous.

10. Before parting, we acknowledge the effort of ld. DR in her sincere attempt to distinguish the judicial decisions relied by ld. CIT(A) on facts but more than facts it is the first principles under the Act which were relevant for determination of aforesaid issues and accordingly the submission made by her do not help department so as to interfere into the conclusions drawn by ld. CIT(A). As a consequence to determination of these issues as above the appeals of revenue are dismissed and appeal of assessee and CO being rendered academic are dismissed.

Order pronounced in the open court on 29.10.2025.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 29th October, 2025.

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Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi