

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

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.1680/Del/2020
(ASSESSMENT YEAR 2017-18)**

Green Infra Solar Energy Limited 5 th Floor, Tower-C Building No.8 DLF Cyber City Gurugram-122 002 (Haryana) PAN-AADCG 9265B	Vs.	ACIT Circle-10(2) New Delhi
(Appellant)		(Respondent)

**ITA No.1681/Del/2020
(ASSESSMENT YEAR 2017-18)**

Green Infra Corporate Solar Limited 5 th Floor, Tower-C Building No.8 DLF Cyber City Gurugram-122 002 (Haryana) PAN-AAECG 4060D	Vs.	ACIT Circle-10(2) New Delhi
(Appellant)		(Respondent)

ITA No.1682/Del/2020
(ASSESSMENT YEAR 2017-18)

Green Infra BTV Limited 5 th Floor, Tower-C Building No.8 DLF Cyber City Gurugram-122 002 (Haryana) PAN-AADCT 0420H	Vs.	ACIT Circle-10(2) New Delhi
(Appellant)		(Respondent)

Appellant by	Mr. Biren V. Shah,CA and Ms. Meena Mittal, CA
Respondent by	Mr. Harpal Singh Kharab, Senior Departmental Representative ("Sr. DR" for short)

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) All the three appeals have been filed by the Assesseees against the separate impugned appellate orders, each dated 28/08/2020 passed by the learned Commissioner of Income Tax (Appeals), New Delhi ["Ld. CIT(A)", for short], for Assessment Year 2017-18. Grounds taken in the three appeals are as under:

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"1. On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming addition of Rs.9,17,825/- on account of CSR expenses to book profit when there is no such requirement to adjust the same while

computing book profit as per provisions of section 115JB of the Act. Alleged addition is required to be deleted.

2. In law and in the facts and circumstances in the case of the appellant, the Ld. Assessing Officer has grossly erred in initiating penalty proceedings under section 270A of the Act.

3. The appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of haring of the appeal.”

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“1. In law and in the facts and circumstances of the appellant’s case, the learned CIT(A) erred in confirming addition of Rs.13,42,280/- on account of CSR expenses to book profit when there is no such requirement to adjust the same while computing book profit as per provisions of section 115JB of the Act. Alleged addition is required to be deleted.

2. In law and in the facts and circumstances in the case of the appellant, the Ld. Assessing Officer has grossly erred in initiating penalty proceedings under section 270A of the Act.

3. The appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of haring of the appeal.”

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“1. On the facts and in the circumstances of the case, the learned CIT(A) erred in confirming addition of Rs.11,01,265/- on account of CSR expenses to book profit when there is no such requirement to adjust the same while computing book profit as per provisions of section 115JB of the Act. Alleged addition is required to be deleted.

2. In law and in the facts and circumstances in the case of the appellant, the Ld. Assessing Officer has grossly erred in initiating penalty proceedings under section 270A of the Act.

3. The appellant craves leave to add, alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of haring of the appeal.”

(A.1) For the sake of convenience, all the three appeals were heard together and they are being disposed of through this common and consolidated order.

(A.2) In the course of appellate proceeding in Income Tax Appellate Tribunal ('ITAT', for short), a copy of order dated 10/08/2022 of Co-ordinate Bench of ITAT Delhi in the case of GE Power System India Private Limited vs. ACIT (in ITA No.9120/Del/2019) for Assessment Year 2016-17 was filed from the assessee's side.

(B) The first ground of appeal in all the three appeals before us, is regarding whether the learned CIT(A) erred in confirming addition of CSR expenses to book profit, when there is no such requirement to adjust the same while computing book profit as per provisions of section 115JB of the Act.

(B.1) At the time of hearing before us, Mr. Biren V. Shah, CA, the learned Authorized Representative ('Ld. AR', for short) for assessee submitted before us that this issue is squarely covered in favour of the assessee and against Revenue vide aforesaid order

dated 10/08/2022 of Co-ordinate Bench of ITAT, Delhi in the case of GE Power System India Private Limited Vs. ACIT vide order dated 10/08/2022 for AY 2016-17 in ITA No.9120/Del/2019.

(B.2) The learned Sr. DR agreed with the submissions of the learned AR for the assessee.

(B.2.1) Neither side has brought any facts and circumstances or legal submissions or decided precedents or any other materials for our consideration, to persuade us to take a view different from the view taken in the aforesaid order dated 10/08/2022 in the case of GE Power System India Pvt. Ltd. (supra) by Co-ordinate Bench of ITAT, Delhi. In view of the foregoing, and respectfully following the aforesaid order dated 10/08/2022 of Co-ordinate Bench of ITAT, Delhi in the case of GE Power System India Private Ltd. (supra), we decide the issue in favour of the assessee and against Revenue. Accordingly, Ground No.1 in all the three appeals before us is hereby allowed. The Assessing Officer is directed to exclude the CSR expenses to book profit for the purpose of computing book profit u/s 115JB of Income Tax Act.

(C) The second ground of appeal in all the three appeals is regarding initiation of penalty proceedings by the Assessing Officer. As the Assessing Officer has not passed any order imposing penalty, this ground is premature at this stage. Further, no submissions were made before us at the time of hearing in respect of this ground of appeal. Accordingly, this ground is hereby dismissed.

(D) For statistical purposes, all the three appeals are treated as partly allowed.

Order pronounced in the open Court on 01/12/2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 01/12/2022

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW, DELHI