

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'A': NEW DELHI)  
(THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA Nos:- 365/Del/2013 and 1138/Del/2013,  
(Assessment Years: 2008-09, 2009-10)**

Bharat Heavy Electricals Limited, New Delhi.	Vs.	Dy. CIT, Circle- 2(1), Delhi.
<b>PAN No:</b> AAACB4146P		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA Nos:- 5416/Del/2014 and 5607/Del/2016  
(Assessment Years: 2010-11 and 2012-13)**

Bharat Heavy Electricals Limited, New Delhi.	Vs.	Dy. CIT, Circle- 2(1), Delhi.
<b>PAN No:</b> AAACB4146P		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee By** : Shri V. Rajkumar, Adv.  
**Revenue By** : Shri Prakash Dube, Sr. DR

**Per Anadee Nath Misshra, AM**

**(A)** The aforementioned appeals in the case of the Assessee are taken up together for the sake of convenience and brevity; and are hereby disposed off through this

Consolidated Order. Grounds taken in these appeals of Assessee are as under:

**ITA No. 365/Del/2012**

"1. The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for bad & doubtful debts amounting to Rs. 90,12,00,000 as per Schedule 17, treating the same as hot ascertained liability and ignoring the ratio of the judgement of the Hon'ble Supreme court in the case of *Vijaya Bank Vs. CIT [2010] 323 ITR 0166.*

2(a) The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of depreciation on loose tools amounting to Rs.48,67,394 ignoring the fact that the assessing officer has treated the expenditure on loose tools as capital expenditure in earlier years and added the same to taxable income.

2(b) The learned CIT(A) has erred in law and on facts of the case ignoring the fact that the assessing officer taxed the expenditure on loose tools twice i.e. in the year in which the same were treated as capital expenditure and also disallowing the depreciation on loose tools.

2(c) The learned CIT(A) has erred in law and on facts of the case ignoring the fact that assessing officer took two' different stands by treating the loose tools as capital expenditure and not allowing depreciation on this.

3(a) The learned CIT(A) has erred in law and on facts of the case in confirming the addition Rs. 3,17,00,000 on account of change in accounting policy which was consistently followed.

3(b) That the learned CIT(A) has erred in law and facts of the case in ignoring the fact that similar addition was deleted by CIT(A) in respect of AY 2005-06 to 2007-08 was deleted by CIT(A) vide order Nos.94/07-08 dated 30.12.2009, 93/08-09 dated 30.12.2009 & 106/09-10 dated 31.03.2011 respectively.

3(c) The learned CIT(A) has erred in law and facts of the case in ignoring the fact that the company has also stated in the Notes to accounts the impact of change in accounting policy which resulted in increase of profit.

3(d) The learned CIT(A) has erred in law and facts of the case in taking two different stands for similar issue and for the same assessment year. The CIT(A) upheld addition of impact due to change in accounting policy which resulted in reduction of profit. The CIT(A) has erred in concluding that the change in accounting policy does not show true and correct profit merely because there is reduction in profits. The CIT(A) ignored the change in accounting policy which resulted in increase in profit.

4(a) *The learned CIT(A) has erred in law and facts of the case upholding the disallowance of Rs.5,28,000 on account of management expenses attributable to earn dividend income.*

4(b) *The learned CIT(A) has erred in law and facts of the case in ignoring the fact that the company has not incurred any expenditure for earning dividend income.*

4(c) *The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance while considering the average value of total investments as appearing mite balance sheet.*

4(d) *Without prejudice to above the learned CIT(A) should have considered only those investments -pertaining to income which are exempt or do not form part of the total income.*

5(a) *The learned CIT(A) has erred in law and facts of the case in upholding the disallowance of Rs.36,44,000 on account of ROC Fees paid to increase the Authorized Share Capital of the company and treating the same as capital expenditure.*

5(b) *The learned CIT(A) has erred in law and facts of the case in ignoring the fact that the expenses incurred for increasing the authorized capital of the company was to meet the need for working funds of the company which will be conducive to the better conduct, efficiency and profitability of the business.*

5(c) *The learned CIT(A) has erred in law and facts of the case in ignoring the fact that it is used wholly and exclusively for the purpose of the business and is allowable u/s 37( 1) of the Income Tax Act.*

6. *The learned CIT(A) has erred in law and on facts of the case in holding that initiation of penalty proceedings U/s 271(l)(c) of Income Tax Act is pre-mature & requires no adjudication.*

7. *The appellant craves the leave of your Honour in amending, altering, addition or deleting any one or more grounds of appeal on or before the appeal is heard.*

### **ITA No. 1138/Del/2013**

1.*The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for bad & doubtful debts amounting to Rs. 214,02,00,000 as per Schedule 17, treating the same as hot ascertained liability and ignoring the ratio of the judgement of the Hon'ble Supreme court in the case of Vijaya Bank Vs. CIT [2010] 323 ITR 0166.*

2(a) *The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of depreciation on loose tools amounting to Rs.41,37,285 ignoring the fact that the assessing officer has treated the expenditure on loose tools as capital expenditure in earlier years and added the same to taxable income.*

2(b) *The learned CIT(A) has erred in law and on facts of the case ignoring the fact that the assessing officer taxed the expenditure on loose tools twice i.e. in the year in which the same were treated as capital expenditure and also disallowing the depreciation on loose tools.*

2(c) *The learned CIT(A) has erred in law and on facts of the case ignoring the fact that assessing officer took two' different stands by treating the loose tools as capital expenditure and not allowing depreciation on this.*

3(a) *That the learned CIT(A) has erred in law and on facts of the case in not excluding /allowing the amount of Rs. 17,91,36,000 as shown in Schedule -12A of the annual accounts on account of Lease equalization charges being credited without examining the details given by the company. .*

3(b) *The learned CIT(A) has erred in law and facts of the case in ignoring the fact that in earlier years the lease Equalization amount debited in accounts was disallowed by the assessing officer.*

3(c) *The learned CIT(A) has erred in law and facts of the case in ignoring the fact that the assessing officer took a different view of the same item in different years.*

4(a) *The learned CIT(A) has erred in law and facts of the case in upholding the disallowance of Rs. 17,85,000 on account of management expenses attributable to earn dividend income.*

4(b) *The learned CIT(A) has erred in law and on facts of the case in ignoring the fact that the company has not incurred any expenditure for earning dividend income.*

4(c) *The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance while considering the average value of total investments as appearing in the balance sheet.*

4(d) *Without prejudice to above the learned CIT(A) should have considered only those investments pertaining to income which are exempt or do not form part of the total income.*

5. *The learned CIT(A) has erred in law and on facts of the case in holding that initiation of penalty proceedings U/s 271(I)(c) of Income Tax Act is pre-mature & requires no adjudication.*

6. *The appellant craves the leave of your Honour in amending, altering, addition or deleting any one or more grounds of appeal on or before the appeal is heard.*

### **ITA No.-5416/Del/2014**

“1. The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for bad & doubtful debts amounting to Rs. 497,97,00,000 as per Schedule 17, treating the same as not ascertained liability and ignoring the ratio of the Judgment of the Hon'ble Supreme court in the case of Vijaya Bank Vs. CIT [2010] 323 ITR 0166.

2(a) That the learned CIT(A) has erred in law and on facts of the case in not excluding / allowing the amount of Rs.27,00,00,000 as shown in Schedule-12A of the annual accounts on account of Lease equalization charges being credited without examining the details given by the company.

2(b) That the learned CIT(A) has erred in law and on facts of the case in ignoring the fact that in earlier, years the lease Equalization amount debited in accounts was disallowed by the assessing officer.

2(c) That the learned CIT(A) has erred in law and on facts of the case in ignoring the fact that the assessing officer took a different view of the same item in different years.

3(a) The learned CIT(A) has erred in law and facts of the case in upholding the disallowance of Rs. 1,38,000 on account of management expenses attributable to earn dividend income.

3(b) The learned CIT(A) has erred in law and facts of the case in ignoring the fact that the company has not incurred any expenditure for earning dividend income.

4. The Appellant craves the leave of your Honour in amending, altering, adding or deleting any one or more grounds of appeal on or before the appeal is heard.”

### **ITA No. -5607/Del/2016**

1(a) The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for bad & doubtful debts amounting to Rs. 399,54,00,000/-, treating the same as not ascertained liability and ignoring the ratio of the Judgment of the Hon'ble Supreme court in the case of Vijaya Bank Vs. CIT [2010] 323 ITR 0166.

1(b) The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions Doubtful loans & Advances and Deposits amounting to Rs. 18,21,00,000/-, treating the same as not ascertained liability and ignoring the ratio of the Judgment of the Hon'ble Supreme court in the case of Vijaya Bank Vs. CIT [2010] 323 ITR 0166.

1(c) *The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for shortfall in PF liability amounting to Rs. 16,50,00,000/-, treating the same as not ascertained liability.*

1(d) *The learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the claim of provisions for others amounting to Rs.28,53,00,000/-, treating the same as not ascertained liability.*

1(e) *That without prejudice to the above, the learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of the provisions amounting to Rs.462,78,00,000/-, treating the same as not ascertained liability.*

2(a) *That the learned CIT(A) has erred in law and on facts of the case in not excluding / allowing the amount of Rs.3,82,00,000/- as shown in Note 21 of the annual accounts on account' of Lease equalization charges being credited without examining the details given by the company.*

2(b) *That the learned CIT(A) has erred in law and on facts of the case in ignoring the fact that in earlier years the lease Equalization amount debited in accounts was disallowed by the assessing officer.*

2(c) *That the learned CIT(A) has erred in law and on facts of the case in ignoring the fact that the assessing officer took a different view of the same item in different years.*

3 (a)*That the learned CIT(A) has erred in law and facts of the case in upholding the disallowance of Rs. 15,95,000/- on account of management expenses attributable to earn dividend income.*

3 (b) *That the learned CIT(A) has erred in law and facts of the case in ignoring the fact that the company has not incurred any expenditure for earning dividend income.*

4(a) *That the learned CIT(A) has erred in law and on facts of the case in upholding the disallowance of CSR & SD expenditure amounting to Rs.31,59,00,000/- debited in the books of accounts in compliance with GOI guidelines and ignoring the fact that the entire amount was claimed in the notes to revised I.T. Return.*

4(b) *That the learned CIT(A) has erred in law and on facts of the case in ignoring the fact that CSR is a non-lapsable fund.*

5. *That the learned CIT(A) has erred in law and on facts of the case in not allowing full amount of deduction in respect of donations.*

6. *The learned CIT(A) has erred in law and on facts of the case in holding that initiation of penalty proceedings U/s 271(l)(c) of Income Tax Act is pre-mature & requires no adjudication.*

*7. The Appellant craves the leave of your Honour in amending, altering, adding or deleting any one or more grounds of appeal on or before the appeal is heard."*

**(B)** At the time of hearing, at the outset, the learned Counsel for the Assessee informed us that the assessee has opted to settle the aforementioned appeals under Vivad Se Vishwas Scheme, 2020 ("VSVS", for short) and that the assessee has already filed the relevant forms. The Ld. Counsel for assessee also drew our attention to letter dated 29<sup>th</sup> December, 2020 filed in Income Tax Appellate Tribunal ("ITAT", for short) giving intimation for the same. Alongwith the aforesaid letter dated 29.12.2020; copies of Form-3 of VSVS have also been filed; indicating acceptance of assessee's declarations under VSVS by Revenue; and implying that the disputes in these appeals have been settled.

**(B.1)** At the time of hearing before us, the Ld. Counsel for assessee as well as the learned Senior Departmental Representative ("Ld. Sr. DR)", for short) submitted before us that these appeals may be treated as withdrawn by the assessee; and dismissed on account of the aforesaid VSVS. After due consideration, and in view of the foregoing; and as both sides have agreed to this; all the four appeals are being treated as withdrawn, and are dismissed.

**(C)** In the result, all of these four appeals filed by the assessee are dismissed.

**These orders were already pronounced on 30<sup>th</sup> December, 2020 in Open Court, in the presence of Representatives of both sides; after conclusion of the hearings.**

Sd/-  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 30/12/20  
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI



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