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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 277/2026 CM APPL. 20832/2026 CM APPL. 20834/2026 CM APPL. 20835/2026

PRINCIPAL COMMISSIONER OF INCOME TAX-7 .....Appellant

Through: Mr. Siddhartha Sinha, SSC, Ms. Easha Gurung, JSC and Mr. Nring Chamwibo Zeliang and Ms. Anu Priya Nisha Minz, Advs.

versus

TATA POWER DELHI DISTRIBUTION LIMITED .....Respondent

Through: Ms. Shashi M Kapila, Mr. Pravesh Sharma and Mr. Sushil Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 02.04.2026

CM APPL. 20833/2026 *(delay of 67 days in filing the appeal)*

1. Issue notice under Section 5 of the Limitation Act, 1963. Ms. Shashi M. Kapila, learned counsel for the respondent accepts notice.

2. Having heard learned counsel for the parties, the delay of 67 days in filing the appeal is condoned.

3. The application stands allowed accordingly.

CM APPL. 20836/2026 (*delay of 120 days in refiling the appeal*)

4. For the reasons stated in the application, the delay of 120 days in refiling the appeal is condoned.

5. The Application is allowed.

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6. The following Substantial questions of law have been proposed by the Income Tax Department in the instant appeal :

A) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in sustaining the deletion made by the Ld. CIT(A) of the disallowance on account of derecognition of income pertaining to consumer's portion of over achievement of minimum target or efficiency gain of Rs.59,18,86,000/-?

B) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in sustaining the deletion made by the Ld. CIT(A) of the addition under Section 43B of the Act on account of unpayablc portion of Energy Tax of Rs.13,45,26,097/-?

C) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in deleting the addition made on account of statutory obligation to pay interest on additional consumer security deposit to consumers of Rs.2,69,00,000/-?

D) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not considering the AO's and CIT(A)'s findings relating to the disallowance of excess depreciation claimed on UPS of Rs.49,43,803/-?

E) Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not considering the AO's and CIT(A)'s findings relating to disallowance of claim of deduction under Section 80IA of the Act of Rs.37,72,33,487?

7. Ms. Shashi M. Kapila, learned counsel for the respondent submitted that all the issues involved in the present appeal is covered by various judgments of this Court or other High Court.

8. Mr. Siddhartha Sinha, learned Senior Standing Counsel could not refute such position. We, however, propose to deal with each issue one after another.

9. The question No. A is concerned, the same has been decided against the Department by the Judgment dated 11.03.2020 passed by this Court in ITA 186/2020 **DCIT, Circle-25(1), New Delhi V. Tata Power Delhi Distribution Ltd,** NC: 2020:DHC:1650-DB. Hence, we decide ground no. A against the appellant.

10. So far as the question No. B is concerned, the learned Commissioner of Income Tax(Appeals) [CIT(A)] has dealt with the relevant agreements and bylaws of the Municipal Corporation of Delhi (MCD) and came to the conclusion that as per the existent law, the energy tax is required to be paid as and when the same is collected from the customers. Such finding of fact has been affirmed by the Income Tax Appellate Tribunal *(hereinafter referred to as 'the Tribunal'*). Similar view has also been taken by Punjab and Haryana High Court vide its judgment dated 03.08.2022 in the case **PCIT v. Dakashin Haryana Bijli Vitran Nigam Ltd.** reported in [2022] 449 ITR 605 which view has been upheld by Hon'ble the Supreme Court vide its order dated 21.04.2023 reported in [2023] 454 ITR 801. This issue is thus decided against the Department.

11. Question No. C relates to interest on security deposited which the Assessing Officer(AO) had disallowed by observing thus :

5.3 The contention of the assessee has been examined and is *not found tenable. On the other hand, the assessee has been disputing the principal amount i.e. the consumer security deposit, in the High Court of New Delhi, while on the other hand the assessee has been charging the interest on the unrecognized liability in the financial statements. Therefore, the expense of interest over and above the recognized consumer security deposit is contingent in nature and hence cannot be allowed. Accordingly, out of the interest expenses of Rs.1196.04 lacs, only that interest portion of expenses is allowed to that extent to which the liability has been recognized. The balance interest expenses .in respect of unrecognized consumer security deposit are disallowed.*

12. Though the CIT(A) had affirmed the addition, but when the matter came up before the Tribunal, it deleted the same by following its decision taken in previous years.

13. Mr. Siddhartha Sinha, learned counsel through accepted that previous orders for AYs 2011-12 and 2012-13 remain unassailed, as the tax effect involved in those appeals was less than the permissible limits for which an appeal could be filed, but nevertheless contended that this question requires consideration.

14. Having heard learned counsel for the appellant we are of the view that the Tribunal has taken a correct view.

15. The AO had disallowed the interest which the respondent-assesee was statutorily obliged to pay to the consumers on the security amount deposited. The amount of interest paid on security deposit cannot be said to be contingent, as every consumer is entitled to receive interest on the security money which it had deposited with the respondent.

16. The payment of interest being a statutory and contractual liability which has to be paid and accordingly the consumer cannot be disallowed on

the pretext that it is a contingent liability. We therefore, affirm the order of the Tribunal in this regard.

17. So far as the question D is concerned, it relates to depreciation of UPS (Uninterrupted Power Supply) which the AO gave/allowed at a lesser rate. The Tribunal has allowed such ground of appeal and held that the depreciation rate, which at the relevant time was 60%, would be applicable.

18. It cannot be disputed that a UPS is an integral part of the computer and not even an accessory. If unabated power supply to the computer is not ensured, the same would definitely impact the computer and operations of the respondent company.

19. According to us, the AO had clearly erred in disallowing the depreciation at the rates applicable to the computers. This issue is therefore decided against the Department.

20. So far as the fifth question of law is concerned, the same has also been decided against the Department by this Court vide the very same judgment dated 11.03.2020 in **Tata Power Delhi Distribution Ltd** (Supra).

21. All the questions are decided accordingly against the Department.

22. Consequently, the appeal is dismissed along with pending applications.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 2, 2026/*ss*