Sumpaid as Shelter fund to protect land from acquisition was to be treated as revenue expenditure: HC

Summary – The High Court of Delhi in a recent case of DLF Universal Ltd., (the Assessee) held that where assessee, engaged in construction of residential and commercial complex, had to pay to Land and Building Department of Government certain sum as a part of contribution to shelter fund, failing which, land was to be acquired under Urban Land Ceiling and Regulation Act, 1976, payment so made was to be allowed as deduction under section 37(1)

Facts

- The assessee was engaged in construction of residential and commercial complexes. The assessee had to pay to the Land and Building Department of the Government of Delhi certain sum as a part of the contribution to the shelter fund, failing which, the land was to be acquired under the Urban Land Ceiling and Regulation Act, 1976 ('ULCRA'). The assessee held said land as stock-in-trade.
- The Assessing Officer was of the view that no activity was done on the land during the year in question and, therefore, the expenditure incurred in protecting the land from the acquisition under the ULCRA should be treated as capital expenditure.
- The Tribunal opined that the expenditure incurred was not to acquire additional area of land or to improve the title on the land already acquired. The cost was incurred to defend the title over the land already acquired. In that view of the matter, the assessee's claim for deduction was allowed.
- On revenue's appeal:

Held

- In the present case, the fact that the assessee is holding land in question as stock-in-trade is not in dispute. The expenditure incurred by it for protecting the land from acquisition in the circumstances should be held to be revenue expenditure. In the circumstances, there is no error committed by the Tribunal in coming to the conclusion that the expenditure incurred by the assessee on account of contribution to the shelter fund should be allowed as business expenditure.