

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI**  
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष  
**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.2452/Chny/2017  
(निर्धारण वर्ष / Assessment Year: 2014-15)

M/s. PHA India Pvt. Ltd., No.C-16 & C-25, SIPCOT Industrial Park, Irungattukottai, Sriperumbudur, TamilNadu – 602 117.	Vs	The DCIT, Corporate Circle – 5(2), Chennai - 34.
PAN:AAACP6585A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri Sampath Raghunath, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Smt. S. Vijayaprabha, JCIT

सुनवाई की तारीख/Date of hearing	:	11.07.2018
घोषणा की तारीख/Date of Pronouncement	:	19.07.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

The appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-3, Chennai, dated 30.06.2017 in ITA No.203/16-17/A-3 for the assessment year 2014-15 passed U/s.250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in its appeal however the ground argued before us is briefly stated hereunder for adjudication:-

*“The Ld.CIT(A) has erred by not granting normal depreciation U/s.32 of the Act when he has denied weighted deduction U/s.35(2AB) and 35(1) / 35(2) of the Act.”*

3. The brief facts of the case are that the assessee is a private limited company engaged in the business of manufacturing automobile components, filed its return of income for the assessment year 2014-15 on 30.11.2014, admitting loss of Rs.16,40,64,808/-. The case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 28.08.2015. Finally assessment order was passed U/s.143(3) of the Act on 23.12.2016 wherein the Ld. AO made additions of Rs.1,49,18,117/- & 2,31,59,914/- towards disallowances U/s.145A & 35(2AB) of the Act respectively.

4. The assessee had claimed weighted deduction at 200% of the expenditure incurred towards scientific research amounting to Rs.2,31,59,914/- as per Section 35(2AB) of the Act. Since the assessee had not filed Form 3CM & Form 3CL and thereby failed to

comply with the provisions of the Act, the Ld.AO disallowed weighted deduction claimed by the assessee amounting to Rs.2,31,59,914/-. On appeal, the Ld.AR conceded with the finding of the Ld.AO, however took an alternate plea for granting 100% deduction with respect to the expenditure incurred towards scientific research U/s.35(1) & 35(2) of the Act. The Ld.CIT(A) after analyzing the issue remitted back the matter to the file of the Ld.AO with directions to verify whether the assessee fulfills the conditions prescribed U/s.35(1) & 35(2) of the Act and thereafter decide the matter following the ratio laid down by the Hon'ble Punjab & Haryana High Court in the case CIT vs. FCS International Marketing Pvt. Ltd., [2005](8) TMI 60. Now before us the Ld.AR has come out with a fresh claim that direction may be given to the Ld.AO that if the matter is held against the assessee then normal depreciation may be granted as per the provisions of Section 32 of the Act. The Ld.DR could not controvert to the submission of the Ld.AR.

5. After hearing both sides, we find merit in the prayer of the Ld.AR that if the Ld.Revenue Authorities hold the assessee to be ineligible for the claim of weighted deduction U/s.35(2AB) of the Act and 100% deduction U/s.35(1) & 35(2) of the Act, then the issue with

respect to deduction of normal depreciation has to be considered. Therefore We hereby direct the Ld.AO to verify whether the assessee has incurred capital/revenue expenditure towards research & development activity related to its business and if found so grant normal depreciation U/s.32 of the Act or allow deduction towards revenue expenditure as the case may in the event if the assessee is found to be ineligible for the claim of weighted deduction U/s.35(2AB) of the Act or U/s.35(1) & 35(2) of the Act.

6. In the result appeal of the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced on the 19<sup>th</sup> July, 2018 at Chennai.

Sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

Sd/-  
(ए. मोहन अलंकामणी)  
(A. Mohan Alankamony)  
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated July, 2018

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |