

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./I. T. A.No.3304/CHNY/2016

(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. India Pistons Limited,
C/o. M/s. Subbaraya Aiyar,
Padmanabhan & Ramamani
Advocates,
New No.75 (Old No.105),
Departmental Representative.
Radhakrishnan Salai, Mylapore,
Chennai – 600 004.

PAN: AACCI 1439E

(अपीलार्थी/Appellant)

Vs **The Deputy Commissioner of
Income Tax,**
Corporate Circle 2(2),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri Saroj Kumar Parida, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri Vasuvoor Sridhar, JCIT

सुनवाई की तारीख/Date of hearing : 01.08.2019

घोषणा की तारीख /Date of Pronouncement : 29.10.2019

आदेश/ O R D E R

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-6, Chennai in ITA No.177/CIT(A)-6/2015-16 dated 29.09.2016 for the assessment year 2012-13.

2. M/s. India Pistons Limited, the assessee, is engaged in the business of manufacturing of piston and piston assemblies. While making the assessment for the assessment year 2012-13, the AO found that against the total R&D expenditure of Rs.3,48,82,068/-, the assessee was eligible for deduction of Rs.1,74,76,000/- only as per Form No.3CL. Therefore, he disallowed the excess claim of Rs.1,74,06,068/-. Aggrieved against that order, the assessee filed appeal before the CIT(A) and the Id.CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal.

3. The Id.AR submitted that the Id.CIT(A) failed to appreciate that the assessee claimed Rs.1,74,41,034/- as R&D expenditure which is qualified for weighted deduction U/s.35(2AB) which included Rs.1,00,63,946/- as revenue expenditure and Rs.13,61,755/- as tangible assets and Rs.60,15,333/- as intangible assets. The Id.CIT(A) failed to appreciate that the DSIR vide its approval dated 08.07.2014, while approving expenses, new product expenses have been disallowed by them stating that it was not classified properly in the books of account without appreciating that the claim was in line with earlier years and there was no change in the presentation. When this analogy was brought to the knowledge

of DSIR, the DSIR refused to rectify its order and advised the assessee to take up the claim of weighted deduction for intangible assets with the AO. Therefore, the Id.CIT(A) ought to have granted deduction U/s.35(2AB) as claimed by the assessee and hence pleaded to allow the assessee's appeal.

4. Per contra, the Id.DR submitted that the claim of deduction U/s.35(2AB) is governed by the expenditure approved in this regard by the Statutory Authority, i.e., the prescribed authority, being the Department of Scientific and Industrial Research, Government of India. Therefore, the AO can allow the deduction U/s.35(2AB) only when the expenditure is approved in this regard by the DSIR. Since, the assessee has not furnished any evidence of approval either before the Id.AO or before the Id.CIT(A), the orders of the lower authorities are in order and hence the Id.DR pleaded to dismiss the assessee's appeal.

5. We heard the rival submissions and gone through the relevant material. Section 35(2AB) provides that when the specified assessee incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house

research and development facility as approved by the prescribed authority, i.e., the Secretary, Department of Scientific Research & Development Facility, Government of India, then there shall be allowed a deduction of sum equal to 1 and 1½ times of the expenditure so incurred. Therefore, unless otherwise the prescribed authority approved the expenditure, the AO cannot grant any deduction U/s.35(2AB) as claimed by the assessee. In this case, since, the assessee had not produced the approval of the prescribed authority either before the Id.AO nor before the Id.CIT(A) or before us, we do not find any infirmity in the order of the Id.CIT(A) and hence the assessee's appeal is dismissed.

6. In the result, the assessee's appeal is dismissed.

Order pronounced in the court on 29th October, 2019 at Chennai.

Sd/-

(धुव्वुरु आर एल रेड्डी)

(Duvvuru R.L Reddy)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 29th October, 2019

RSR

Sd/-

(एस जयरामन)

(S. Jayaraman)

लेखा सदस्य /Accountant Member

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 |