

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI A.D. JAIN, VICE PRESIDENT AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.5085/M/2017
Assessment Year: 2012-13**

M/s. Chembond Chemicals Ltd., B-23, Todi Industrial Estate, 2 nd Floor, New Sun Mill Compound, Lower Parel, Mumbai – 400 013 PAN: AAACC5467A	Vs.	Assistant Commissioner of Income Tax 6(2)(1), Room No.504, 5 th Floor, Aayakar Bhavan, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dhiren P. Talaty, A.R.
Revenue by : Shri A.M. Mittal, D.R.

Date of Hearing : 25.09.2019
Date of Pronouncement : 17.12.2019

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 17.04.2015 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2012-13.

2. The assessee has raised three grounds. All the three grounds are against the order of Ld. CIT(A) confirming the AO's action in disallowing the weighted deduction of Rs.45,55,004/- under section 35(2AB) of the Act.

3. The facts in brief are that the assessee is engaged in the business of manufacture of metal treatment and other specialty chemicals and during the year claimed deduction of Rs.91,10,008/- under section 35(2AB)(1) of the Act on account of expenses incurred on R&D activities in areas of Biotechnology, metal construction chemicals, purification & coatings etc. During the course of assessment proceedings, the assessee was called upon vide order sheet entry dated 03.03.2015 to submit the statutory approval granted by the competent authorities in order to justify the claim under section 35(2AB) of the Act. However, the assessee could not produce the requisite details such as form 3CK, 3CL and 3CM and in absence of the requisite approval to carry out research and development activity, the claim of the assessee was rejected by the AO to the extent of weighted amount by allowing the actual expenditure and consequently Rs.45,55,004/- was added to the income of the assessee in the assessment order framed under section 143(3) of the Act dated 20.03.2015. The action of the AO was also upheld by the Ld. CIT(A) and hence this appeal.

4. The Ld. A.R. drew the attention of the Bench to the letter dated 22.09.2019 wherein the assessee has filed additional evidences with respect to the claim under section 35(2AB) of the Act. The said additional evidences comprised of inter alia certificate of registration issued by DSIR dated 09.03.2011, DSIR recognition (renewal) of in house R&D and certificate of registration, form 3CK, audit certificate and assessee's e-mail. It was submitted before the Bench that these additional evidences were not available at the time of assessment and accordingly

could not be submitted. The assessee had in its possession some evidences in part which could not be submitted due to paucity of time. The Ld. A.R. submitted that these evidences go to the root of the matter and have substantial bearing in deciding the issue involved and therefore prayed before the Bench that same may kindly be admitted and the appeal of the assessee may kindly be adjudicated in the light of these evidences.

5. The Ld. D.R., on the other hand, strongly opposed the admission of additional evidences filed by the assessee by submitting that the assessee had not filed these additional evidences at the time of hearing despite the assessee being allowed adequate opportunity and therefore the same should not be entertained.

6. After hearing both the parties and perusing the material on record, we observe that the basic documents issued by DSIR such as certificate of registration, DSIR recognition (renewal) of in house R&D and certificate of registration, form 3CK, form 3CM, 3CL by DSIR etc. which have a strong bearing on the issue at hand could not be filed before the authorities below at the time of assessment proceedings or in the appellate proceedings. We, therefore in the interest of justice and fairplay, are inclined to admit the same. The issue is set aside to the file of the AO to decide the same denovo as per the facts and law and after considering the additional evidences and affording a reasonable opportunity.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 17.12.2019.

**Sd/-
(A.D. Jain)
VICE PRESIDENT**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 17.12.2019.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.