

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 4252/Del/2019 : Asstt. Year : 2013-14**

ACIT, Circle-8(1), New Delhi	Vs	Ecocat India Pvt. Ltd., 12-A, Shivaji Marg, New Delhi-110015
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACV2674G</b>		

**Assessee by : Sh. K. Sampath, Adv.**

**Revenue by : Sh. Lalit Kishore, Sr. DR**

**Date of Hearing: 26.05.2022**

**Date of Pronouncement: 29.06.2022**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue against the order of the Id. CIT(A)-34, New Delhi dated 12.02.2019.

2. The company is engaged in developing suitable and contemporary technologies to meet the various emissions norms as per International Standards from its own R&D set-up located at Plot No. 4, 20th Milestone, Mathura Road, Faridabad.

3. During the year under consideration in its computation of income, the assessee has added R&D expenses amounting to Rs. 3,85,19,630/- and deducted R&D allowable expenses amounting to Rs. 13,37,72,569/-.

4. The assessee has submitted before the AO that as per the provisions of section 35(2AB) of the Act weighted deduction of 150% to be allowed for expenditure (both capital and revenue) incurred on in-house research and developments by companies where such facilities are approved by the Department of Scientific & Industrial Research, Ministry of Science & Technology, Government of India. In support of its contention, the assessee has enclosed the copy of recognition granted by DSIR and application in support of approval for expenses Form 3CM. Since the approval for the expenses is not received from DSIR in Form 3CL till the finalization of the assessment, therefore assessee has made claim u/s 35(1) at Rs. 6,82,77,226/- and made request for net disallowance of Rs. 6,54,95,343/- being the difference of deduction u/s 35(2AB) originally claimed and the fresh claim u/s 35(1).

5. Since, the assessee has made fresh claim vide letter dated 22.01.2016, no revised return was filed and approval from DSIR was not received, therefore, the AO has disallowed the claim of deduction u/s 35(2AB) of Rs. 13,37,72,569/- and added it back to the taxable income of the assessee.

6. Later qua form 3CL, the DSIR approved the claim for weighted deduction of capital expenditure while that for revenue expenditure was declined. The company, however, insisted that the revenue expenses as incurred should be allowed to it as deduction u/s 35(1) / 37(1) of the Act. On appeal, the Id. CIT(A) held that the assessee is not entitled to claim weighted deduction at Rs.3,85,19,630/- as it is not approved from DSIR in approval granted in Form 3CL and

confirmed an amount of Rs.3,85,19,630/- and balance addition of Rs.9,52,52,939/- was deleted.

7. There is no quarrel on the proposition that the DSIR has approved the weighted deduction for capital expenses. Those expenses were in a sum of Rs. 2,97,57,596/- which is acknowledged in the assessment order by the AO. What has not been permitted u/s 35(2AB) of the Act by the DSIR is the weighted deduction for the claim for revenue expenditure. The Respondent's case has been that if weighted deduction is not permitted for revenue expenses then at least normal deduction should be permitted for the R&D expenses which indeed had been incurred by the assessee wholly, necessarily and exclusively for the purpose of business. The Ld. CIT(A) has accepted the pleading of the assessee.

8. In view of the approval for capital expenses as granted by the DSIR, the claim as allowed by the Ld. CIT(A) and hence the same cannot be faulted. The claim for revenue expenses is required to be allowed even otherwise in terms of the regular provisions of the Income Tax Act.

9. In the result, the appeal of the Revenue is dismissed.  
Order Pronounced in the Open Court on 29/06/2022.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

**Dated: 29/06/2022**

\*Subodh Kumar, Sr. PS\*

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**