

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA No.472/Hyd/2023		
Assessment Year: 2018-19		
Bharat Dynamics Limited, Hyderabad. PAN : AAACB7880N. (Appellant)	Vs.	The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad. (Respondent)
Assessee by:	Shri Rajiv Dave, CA.	
Revenue by:	Ms. Helen Ruby Jesindha, Sr.AR.	

CORRIGENDUM

The above captioned appeal was disposed of by the Tribunal vide order dated 28.12.2023 and in the said order we find the following typographical errors :

Firstly, in Paragraph 2 of the order (Page No.2), the grounds of appeal raised by the appellant company were typed erroneously. Hence, the following grounds may be replaced :

“1. On the facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals), NFAC, has erred in dismissing the appeal preferred by the assessee company against the order passed under section 143(3) of the Income Tax Act by Hon’ble Assessing Officer.

2. The learned Commissioner is not justified in causing the disallowance of Rs.2,69,97,305/- as the same is expenditure incurred for business purpose allowable under sec 37(1) even though it was not considered as R & D expenses eligible under sec 35(2AB) by the DSIR since the expenditure incurred was fully verified by the Hon'ble Assessing Officer and there was no finding made in the order that such expenditure is not genuinely incurred for business purpose by the company or is not supported by necessary evidences."

Secondly, in Paragraph 7 (page 5 of the order) the relevant extract of the judgment in the case of M/s. BEML Limited Vs. DCIT of Bangalore (ITA No.222/Bang/2023 dt.19.07.2023) was typed erroneously from Para 8 instead of correct para 6 of the said Bangalore Tribunal order. Hence, the following extract may be replaced.

"6. We have heard the rival submissions and perused the materials available on record. Admittedly, there was no dispute that the assessee has incurred capital expenditure of Rs.7.98 crores on scientific research which is entitled for weighted deduction u/s 35(2AB) of the Act and the balance amount of Rs.46.56 crores, which was revenue expenditure spent on scientific research. Out of this, assessee claimed only a sum of Rs.38.62 crores u/s 35(2AB) of the Act and the balance amount of Rs.7.94 crores cannot be claimed u/s 35(2AB) of the Act on the reason that it was not certified by DSIR. However, this expenditure of Rs.7.94 crores has been incurred by the assessee for the purpose of business and this fact is not disputed by the AO and in our opinion, assessee is entitled for deduction on this amount u/s 37 of the Act. This view of ours is fortified by the judgement of order of the Tribunal in the case of Auto Ignition Ltd. in ITA No.3248/Del/2017 dated 11.8.2021 wherein held as under:

"9. Coming to the appeal of the assessee, we found that out of total expenditure incurred by the assessee of Rs.477.39 lakhs, form 3CL computed the deduction allowable to the assessee only on sum of Rs.468.98 lakhs. Therefore, admittedly the assessee is not eligible for weighted deduction on the sum of Rs. 8.41 lakhs. However, the assessee has been denied deduction on this sum u/s 37(1) of the Act itself also. We find that such R&D expenditure though not eligible for weighted deduction u/s 35(2AB) but is allowable as deduction u/s 37(1) of the Act to the extent of amount of expenditure incurred by the assessee. The assessee should have been allowed deduction of above sum as normal allowable expenditure u/s 37 (1) of the act. The Id CIT(A) did not deal with this aspect. In view of this, we direct the Id AO to allow the assessee deduction u/s

37(1) of the Act at a sum of Rs.8.41 lakhs. Accordingly, appeal of the assessee is allowed.”

Thirdly, in Para 8 of the order (page No.6) instead of the word Assessing Officer, the Id.CIT(A) was mentioned. Hence, the Id.CIT(A) may be replaced with the word Assessing Officer.

Sd/-
(RAMA KANTA PANDA)
Vice President

Sd/-
(LALIET KUMAR)
Judicial Member

Hyderabad, Dt. 20.02.2024.
*TYNM, SPS

Copy to:

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1	Bharat Dynamics Limited, Hyderabad. Corporate Office, Plot No.38-39, TSFC Building Near ICICI Towers, Gachibowli, Financial District, Hyderabad – 500032.
2	The Deputy Commissioner of Income Tax, Circle – 1(1), Hyderabad.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order