



IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH, MUMBAI

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI RAJ KUMAR CHAUHAN, JM

ITA No. 1134/MUM/2024

A.Y.2018-19

Nirmal Industrial Controls  
Private Limited, 4 Nahur  
Industrial Estate, Mulund  
West S.O., Mumbai

Vs.

The ACIT  
Circle 15(1)(2)  
Aaykar Bhavan  
M k Road  
Mumbai

(Appellant)  
PAN

(Respondent)  
AABCN1777B

Assessee by

None

Revenue by

Shri Ashok Kumar Ambastha,  
Senior

Departmental Representative

Date of hearing

5 August 2024

Date of pronouncement

9<sup>th</sup> August 2024

O R D E R

PER PRASHANT MAHARISHI, AM:

01. This appeal is filed by Nirmal Industrial Controls Private Limited (the assessee-appellant) for A.Y. 2018-19 against appellate order passed by the National faceless appeal Centre (NFAC), Delhi dated 23.02.2024 wherein the appeal filed by the assessee against the assessment order passed under section 143(3) read with section 144B of the Income Tax Act, 1961 (the Act) passed by the Assessing Officer, National e-Assessment Centre, Delhi (the learned Assessing Officer) on 20.04.2021, was partly allowed.



02. The only grievance in the appeal is regarding disallowance of deduction under section 35(2AB) of the Act amounting to Rs.3,47,267/-.
03. Briefly stated that the fact shows that assessee company is a manufacturer of Control valves , Instruments etc., the assessee filed the return of income on 10.10.2018 declaring total income of Rs.8,95,88,740/-. This return was picked up for scrutiny.
04. The assessee has claimed expenditure on scientific research on in-house research and development facility amounting to Rs.65,17,511/- and claimed weighted deduction @ 150% amounting to Rs.97,76,267/-. As per Form No.3CL, the deduction was quantified at Rs.62,38,000/- against the expenditure of Rs.65,17,511/-whereby excess claimed was Rs. 2,79,511/- and 50% of the above expenditure resulting into total weighted deduction of Rs. 3,47,267/- was disallowed in the draft order. The show cause notice was issued to the assessee wherein no reply was furnished and accordingly, disallowance of Rs. 3,47,267/- under section 35(2AB) was made to the total income of the assessee as per assessment order dated 20.04.2021 passed under section 143(3) read with section 144B of the Act.
05. Assessee preferred appeal before National Faceless Appeal Centre before him. The assessee did not lead any evidence to controvert the finding of the Assessing Officer and therefore, the appeal was dismissed on this issue.
06. This appeal was first fixed for hearing on 5<sup>th</sup> June, 2024 wherein it was adjourned to 5<sup>th</sup> August, 2024 at the request of the assessee but today none appeared before us. It was found that on 5<sup>th</sup> June, 2024, the assessee has submitted a 97 pages paper book. In the paper book, assessee has relied upon the judicial precedent on the issue. Thus, in the absence of the assessee, considering the written



submission and the paper book filed, the issue is decided on the merits of the case.

07. The learned Departmental Representative referred to Rule 6 of the Income Tax Rules and submitted that sub Rule 7A has been amended w.e.f. 1.07.2016 wherein clause (b) is amended where quantification of the expenditure in Form No.3CL is only allowable as deduction. He further submitted that the judicial precedent cited by the learned Authorized Representative at Sr. No. 3 and Sr. 4 of Paper Book are prior to amendment. He referred to the decision of Coordinate Bench in 704/Bang/2020 for A.Y. 2016-17 dated 1.1.2021 wherein in paragraph no. 8.2, the Coordinate Bench has considered the above amendment and held that after the date of amendment w.e.f. 1.7.2016 only quantified expenditure in Form No. 3 CL is eligible for deduction under section 35(2AB).
08. We have carefully considered the rival contentions, paper book filed by the assessee and the orders of the learned lower authorities. We have also carefully considered the judicial precedent placed before us.
09. The short controversy involved in this appeal is that assessee has incurred an expenditure of Rs. 65,17,511/- on in-house scientific research and development. In Form No. 3CL, the expenditure approved by the Approving Authority of Rs. 62,38,000/-. In Form No. 3 CLA, the assessee has not given a breakup of expenditure of Rs. 65,17,511/-. In Form No. 3 CL, the Approving Authority has mentioned the eligible expenditure of Rs. 62,38,000/-. There is an amendment in Rule 6 sub Rule 7A w.e.f. 1.7.2016. As per clause (b) , the amount is required to be quantified by the Approving Authority for granting deduction to the assessee. Therefore, as the impugned assessment year is 2018-19, the amended rules apply. This is also held by the Coordinate Bench in ITA No. 704/Bang/2020 in the case of Natural Remedies Private Limited dated 1.1.2021 in paragraph



no. 8.2. Thus, there is a difference of excess expenditure of Rs. 2,79,511/-. The weighted deduction on the same claimed by the assessee is Rs. 3,47,267/-. The disallowance made in the hands of the assessee is of Rs. 3,47,267/- instead of Rs. 2,79,511/-. Only the weighted deduction of Rs. 67,756/- requires to be disallowed. Therefore, on the basis of the records available before us, we hold that the disallowance made by the learned Assessing Officer of Rs. 3,47,267/- is incorrect because even otherwise the access claimed expenditure of Rs. 2,79,511/- is eligible for deduction under section 37(1) of the Act. The 50% of above expenditure amounting to Rs. 1,39,755/- only deserves to be disallowed. However, the learned Assessing Officer himself considered the same at Rs. 67,756/-. We restrict the disallowance to the extent of disallowance made by the Assessing Officer. Accordingly, appeal of the assessee is partly allowed and learned Assessing Officer is directed to restrict the disallowance at Rs. 67,756/-.

010. In the result, the appeal of the assessee is partly allowed.

011. Order pronounced in the open court on 09 /08/2024.

Sd/-

(RAJ KUMAR CHAUHAN)  
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 09.08.2024

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Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai