

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “A” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER AND  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No.228/Ahd/2023  
Assessment Year: 2018-19**

Envision Scientific Pvt. Ltd., 123, Silver Palm 2, Opp. Sneh Milan Garden, Nanpura HO, Surat – 395 001. (Gujarat) <b>[PAN – AACCE 0979 P]</b>	Vs.	Deputy Commissioner of Income Tax, Central Circle – 3, Vadodara. (Gujarat)
(Appellant)		(Respondent)
Assessee by	Shri S.N. Soparkar, Sr. Advocate & Shri Parin Shah, AR	
Revenue by	Adjournment Application filed	
Date of Hearing	28.04.2025	
Date of Pronouncement	30.04.2025	

**ORDER**

This appeal is filed by the assessee against the order of CIT(A)-12 Ahmedabad dated 16.03.2023 for the Assessment Year (A.Y.) 2018-19.

2. The brief facts of the case are that the assessee had filed its return of income for the A.Y. 2018-19 on 30.10.2018 declaring income of Rs. Nil after setting off brought forward loss of Rs.1,07,19,146/-. The case was selected for limited scrutiny to examine the claim for deduction under Section 35(2AB) of the Income Tax Act,1961. The assessee had claimed deduction of Rs.8,69,68,452/- under Section 35(2AB) of the Act. The Assessing Officer had disallowed the claim for the reason that the mandatory Form 3CL from the prescribed authority was not furnished by the assessee in respect of this claim. The assessee has carried the matter

to the Ld. CIT(A) and the disallowance as made by the Assessing Officer was upheld by the Ld. CIT(A) vide the impugned order. The assessee is now in second appeal before us.

3. The following grounds have been taken by the assessee in this appeal: -

1. *Ld. CIT (A) erred in law and on facts confirming action of AO denying the deduction of Rs.8,69,68,462/- expended on in-house scientific research claimed u/s.32AB) of the Act.*
2. *Ld. CIT (A) erred in law and on facts in confirming that the appellant is not eligible to claim deduction of in-house research expenditure in absence of Form No.3CL from DSIR (Department of Scientific and Industrial Research) which is a condition requisite for claiming the deduction u/s.35(2AB) of the Act.*
3. *Ld. CIT (A) erred in law and on facts in not appreciating the fact that the appellant submitted Form No.3CM (approval of R & D facilities) along with Form No.3CL issued for previous as well subsequent years that ought to have satisfied the authorities to grant deduction claimed for the year under consideration.*
4. *Ld. CIT (A) erred in law and on facts to appreciate that appellant fulfilled all the requirements for obtaining Form 3CL. from DSIR and regularly followed up with the Department for issuance of the same.*
5. *Ld. CIT (A) ought not to have confirmed denial of deduction u/s.35(2AB) of the Act for non-submission of Form No.3CL not issued and received from DSIR without any fault of the appellant.*
6. *Ld. CIT (A) ought to have deleted the disallowance treating non submission of the Form 3CL as a technical breach over which the appellant had no control.*
7. *Ld. CIT (A) erred in law and on facts in confirming denial by AO of alternative claim of allowing expenses u/s.35 of the Act if weighted deduction as claimed u/s.35(2AB) of the Act was denied in absence of Form 3CL by DSIR.*
8. *Levy of interest u/s.234B & 234D of the Act is unjustified.*
9. *Initiation of penalty proceedings u/s.270A of the Act is unjustified.”*

4. Shri S.N. Soparkar, Ld. Sr. Advocate appearing for the assessee submitted that the deduction under Section 35(2AB) of the Act claimed by the assessee was all along allowed by the Revenue except the current A.Y. He fairly conceded that the Form No.3CL from the DSIR, which was a pre-requisite for claim of deduction, was not received for this year. The Ld. AR submitted that the assessee had submitted Form No.3CLA for A.Y. 2018-19 and 2019-20 to DSIR on 05.03.2020 in order to enable DSIT to furnish their report in Form No.3CL as per Rule 6(7A) of the Income Tax Rules, 1962. The DSIR had issued Form No.3CL for the A.Y. 2019-20 on 08.04.2021. However, the Form No.3CL for A.Y. 2018-19 was not issued by DSIR. Under these circumstances, the assessee was unable to produce the Form No.3CL before the Assessing Officer or the CIT(A). The Id. Sr. Counsel submitted that the Form No. 3CL for the A.Y. 2018-19 is still not available with the assessee and that the matter has been taken to Hon'ble Gujarat High Court by filing a Special Civil Application. He further clarified that the matter is still pending with Hon'ble High Court. The Ld. Sr. Counsel requested that the matter may be set aside to the file of the Assessing Officer with a direction to give effect to the order of the Hon'ble High Court on this issue as and when received.

5. We have considered the request of the assessee. The deduction under Section 35(2AB) of the Act could not have been allowed to the assessee on the strength of Form No.3CL issued by DSIR for the earlier years or for the subsequent years. As per requirement of law, the assessee was duty bound to submit Form No.3CL for the current A.Y. 2018-19 in order to claim the deduction under Section 35(2AB) of the Act. In the absence of any such certificate, the denial of deduction under Section 35(AB) of the Act by the AO cannot be faulted. We, therefore, do

not find any reason to interfere with the order of the Ld. CIT(A) on this issue. Accordingly, all the grounds taken by the assessee in respect of deduction under Section 35(2AB) of the Act are rejected. The claim for alternate deduction under Section 35(1) of the Act was also rightly rejected by the Assessing Officer in the absence of approval from the prescribed authority. Therefore, this alternate ground is also rejected.

6. The assessee has filed a Special Civil Application with Hon'ble Gujarat High Court wherein the Secretary, DSIR and Assessing Officer has been made parties. It is stated therein that Form No 3CLA for A.Y. 2018-19 and 2019-20 was not filed with DSIR within the prescribed time. The DSIR had condoned the delay for A.Y. 2019-20 and issued Form No.3CL. However, the delay in filing the Form No.3CLA for A.Y. 2018-19 was not condoned by the DSIR, against which the Special Civil Application has been filed before the Hon'ble High Court. According to the assessee, the delay for both the years should have been condoned by the DSIR. The assessee has also made a request before the Hon'ble High Court, to direct the Assessing Officer to take cognisance of the Form No.3CL to be issued by DSIR for A.Y. 2018-19 and to pass an order granting deduction under Section 35(2AB) of the Act. In case the Special Civil Application filed by the assessee is decided by the Hon'ble High Court in favour of the assessee, it will be entitled to claim deduction under Section 35(2AB) of the Act. It is not necessary for us to set aside the matter to the file of the Assessing Officer for this purpose. As per provisions of Section 153(6) of the Act, notwithstanding the time limit provided under Section 153(1), 1(A) & (2) of the Act, effect of the order of any Court in a proceeding otherwise than by way of appeal or reference under this Act can be given within a period of twelve months from the end of the month in which such

order is received by the PCCIT or CCIT or PCIT or CIT. In view of this specific provision under the Act to give effect to the order to the decision of any Court, it is not necessary to set aside the present appeal to the file of the Assessing Officer.

7. In view of the above facts and the provisions of law, the appeal of the assessee is dismissed.

Order pronounced in the open Court on this 30<sup>th</sup> April, 2025.

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

*Sd/-*  
**(NARENDRA PRASAD SINHA)**  
Accountant Member

**Ahmedabad, the 30<sup>th</sup> April, 2025**

*PBN/\**

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

**TRUE COPY**

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Ahmedabad benches, Ahmedabad*