आयकर अपीलीय अधिकरण,'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL , 'A' BENCH, CHENNAI

श्री मनु कुमार गिरि ,न्यायिक सदस्य एवंश्रीअमिताभ शुक्ला, लेखा सदस्य के समक्ष

BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.**T.A.Nos.2865, 2866, 2867 & 2868/Chny/2024**
(निर्धारणवर्ष / Assessment Years: 2010-11, 2014-15, 2016-17 & 2018-19)

M/s. Carborundum Universal Limited, No. 43, VI Floor, Parry House Moore Street,Chennai GPO Parrys, – 600 001.	Vs	**The Assistant Commissioner of Income-tax,** Large Taxpayer Unit-1, Chennai.
PAN : **AAACC-2474-P**		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr.R.Vijayaraghavan, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mrs.Samantha Mullamudi, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	27.03.2025
घोषणाकीतारीख /Date of Pronouncement	:	05.05.2025

आदेश / O R D E R

PER MANU KUMAR GIRI, JM:

The captioned appeals filed by the assessee are directed against separate orders of the Ld. Commissioner of Income Tax (Appeals)(NFAC), Delhi [CIT(A)]all dated10.09.2024 for Assessment Years 2010-11, 2014-15, 2016-17 and 2018-19.Since the facts and issues are common in these appeals, they are heard together and disposed off by this common order.

ITA No.2865/Chny/2024 (A.Y. 2010-11):

2. For the AY 2010-11, the assessee has raised two grounds of appeal–(i)Disallowance u/s.14A r.w. Rule 8D amounting to Rs.1,43,86,892/- and (ii) Disallowance of depreciation on capital subsidy amounting to Rs.10,50,000/-.

3. Brief facts are as follows: -

The assessee is a company engaged in manufacture and sale of industrial ceramics, abrasives and refractories filed its return of income for A.Y 2010-11 on 30.09.2010 declaring total income of Rs.66,47,64,371/- after claiming deduction under Chapter VI A to the tune of Rs.6,58,09,755/- which was subsequently revised to Rs.65,65,73,121/- after claiming deduction under Chapter VI A to the tune of Rs.7,40,01,005/-. During the course of assessment proceedings, AO noted that considering volume of investments, amount of dividend earned and expenditure disallowed by the assessee amounting to Rs.39,602/- appears to be on the lower side. Hence, the AO made disallowance of Rs.1,43,86,892/-. The assessee challenged the order of assessment before the CIT(A). However, following the judgement of Hon'ble Bombay High Court in the case of Godrej & Boyce Mfg. Co.Ltd. (328 ITR 81)(Bom), the CIT(A) sustained the addition made u/s.14A r.w.r 8D of the Act.

4. Aggrieved by the CIT(A) order, the assessee is in further appeal before the Tribunal. The learned counsel for the assessee submitted that the assessee has its own sufficient interest free funds and not out of borrowed funds and thus, no borrowing cost incurred by the assessee to earn the exempt dividend income. He further submitted that only 0.5% of investments from which dividend has actually been earned. In support of his claim, he drew our attention to Special Bench decision of the Tribunal in the case of ACIT Vs. Vireet Investments Pvt.Ltd., (165 ITD 27) (Del). Hence, he pleaded that no disallowance u/s.8D(2)(ii) is called for in the present case.

4.1. Per contra, Ld.DR relied upon the orders of the lower authorities.

4.2 We have heard both the parties and perused record.The special Bench of the Tribunal in the case of Vireet Investment [2017] 82 taxmann.com 415 (Delhi-Trib.)(SB) held as under:

> **6.22** In view of above discussion, we answer the question referred to us in favour of asssessee by holding that the computation under clause (f) of *Explanation 1* to section 115JB(2). is to be made without resorting to the computation as contemplated u/s 14A read with Rule 8D of the Income-tax Rules, 1962.
>
> ……..
>
> ……..
>
> 11.16 Therefore, in our considered opinion, no contrary view can be taken under these circumstances. We, accordingly, hold that only those investments are to be considered for computing average value of investment which yielded exempt income during the year.

4.3Respectfully following decision of Special Bench of Tribunal in the case of M/s.Vireet Investments Pvt. Ltd. (supra), wedirect the Ld. AO to compute disallowance u/s.14A r.w.Rule 8D by considering only those investments which have yielded exempt income during the year. The ground raised by the assessee is allowed statistical purposes.

5. The next ground of appeal raised by the assessee is against disallowance of depreciation on capital subsidy amounting to Rs.10,50,000/-.

5.1 During the course of assessment proceedings, it was noticed by the AO from Col.13 of Form 3CD that assessee has received Rs.30 lakhs as capital subsidy under the scheme for setting up manufacturing facility in Uttarkhand. The AO, not being satisfied with the reply furnished by the assessee that subsidy should be

reduced from cost of building as the same is not eligible for additional depreciation, has reduced capital subsidy of Rs.30 lakhs from actual cost of plant & machinery installed and worked out to Rs.10,50,000/-. On appeal, the CIT(A) confirmed the addition made by the AO on account of disallowance of depreciation on capital subsidy.

5.2 Aggrieved, the assessee is in further appeal before us. At the very outset, learned counsel for the assessee referred to the order of co-ordinate Bench of this Tribunal in the case of M/s. Dayal Steel Limited Vs. Addl.CIT dated 13.04.2017 in support of his claim that subsidy amount cannot be reduced from actual cost of capital asset for the purpose of computing depreciation.

5.3Per contra, the Ld.DR supported orders of the lower authorities.

5.4 We have heard rival submissions and perused materials on record. We find that for the purpose of computing depreciation u/s.43(1) of the Act, Patna Bench of this Tribunal in the case of Dayal Steel Limited Vs. Addl.CIT dated 13.04.2017 on identical issue has held as under: -

"6.1 We also find that the Hon'ble ITAT Vishakhapatnam in the case of Sasisri Extractions Ltd. Vs. ACIT in reported in 307 ITR(A.T.) 127 has decided the issue in favor of assessee in the similar facts &circumstances by holding as under :

> *"Held, allowing the appeal, that the scheme was intended to accelerate industrial development of the State and the incentive was given for setting up of industries in Andhra Pradesh. The amount of subsidy to be given was determined by taking the cost of eligible investment as the basis. The incentive in the form of subsidy could not be considered as a payment directly or indirectly to meet any portion of the actual cost and thus it fell outside the ken of Explanation 10 to section 431) of the act.*

The subsidy amount could not be reduced from the actual cost of the capital asset."

In the light of the above discussion, we are of the view that for the purpose of computing depreciation allowable to the assessee, the subsidy amount cannot be reduced from the actual cost of the capital asset. Thus, we have no hesitation to reverse the order of the lower authorities. The Assessing Officer is directed accordingly. This issue of assessee's appeal is allowed."

5.4 Respectfully following the said decision of the Tribunal in the case of Dayal Steel Limited Vs. Addl.CIT dated 13.04.2017, we allow the second ground raised by the assessee in regard to depreciation on capital subsidy amounting to Rs.10,50,000/-.

6. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

ITA No.2866/Chny/2024 (AY 2014-15):

7. For the AY 2014-15, the assessee has raised two grounds of appeal–(i)Disallowanceu/s.14A r.w. Rule 8D amounting to Rs.25,32,833/- and (ii) Disallowance of depreciation on UPS, Printers and Routers amounting to Rs.26,42,220/-.

7.1.The learned counsel for the assessee submitted that in regard to disallowance u/s.14A read with Rule 8D, the AO has computed disallowance @1%of investment. Healso submitted that amendment to Rule 8D came into force w.e.f 02.06.2016 and hence said Rule 8D(2) has no application for AY 2015-16. In this regard, he cited a decision of co-ordinate Bench of this Tribunal in assessee's own case for A.Y. 2015-16 in ITA No.2803/Chny/2018 dated 31.03.2021.

7.2 Having heard both the parties and perused the records, we find that the Tribunal in assessee's own case for AY 2015-16 in ITA No. 2803/Chny/2018 dated 31.03.2021 has remitted the issue of disallowance u/s.14A r.w. Rule 8D back to the file of AO to consider

whether Rule 8D(2) is applicable to the year under consideration or not and to decide the said issue in accordance with law. Respectfully following the decision of co-ordinate Bench of this Tribunal dated 31.03.2021 in assessee's own case, we remit the issue of disallowance u/s.14A read with Rule 8D(2) for the AY 2014-15 also on the similar direction to the AO to consider whether Rule 8D(2) is applicable to the year under consideration or not and to decide the said issue in accordance with law. This ground is allowed for statistical purposes.

8. The next ground raised by the assessee is in regard to entitlement of depreciation @ 60% on UPS, printers and routers etc. which form an integral part of computer system.

8.1 At the outset, the learned AR submitted that this Tribunal in the assessee's own case for earlier assessment year 2015-16 in ITA No.2803/Chny/2018 vide order dated 31.03.2021 has allowed depreciation @ 60% on UPS, printers and routers etc. which form an integral part of computer system by following the judgements of Hon'ble Madras High Court in the case of CIT vs. M/s.Cholamandalam MS General Insurance Company Ltd. in TCA Nos.93 to 100 of 2019 dated 28.01.2019 and the Hon'ble Delhi High Court in the case of CIT Vs BSES Yamua Powers Ltd (2013) 358 ITR 0047 (Del).

8.2 Per contra, learned DR relied on the orders of lower authorities.

8.3 We find that the Tribunal in the assessee's own case for earlier assessment year 2015-16 in ITA No.2803/Chny/2018 vide order dated 31.03.2021 has allowed depreciation @ 60% on UPS, printers and routers etc. Respectfully following the co-ordinate

Bench decision of this Tribunal, we allow depreciation @ 60% on UPS, printers and routers etc. as claimed by the assessee.

9. In the result, appeal filed by the assessee for AY 2014-15 is partly allowed for statistical purposes.

ITA No.2867/Chny/2024 (AY 2016-17):

10. For the AY 2016-17, the assessee has raised two grounds of appeal–(i) Disallowance u/s.14A r.w. Rule 8D amounting to Rs.40,69,842/- and (ii) Disallowance ofweighted deduction u/s.35(2AB) amounting to Rs.1,21,79,692/-.

10.1 In regard to the first ground of appeal for AY 2016-17 i.e., disallowance u/s.14A r.w.Rule 8D, we directthe AO to see whether the interest free funds available to the assessee were sufficient to meet its investment in the light of the judgment of the Hon'ble Supreme Court in the case of CIT Vs Reliance Industries Ltd. [2019] 102 taxmann.com 52 (SC).Hence, we do so.The first ground raised by the assessee is allowed statistical purposes.

10.2 Though the assessee has raised second ground of appeal as disallowance of weighted deduction u/s.35(2AB) amounting to Rs.1,21,79,692/-, the assessee has also raised an additional ground seeking admission under Rule 11 of the ITAT Rules, which reads as under:-

> *Weighted deduction allowable on entire expenditure incurred in R&D facility;*
> *1 The CIT(A)/AO ought to have appreciated that prior to the amendment to Rule 6(7A) of Income-tax Rules, 1962 with effect from 01-07-2016 relevant to AY 2017-18, weighted deduction is allowable on the entire expenditure incurred in an approved in-house R&D facility and cannot be not restricted to the amount of expenditure quantified by the DSIR: Appellant relies on the following decisions:*

2. The Appellant relies on following decisions:
Ashok Leyland Ltd. v DCIT (IT No.361 &362/CHNY /2024 dated 25. 9.24)
Sundaram Fasteners v ACIT (IT (TP) A Nos.32&33/Chny/2021 dated 8.11.24)
ACIT vs. Crompton Greaves Ltd. 111 taxmann.com 338 (Mumbai - Trib.)

10.3 The learned counsel for the assessee, by relying upon the decision of the ITAT., Mumbai Benches of the Tribunal in the case of Crompton Greaves Limited (111 taxmann.com 338), wherein, the Tribunal has held that prior to amendment of Rule 6(7A)(b) from 01.07.2016, it was not required for the DSIR to quantify the expenditure entitled for weighted deduction, has submitted that addition made by the Assessing officer towards disallowance of claim of weighted deduction should be deleted and also relied on the decision of the Coordinate Benches of the Tribunal in the case of Ashok Leyland in ITA No.362/Chny/2024 dated 25.09.2024.

10.4 On the other hand, the ld. DR has argued that by conjointly reading the provisions of section 35(2AB)(1) and section 35(3) of the Act, it would be amply clear that even prior to the amendment made to Rule 6(7A) of the Income Tax Rules, the Prescribed Authority, i.e., the DSIR was empowered to limit the deduction under section 35 of the Act if the authority is of the opinion that the asset was not used solely for research purpose or the activity carried out does not result in enhancement of research facilities. He further submits that the case law relied on by the ld. Counsel for the assessee cannot be applied for the reason that the Tribunal, while passing order, has not discussed section 35(3) of the Act and prayed

that the amount of disallowance made by the Assessing Officer based on the DSIR valuation should be upheld and dismiss the ground raised by the assessee.

10.5 We have heard the rival submissions and perused the material on record. We admit the additional ground as prayed by the assessee. Admittedly, the assessee has in-house Research and Development facilities which is approved by the Department of Scientific and Industrial Research (DSIR) and was entitled to deduction under section 35(2AB) of the I.T. Act. The Assessing Officer disallowed the deduction to the extent of ₹1,21,79,692/- on the ground that certificate of DSIR for the expenditure in Form 3CL is to the extent of Rs.3,16,79,000/- only. Therefore, claim to the extent of shortfall of Rs.1,21,79,692/- is disallowed by the AO. The CIT(A) confirmed the above disallowance.

10.6. As per section 35(2AB) of the Act, the DSIR is empowered to approve only R&D facility and not the expenditure. In other words, once the R & D facility is approved by the prescribed authority, i.e., DSIR by issuing Form No.3CM, the expenses incurred by the assessee have to be allowed under section 35(2AB) of the Act. For ready reference, section 35(2AB)(1) of the Act reads as follows:-

> *"(2AB)(1) Where a company engaged in the business of biotechnology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and two times of the expenditure so incurred."*

10.7 A plain reading of the above provision, it is clear that once R & D facility was approved by the DSIR and the expenses incurred by the assessee have to be allowed under section 35(2AB) of the Act. If the law wanted the expenditure to be approved by the prescribed authority, same would have been expressly provided. In other words, for the purpose of section 35(2AB) of the Act, it is provided that facility is to be approved and not the expenditure. Nowhere under the Act, it was stipulated that the deduction under section 35(2AB) of the Act was allowable year after year only after approval by DSIR in Form 3CL. The Rule 6(7A) of the I.T. Rules, 1962 was amended by the Finance Act, 2016 with effect from 01.07.2016, wherein, it provided that prescribed authority has to furnish electronically its report (i) in relation to approval of in-house R & D facility in Part A of Form No.3CL, and (ii) quantifying the expenditure incurred in in-house R & D facility by the company during the previous year and eligible for weighted deduction under sub-section (2AB) of section 35 of the Act in Part B of Form No.3CL. In other words, the quantification of expenditure has been prescribed vide IT (Tenth Amendment) Rules, 2016 with effect from 01.07.2016 only. Prior to this amendment, no such power was with DSIR.

10.8. We have perused the case law relied on by the ld. Counsel for the assessee in the case of ACIT v. Crompton Greaves Ltd. (supra), wherein, by relying upon the order of Ahmedabad Benches of the Tribunal in the case of Sub Pharmaceutical Industries ltd. v. PCIT (2017) 162 ITD 484 and the order of the Pune Benches of the Tribunal in the case of Cummins India Ltd. v. DCIT [20180 96

Taxmann.com 576 (Pune – Tribunal), the Mumbai Benches of the Tribunal has observed and held as under:

> *12. It would also be apt to reproduce here-under the provisions substituted in clause (b) of sub rule (7A) of Rule 6, as brought in by the amendment effective from 01.07.2016 as above:*
>
> *"The prescribed authority shall furnish electronically its report,-*
>
> *(i) in relation to the approval of the in-house research and development facility in Part A of Room No. 3CL;*
> *(ii) quantifying the expenditure incurred on in-house research and development facility by the company during the previous year and eligible for weighted deduction under sub-section (2AB) of section 35 of the Income Tax Act, 1961 in Part B of Form No. 3CL."*
>
> *13. Hitherto, the provision was as follows:*
> *"The prescribed authority shall submit its report in relation to the approval of in-house facility and development facility in Form No. 3CL to the Director General (Income-tax Exemptions) within sixty days of its granting approval."*
>
> *The above also makes it amply clear that prior to the amendment, i.e., upto 30.06.2016, it was not required to quantify the expenditure and it was only w.e.f. 01.07.2016 that this mandate has been put in place.*
> *14. The year under consideration is A.Y. 2009-10 and, for this year, the amendment was not applicable. Therefore, the assessee is right in contending that the non approval of the expenditure claimed by CSIR did not entitle the A.O. to make the disallowance and the ld. CIT(A) to confirm the same.*

10.9 The Bangalore Benches of the Tribunal in the case of M/s. Mahindra Electric Mobility Ltd. v. ACIT in ITA No.641/Bang/2017 vide order dated 14.09.2018 had held that prior to 01.07.2016 Form No.3CL has no legal sanctity and it is only w.e.f. 01.07.2016 with the amendment to Rule 6(7A)(b) of the I.T. Rules that the quantification of the weighted deduction under section 35(2AB) of the Act has significance. The relevant finding of the Bangalore Bench of the Tribunal reads as follow:-

> *"20. From the above discussion it is clear that prior to 1.7.2016 Form 3CL had no legal sanctity and it is only w.e.f 1.7.2016 with the amendment to Rule 6(7A)(b) of the Rules, that the quantification of the weighted deduction u/s.35(2AB) of the Act has significance. In the present case there is no Difficulty about the quantum of deduction u/s.35(2AB) of the Act, because the AO allowed 100% of the expenditure as deduction u/s.35(2AB)(1)(i) of the Act, as expenditure on scientific research. Deduction u/s.35(1)(i) and Sec.35(2AB) of the Act are similar except that the deduction*

u/s.35(2AB) is allowed as weighted deduction at 200% of the expenditure while deduction u/s.35(1)(i) is allowed only at 100%. The conditions for allowing deduction u/s.35(1)(i) of the Act and under Sec.35(2AB) of the Act are identical with the only difference being that the Assessee claiming deduction u/s.35(2AB) of the Act should be engaged in manufacture of certain articles or things. It is not in dispute that the Assessee is engaged in business to which Sec.35(2AB) of the Act applied. The other condition required to be fulfilled for claiming deduction u/s.35(2AB) of the Act is that the research and development facility should be approved by the prescribed authority. The prescribed authority is the Secretary, Department of Scientific Industrial Research, Govt. Of India (DSIR). It is not in dispute that the Assessee in the present case obtained approval in Form No.3CM as required by Rule 6 (5A) of the Rules. In these facts and circumstances and in the light of the judicial precedents on the issue, we are of the view that the deduction u/s.35(2AB) of the Act ought to have been allowed as weighted deduction at 200% of the expenditure as claimed by the Assessee and ought not to have been restricted to 100% of the expenditure incurred on scientific research. We hold and direct accordingly and allow the appeal of the Assessee."

10.10 The ITAT, Ahmedabad Benches of this Tribunal in the case of M/s. Sun Pharmaceutical Industries Ltd. v. PCIT (supra) had held that FormNo.3CL is merely a report in the form of an intimation regarding approval of in-house R & D facility to be sent from prescribed authority to the Department and once the facility is approved in Form No.3CL, the expenses incurred within the notified period have to be allowed under section 35(2AB) of the Act. The said order of the Tribunal was affirmed by the Hon'ble High Court of Gujarat in the case of CIT v. Sun Pharmaceutical Industries Ltd. reported in 250 Taxman 270 (Guj).

10.11 The ITAT., Pune Benches of the Tribunal in the case of Cummins India Limited v. DCIT in ITA No.309/Pun/2014 vide order dated 15.05.2018 had held that the action of the Assessing Officer curtailing the expenditure and consequent weighted deduction claim under 35(2AB) of the Act on the surmise that prescribed authority

has only approved part of expenditure in Form No.3CL is not tenable in law. The relevant finding of the ITAT., Pune Benches of the Tribunal reads as follow:-

> *"45. The issue which is raised in the present appeal is that whether where the facility has been recognized and necessary certification is issued by the prescribed authority, the assessee can avail the deduction in respect of expenditure incurred on in-house R&D facility, for which the adjudicating authority is the Assessing Officer and whether the prescribed authority is to approve expenditure in form No.3CL from year to year. Looking into the provisions of rules, it stipulates the filing of audit report before the prescribed authority by the persons availing the deduction under section 35(2AB) of the Act but the provisions of the Act do not prescribe any methodology of approval to be granted by the prescribed authority vis-à-vis expenditure from year to year. The amendment brought in by the IT (Tenth Amendment) Rules w.e.f. 01.07.2016, wherein separate part has been inserted for certifying the amount of expenditure from year to year and the amended form No.3CL thus, lays down the procedure to be followed by the prescribed authority. Prior to the aforesaid amendment in 2016, no such procedure / methodology was prescribed. In the absence of the same, there is no merit in the order of Assessing Officer in curtailing the expenditure and consequent weighted deduction claim under section 35(2AB) of the Act on the surmise that prescribed authority has only approved part of expenditure in form No.3CL. We find no merit in the said order of authorities below."*

10.12 In view of the aforesaid reasoning and in the light of judicial pronouncements, cited supra, we hold that in the present case since the deduction is relating to the assessment year 2016-17 [where the amended law is applicable w.e.f. 1st day of April, 2016), which is prior to the Income Tax (Tenth Amendment) Rules, 2016, with effect from 01.07.2016 of Rule 6(7A) of the I.T. Rules], deduction under section 35(2AB) of the Act has to be allowed on the basis of the expenditure as recorded by the assessee in the books of account. Admittedly, the Assessing Officer has not disputed the

correctness of the claim of expenditure incurred on scientific research. The contention of the DR that the amendment to Rule 6(7A) is procedural cannot be accepted, since the amended rule stipulates a condition that apart from approval of in-house R & D facility of assessee, the expenditure also has to be quantified by the prescribed authority for weighted deduction under section 35(2AB) of the Act. Since, the amended Rule 6(7A) affects the substantive right of the assessee; it cannot be termed merely as procedural. Moreover, the co-ordinate Benches of Bangalore Tribunal in case of M/s. Mahindra Electric Mobility Ltd. v. ACIT (supra) have clearly held that prior to 01.07.2016 Form 3CL has no legal sanctity and it is only w.e.f. 01.07.2016 with the amendment to Rule 6(7A) of the I.T. Rules, the quantification of weighted deduction under section 35(2AB) of the Act has significance. Therefore, we are of the considered opinion that if the power of quantification of weighted deduction already exists with DSIR prior to 01.07.2016, then, there was no necessity to make amendment to Rule 6(7A) of the IT Rules. Thus, in view of the above facts and circumstances, we hold that the deduction as claimed by the assessee under section 35(2AB) of the Act is liable to be allowed instead of restricting it to the quantum of claim.

10.13We have also considered the contention of the ld. DR. We note that the provisions of section 35 of the Act is a beneficial section and sub-section (1) of section 35(2AB) and sub-section (3) of section 35 of the Act are identical. Section 35(2AB)(1) of the Act suggests that the in-house R&D facility should be approved by DSIR and the said section does not provide that the approval from DSIR is required in respect of the expenditure eligible for weighted deduction. Further,

section 35(2AB)(1) of the Act refers to "any" expenditure, therefore, the weighted deduction is to be allowed on expenditure "so incurred". Thus, it is amply clear that sub-section (3) of section 35 of the Act has no application to be conjointly read for the purpose of allowance of weighted deduction prior to amendment to Rule 6 of Income Tax Rules for the reason that after amendment to Rule 6 of Income Tax Rules, under sub-rule (7A)(b)(ii) of IT Rules, the prescribed authority shall furnish electronically its report in Part B of Form No. 3CL towards quantification of expenditure and eligible for weighted deduction under section 35(2AB) of the Act. Prior to amendment to Rule 6 of the IT Rules, the provision of section 35(3) of the Act does not provide the scope for referring to DSIR for determining the amount of expenditure eligible for deduction. If at all the DSIR has the authority to decide the eligible expenditure prior to 01.07.2016, then, the intention to amend Rule 6 of IT Rules w.e.f. 01.07.2016 does not arise. Thus, the contention of the ld. DR stands rejected.

10.14 In view of the above facts and circumstances and in light of the above cited judicial pronouncements, we set aside the order of the CIT(A) on this issue and direct the Assessing Officer to allow the deduction as claimed by the assessee under section 35(2AB) of the Act. Accordingly, this ground raised by the assessee is allowed.

11. The appeal of the assessee for AY 2016-17 is partly allowed.

ITA No.2868/Chny/2024 (AY 2018-19):

12. For the AY 2018-19, the assessee has raised four grounds of appeal–

(i) Disallowance u/s.14A r.w. Rule 8D amounting to Rs.2,74,077/-;
(ii) Disallowance of weighted deduction u/s.35(2AB) amounting to Rs.6,86,05,682/-;
(iii)Disallowance of donation to Adhiparasakthi charitable medical education & cultural trust amounting to Rs.1,87,500/-.

12.1 In regard to the first ground of appeal raised for AY 2018-19 i.e., disallowance u/s.14A r.w.Rule 8D, we find that an identical ground raised by the assessee for AY 2010-11 in ITA No 2865/Chny/2024 has been dealt with us in para 4.2 and 4.3 hereinabove. The findings given by us in ITA No.2865/Chny/2024 for AY 2010-11 will *mutatis mutandis* apply to this appeal for AY 2018-19 also. Accordingly, wedirect the Ld. AO to compute disallowance u/s.14A r.w.Rule 8D for this AY 2018-19 also by considering only those investments which have yielded exempt income during the year. The first ground raised by the assessee is allowed statistical purposes.

12.2 In regard to the second ground of appeal raised for AY 2018-19 i.e., Disallowance of weighted deduction u/s.35(2AB) amounting to Rs.6,86,05,682/-. In this case AO/CIT(A) disallowed entire claim for want of certificate from DSIR, including 100% of actual expenditure has been disallowed. The appellant submitted that the assessee had applied to DSR and their certificate is awaited. Therefore, in the light of the above submissions we sent back this issue to the file of AO to await DSIR reply. AO may refer to DSIR u/s 35(3) of the Act. Accordingly, the second ground raised by the assessee is allowed for statistical purposes.

12.3 The third ground raised by the assessee is in regard to disallowance of donation towards CSR expenditure amounting to Rs.65,40,200/- u/s.80G.

12.4 According to the Assessing Officer, the receipt of Rs.3,75,000/- in respect of Adhiparasakthi Charitable Medical Education & Cultural Trust has been issued in the name of Secretary to Managing Director of the company and in the name the company, therefore, the AO denied deduction claimed u/s.80G of the Act. However, the learned counsel for the assessee submitted that the Charity has clarified the matter and acknowledged that payment was received by the Trust and therefore, deduction u/s.80G has to be allowed. The Ld.DR supported the orders of lower authorities.

12.5 In the light of above clarification given by the Charity, AO is directed to verify the assertions made and if found true, then allow the deduction u/s 80G. The appeal filed by the assessee for AY 2018-19 is partly allowed for statistical purposes.

13. In the result, appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 5th May , 2025

Sd/-	Sd/-
(**अमिताभ शुक्ला)**	**(मनु कुमार गिरि)**
(Amitabh Shukla)	(Manu Kumar Giri)
लेखासदस्य / Accountant Member	**न्यायिकसदस्य**/ Judicial Member

चेन्नई/Chennai,
दिनांक/Date:.05 .05.2025
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:
1.Appellant
2.Respondent
3.आयकर आयुक्त/CIT Chennai/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.