

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "I" BENCH: NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.1100 & 1101/Del/2023**

**[Assessment Year : 2015-16 & 2016-17]**

VE Commercial Vehicle Ltd. 3 <sup>rd</sup> Floor, Select City Walk, A-3 District Centre, Saket New Delhi-110017 <b>PAN-AABCE9378F</b>	vs	DCIT Central Circle-5 New Delhi [Earlier assessed at ACIT, Special Range 9, New Delhi]
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No.1411/Del/2023**

**[Assessment Year : 2015-16]**

ACIT Central Circle-05 New Delhi	vs	VE Commercial Vehicle Ltd. 3 <sup>rd</sup> Floor, Select City Walk, A-3 District Centre, Saket New Delhi-110017 <b>PAN-AABCE9378F</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Ajay Vohra, Sr.Adv. Shri Neeraj Jain, Adv. Ms. Manisha Sharma, Adv. & Shri Jatindra Bhati, AR	
<b>Respondent by</b>	Shri Dharm Veer Singh, CIT DR	
<b>Date of Hearing</b>	19.08.2025	
<b>Date of Pronouncement</b>	19.08.2025	

**ORDER**

**PER MANISH AGARWAL, AM :**

The captioned appeals are filed by assessee against the orders, both dated 20.02.2023 passed by Ld. Commissioner of Income Tax (A)-24, New Delhi ["Ld.CIT(A)"] in Appeal No.CIT(A), Delhi-24/10419/2017-18 and CIT(A), Delhi-24/10727/2015-16 u/s 250 of the Income Tax Act, 1961 ["the Act"] arising out of assessment order dated 27.12.2017 and 29.09.2021 passed u/s

143(3) of the Act pertaining to assessment year 2015-16 & 2016-17 respectively as well Revenue is filed appeal against the order passed by Ld.CIT(A)-24, New Delhi dated 20.02.2023 arising out of assessment order dated 27.12.2017 passed u/s 143(3) of the Act for AY 2015-16.

2. As these captioned appeals filed by the assessee and the Revenue are having the similar issues which are inter-linked, inter-connected and this fact has been admitted by both the parties during the course of hearing before us, therefore, these three appeals filed by the assessee and the Revenue are decided by a common order.

**ITA No.1100/Del/2023 [Assessment Year : 2015-16]**

3. First we take up the appeal of assessee in ITA No. 1100/Del/2023 for Assessment Year 2015-16.

4. Brief facts of the case are that assessee company is engaged in the business of manufacturing and sale of commercial vehicles and components including gears and engineering solutions. The assessee has e-filed its return of income on 27.11.2015, declaring loss of INR 30,44,07,030/-. The case was selected for scrutiny and notice u/s 143(2) was issued on 17.03.2016. Thereafter, notices u/s 142(1) and 143(2) were issued from time to time. In response to various notices, details were furnished by the assessee. From the perusal of P&L Account, computation of income and other details filed by the assessee company, it was observed that assessee had

claimed deduction u/s 35(2AB)/35(1)(iv) of INR 11,044.43 Lakhs. The assessee was asked to furnish the details of the expenses incurred on R & D and expenses incurred for which weighted deduction u/s 35(2AB) was claimed. The assessee company has furnished the details and also filed form 3CL issued by Department of Scientific and Industrial Research (“DSIR”) in support of the claim of weighted deduction u/s 35(2AB) of INR 11,044.43 Lakhs. The stated that the DSIR has not certified the gross expenditure claimed by the assessee on in-house R&D and thus disallowed the differential amount as certified by DSIR and as claimed by the assessee and assessed the income of the assessee company at INR 2,80,34,86,576/- vide order dated 27.12.2017.

5. Against the said order, assessee filed an appeal before Ld. CIT(A) who vide order dated 20.02.2023, partly allowed the appeal of the assessee.

6. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before the Tribunal by taking following grounds of appeal:-

1. *“That the CIT(A) erred on facts and in law in upholding action of assessing officer in disallowing additional deduction of Rs.3,49,56,000/- in respect of research and development expenditure u/s 35(2AB) of the Income Tax Act.*
- 1.1 *That the CIT(A) has grossly erred on facts and in laws in confirming disallowance of additional deduction of R&D without considering the submission filed by the appellant on the allowability of additional deduction of R&D expenditure claimed u/s 35(2AB) of the Income Tax Act.*
- 1.2 *That the CIT(A) has grossly erred on facts and in laws in holding that competent authority (Department of Scientific and Industrial Research) decides the amount of additional deduction of R&D expenditure claimed u/s 35(2AB) of Income Tax Act.*

2. *That on the facts and circumstances of the case and in law, the CIT(A) ought to have restricted the rate of dividend distribution tax (DDT) to 10% instead of 19.994% u/s 1150 of Income Tax Act on dividend of Rs.34,20,00,000 paid to Volvo Truck Corporation, Sweden and Aktiebolaget Volvo, Sweden, in terms of Article 10 of the DTAA between India and Sweden.*
- 2.1 *That on the facts and circumstances of the case and in law, the rate of DDT on Dividend of Rs.34,20,00,000 paid to Volvo Truck Corporation, Sweden and Aktiebolaget Volvo, Sweden should be restricted to 5% after considering benefit of 'Most Favored Nation clause' as per DTAA between India and Sweden read with DTAA between India and Hungary, DTAA between India and Lithuania and DTAA between India and Slovenia.*
3. *That the CIT(A) has grossly erred on facts and in law in confirming excess charging of Interest of Rs.8,41,407/-u/s 234C of Income Tax Act.*
4. *The appellant craves leave to add, amend, alter or vary any of the aforesaid grounds of appeal before or at any time of hearing of appeal and consider each of the grounds without prejudice to the other grounds of appeals.”*

7. **Ground of appeal Nos. 1 to 1.2** raised by the assessee are with respect to the disallowance of additional deduction of INR 3,49,56,000/- in respect of research and development expenditure u/s 35(2AB) of the Act.

8. Before us, Ld.AR for the assessee submits that the assessee has in-house research and development facility centre (“R&D”) Centre installed by the assessee at Pithampur, Madhya Pradesh, is duly approved by the Department of Scientific and Industrial Research (“DSIR”) and eligible for claiming deduction u/s 35(2AB) of the Act. The AO has disallowed the claim of expenditure to the extent which was not certified by DSIR in the form 3CL issued by it. Ld.AR submits that as per section 35(2AB), the prescribed authority has to grant approval of in-house Research & Development facility

and nowhere in the section, it is provided that prescribed authority should verify and certify the amount of capital and revenue expenditure incurred on in-house R&D facility and therefore, the claim of the assessee deserves to be allowed. It is further submitted by Ld.AR that AO while disallowing the claim has also placed reliance to the amended Rule 6(7A) which is amended by Finance Act, 2016 w.e.f. 01.07.2016 according to which the prescribed authority should sent its report for the approval to the PCCIT, CCIT or Principal Director General or the Director General. Ld. AR submits that this amendment had taken place w.e.f. 01.07.2016 and was effective from AY 2017-18 and AO has wrongly applied the same in the year under appeal. He placed reliance on the following judgements:-

- Maruti Suzuki India Ltd. v. Union of India: 397 ITR 728 (Del)
- CIT v. Sandan Vikas India Ltd: 335 ITR 117 (Del.)
- CIT v. Claris Life sciences Ltd.: 326 ITR 251 (Guj.)
- CIT v. Wheels India Ltd.: 336 ITR 513 (Mad.)
- Texmaco Rail & Engineering Ltd. v. PCIT: 167 ITD 118 (Kol. Trib.)
- ACIT v. Mahindra & Mahindra Ltd.: [2017] 86 taxmann.com 162 (Mum. Trib.)
- ACIT v. Meco Instruments (P.) Ltd. [2010] 7 taxmann.com 24 (Mum. Trib.)
- DCIT v. International Tractors Ltd.: ITA No. 5817/6071 of Delhi/2010 (Del. Trib.)
- SML Isuzu Ltd. (formerly known as Swaraj Mazda Ltd.) v. Addl. CIT: ITA No.76/Chd/2009

- Strides Acrolab Ltd. v. ACIT: 66 taxmann.com 132 (Mum. Trib.)

9. It is thus submitted that the disallowance made to the extent of INR 3,49,56,000/- as claimed by the assessee in respect of research and development expenditure u/s 35(2AB) of the Act deserves to be allowed.

10. On the other hand, Ld.CIT DR for the Revenue supported the orders of the lower authorities and submits that weighted deduction u/s 35(2AB) of the Act with respect to the research and development facility should be restricted to the amount certified by the prescribed authority in Form 3CL issued. In this regard, reliance is placed on the judgement of Co-ordinate Bench of ITAT, Hyderabad Tribunal in the case of ***Electronics Corporation of India Ltd. vs ACIT [202] 28 taxman.com 280 (Delhi)***. He prayed for confirmation of the order of the lower authorities.

11. Heard the contentions of both parties and perused the material available on record. The sole issues of dispute before us is with respect to the disallowance of weighed deduction of INR 3,49,56,000/- out of the total deduction claimed by the assessee on in-house Research and Development facility installed by assessee at its plant at Pithampur, Madhya Pradesh. The assessee claimed weighted deduction u/s 35(2AB) of the Act of INR 110,44,42,500/- (capital expenditure of INR 52,49,14,134/- and revenue expenditure of INR 57,95,28,366/-). However, the prescribed authority i.e. DSIR in Form 3CL has certified the expenditure on R& D activities of INR 106.94 crores only in terms of the certificate dated 15.02.2017.

Accordingly, the AO has disallowed the excess amount of weighted deduction claimed by the assessee. On perusal of the facts, we find that the provision of section 35(2AB) of the Act as existed and applicable at the relevant point of time provides that where the company is engaged in the business of manufacturing and 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 and if such in-house research and development facility is approved by the prescribed authority then there shall be allowed a deduction of a sum equal to two times of the expenditure so incurred. As per section 35(2AB), the sole condition for claiming weighted deduction is that R&D facility must be approved by the prescribed authority i.e. DSIR. In another words, in-house R&D facility must be approved by the prescribed authority then the expenditure incurred by the assessee for installing such activity is eligible for weighted deduction u/s 35(2AB) of the Act.

12. The Co-ordinate Bench of Hyderabad Tribunal in its judgement dated **28.08.2014** in the case of **Coromandel International Ltd. vs Addl.CIT in ITA No.101/Hyd/2012** has held that even in absence of approval from DSIR though the assessee may not be eligible for deduction u/s 35(2AB) still the assessee can claim the deduction u/s 35(1)(iv) of the Act.

13. Further, Hon'ble Delhi High Court in the case of **CIT vs Sandan Vikas India Ltd. 335 ITR 117 (Delhi)** has held that cut-off date mentioned in the certificate issued by DSIR would be of no

relevance and what is to be seen is that assessee was indulging in R&D facility and had incurred expenditure thereupon. This view is further supported by another judgement of Hon'ble Delhi High Court in the case of ***Maruti Suzuki India Ltd. vs Union of India [2017] 84 taxmann.com 45 (Delhi)***.

14. In the instant case, it appears that the expenditure of INR 3,49,56,000/- is neither allowed u/s 35(2AB) of the Act nor under any other provision of the Act to the assessee. Though there is no quarrel about the incurrance of such expenditure by the assessee nor it is alleged by the AO that the expenditure was not eligible but solely it was not certified by the DSIR, the deduction was denied. The Hon'ble Jurisdictional High Court in the case of Maruti Suzuki (supra) held that for claiming deduction u/s 35(2AB) of the Act, only condition prescribed is that approval must be granted by the prescribed authority which has been granted in the instant case and has not been doubted by the lower authorities, the only dispute is with respect to the amount of deduction.

15. Further, reliance placed by the AO in respect of amended Rule 6(7B) of the Income Tax Rules, 1962 ("Rules"), we find that this Rule is amended vide Income Tax (Tenth Amendment) Rules, 2016 w.e.f. 01.07.2016 and applicable prospectively. The Assessment Year is before us is AY 2015-16 whereas amendment made in Rule 6(7A) are from AY 2017-18 and thus, such amendment is not applicable to the year under appeal. Accordingly, we hold that the expenditure incurred by the assessee on in-house research development activity has not been doubted therefore, such

expenditure is allowable as deduction u/s 35(2AB) of the Act and the AO is directed to allow the same accordingly. Ground of appeal Nos. 1 to 1.2 raised by the assessee are thus, allowed.

16. **Ground of appeal Nos. 2 to 2.1** raised by the assessee are with respect Dividend distribution tax on the dividend declared and paid to non-resident shareholders.

17. Before us, ld.AR fairly admits that this issue is covered against the assessee in terms of order of Hon'ble Special Bench of Mumbai Tribunal in the case of ***DCIT vs Total Oil India Pvt. Ltd. [2023] 104 ITR (T)1 (Mumbai-Trib.) (SB) [20.04.2023]***. In this order, the Hon'ble Special Bench of Tribunal has held that the beneficial rate for taxation of dividend under applicable DTAAs is not applicable on the DDT paid on dividends inasmuch as the DDT is an additional income tax in the hands of the company and not the shareholder, i.e. DDT is a tax liability of the company on the profits it seeks to distribute as dividend and not income in the hands of the shareholder with incidence of payment of tax on the company.

18. Admittedly, this issue is squarely covered in favour of revenue, thus by respectfully following the judgement of Hon'ble Special Bench in the case of DCIT vs Total Oil India Pvt. Ltd. (supra), we find no error in the order of AO in charging DDT @ 19.994% on the total dividend distributed by the assessee company. Accordingly, Ground of appeal Nos. 2 to 2.1 raised by the assessee are hereby, dismissed.

19. **Ground of appeal No.3** raised by the assessee is with respect to the charging of interest u/s 234C on the assessed income.

20. Heard the contentions of both the parties and perused the material available on record. It is settled law that interest u/s 234C is to be charged on the income declared in the return of income filed. Accordingly, the AO is directed to re-work the amount of interest u/s 234C on the income declared by the assessee in the return of income filed. With these directions, Ground of appeal No.3 raised by the assessee is allowed for statistical purposes.

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

**ITA No.1411/Del/2023 [Assessment Year : 2015-16]**

22. Now we take up appeal of the Revenue in ITA No. 1411/Del/2023 for Assessment Year 2015-16.

23. In this appeal, the sole issue raised by the Revenue is with respect to the allowability of training expenses of INR 3,15,82,907/- disallowed by AO by holding the deferred revenue expenses.

24. Heard the contentions of both the parties and perused the material available on record. At the outset, it is seen that this issue has been firstly cropped up in AY 2011-12 wherein Co-ordinate Bench vide its order dated 30.04.2024 in ITA No.5734/Del/2016 has allowed the expenditure. The relevant observations of the Co-ordinate Bench as contained in para 27 of the order is reproduced as under:-

27. *“We find that the assessee is in the business of selling commercial vehicles wherein training of the drivers and other technicians is a business expediency. Owing to the new recruitment as well as job rotation, off boarding and attrition of employees, the training is taken to be an ongoing process for any industry. The Assessing Officer observation that it goes to improve the brand building, if at all, is collateral benefit. There is no provision in the Income Tax Act for apportioning this expenditure over a period of three years as invoked by the Assessing Officer. Section 37(1) mandates that any expenditure has to be allowed in entirety if it is spent in connection with business of the assessee. There cannot be any formula basis, criteria adopted by the AO while disallowing 2/3rd of such expenditure. At the same time, this expenditure cannot be treated as capital expenditure too. Reliance is being placed on the judgment of Hon’ble Apex Court in the case of Taparia Tools Ltd. Vs JCIT 372 ITR 605 on the issue of deferred revenue expenditure. Hence, we hereby hold that the disallowance made by the AO is legally not tenable. Appeal of the revenue on this ground is dismissed.”*

25. Further, the Revenue has filed the appeal against the said order before the Hon’ble Jurisdictional High Court who vide its order dated 15.09.2023 in ITA No.334/2023, has dismissed the appeal of the Revenue by holding the order of the Tribunal. The Revenue has stated that in subsequent years also, an appeal filed against the order of the Hon’ble High Court however, this alone cannot be the sole reason for confirming the disallowance made by the AO. More particularly, when Hon’ble Jurisdictional High Court has already upheld the decision of the Co-ordinate Bench allowing the expenditure as Revenue expenditure u/s 37(1) of the Act. Thus, by respectfully following the orders of Co-ordinate Bench as cited (supra), we find no infirmity in the order of Ld.CIT(A) who had followed the order of Co-ordinate Bench while allowing the same u/s 37(1) of the Act. Accordingly, Ground of appeal raised by the Revenue is dismissed.

26. In the result, appeal of the Revenue is dismissed.

**ITA No.1101/Del/2023 [Assessment Year : 2016-17]**

27. Now we take up appeal of the assessee in ITA No. 1101/Del/2023 for Assessment Year 2016-17.

28. In this appeal, **Grounds of appeal Nos.1 to 1.2** raised by the assessee are in respect of disallowance of INR 6,23,00,000/- out of weighted deduction claimed u/s 35(2AB) of the Act towards in-house research and development expenditure incurred by the assessee. This issue has already been discussed in details and allowed in favour of the assessee while deciding the appeal of the assessee for AY 2015-16 in ITA No.1100/Del/2023. Thus, by respectfully following the said observations, Ground of appeal Nos. 1 to 1.2 raised by the assessee are allowed.

29. **Grounds of appeal Nos.2 to 2.1** raised by the assessee are on account of restriction of dividend distribution tax (DDT). This issue has already been discussed and decided against the assessee while deciding the appeal of the assessee for AY 2015-16 in ITA No.1100/Del/2023. Thus, by respectfully following the said observations which are applied *Mutatis Mutandis* to the facts of case under consideration, Grounds of appeal Nos. 2 to 2.1 raised by the assessee are dismissed.

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

31. In the final result, appeals of the assessee in ITA **Nos. 1100 & 1101/Del/2023** [Assessment Years 2015-16 & 2016-17] are partly allowed and appeal of the Revenue in **ITA No.1411/Del/2023** [Assessment Year 2015-16] is dismissed.

Order pronounced in the open Court on 19.08.2025.

**Sd/-**

**Sd/-**

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**Date:- 14.11.2025**

*\*Amit Kumar, Sr.P.S\**

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