

Exp. on scientific research useful for public at large is allowable even if it enures benefit to third party

Summary – The Indore ITAT in a recent case of Consolidated Energy Consultants Ltd., (the Assessee) held that where assessee-company, apart from rendering technical services to its clients, did research in field of development of wind power at its own, which was used for benefit of public, scientific research expenditure was to be allowed.

Facts

- The assessee was engaged in the activity of engineering consultancy in the field of wind power generation and power sector related job. It claimed deduction of capital expenditure under section 35.
- The Assessing Officer held that the assessee was not sharing the results into public domain through centre for wind energy technology or any public agency; rather consultancy was made to individual customers. Thus, the activity of the assessee was of commercial nature and allied activities and, he disallowed the claim of capital expenditure incurred on scientific research.
- On appeal, the Commissioner (Appeals) being satisfied that the nature of activity carried out by the assessee fell within the phrase "scientific research" and that the assessee satisfied all the conditions provided under section 35 to claim deduction of capital expenditure, deleted the disallowance made by the Assessing Officer.
- On cross appeals:

Held

- If the expenditure is incurred for the purpose of scientific research, related to the business of the assessee, it does not matter that the expenditure might result in some other benefits to the assessee or enure to the benefit of a third party. In order to get the benefit of deduction in respect of capital expenditure, incurred on scientific research, it will suffice that the expenditure is really incurred during the relevant previous year. As long as the expenditure is of capital nature and it is used for scientific research relating to the business carried on by the assessee, such deduction cannot be denied.
- Expenditure on scientific research is allowable as a deduction under section 35 only when such expenditure is laid out or expended or related to business. The term "business" is to be given a wide meaning and with the rapid advancement and growth in the field of science and technology, even consultancy services offered would be covered under the term "business". These days, providing consultancy has become a major source of the Revenue; therefore, the term "business" cannot be confined to only sale and purchase of merchandise or manufacturing activities. Thus, such expenditure on scientific research, related to its business, will be allowable deduction.

- The Assessing Officer had not doubted incurring of expenditure by the assessee. The assessee is a public limited company deriving income from engineering consultancy in the field of wind power generation and related job. The definition of "scientific research", contained in section 43(4), is broad enough, wherein, the Legislature in its wisdom as in no uncertain term stated that references to the scientific research related to business, shall include any scientific research which may lead to or facilitate an extension of that business. When the term scientific research is used in relation to business, it does not have to be a research only in the field of natural or applied sciences. The results oozing out of such scientific research are useful for public at large though such benefits enures to a third party. In every situation, it cannot be said that the scientific research done by govt. agencies can only be said a research. Any research even done through private sector will definitely be covered under scientific research. Before providing the exemption under section 35, the activity/research activity of an individual are thoroughly examined by the competent authority and then such approval is granted. Where it is not allowable, it has been specifically explained by adding provisos and explanations as is evident from the Act itself by inserting suitable amendments from time to time. The Central Govt., before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information, as it thinks necessary in order to satisfy itself about the genuineness of the activities and also make such inquiries as it may deem necessary in this behalf.
- The assessee was granted registration on fulfilment of conditions as had been prescribed. Even the Assessing Officer had not doubted the factum that any scientific research/activity was not done by the assessee. It was also pointed out that since incorporation, the assessee was engaged in core activity of rendering of consultancy service of techno commercial nature with competence in wind energy to its clients and such consultancy service included preparation of feasibility report, detailed project report, drafting of commercial terms, bid evaluation, engineering supervision of construction, erection and commissioning, post commissioning monitoring, performance improvement, energy estimation on the basis of data provided by WEG Manufacturer/Developer, Designing, lay out and micro sitting etc. for wind power project, that too, for involving private sectors in wind resources assessment and subsequent to examination and certification of the wind resource study by the centre for wind energy technology, the competent authority considered the same and identified the site.
- The assessee incurred expenditure on acquisition and installation of eleven wind monitoring system at seven locations in Madhya Pradesh and four locations in Rajasthan, under intimation to C-WET and State Nodal Agencies, thus, the assessee company, apart from rendering technical services to its clients, did research in the field of development of WPP at its own and incurred expenditure of Rs.51,41,440. This factual matrix had not been controverted by the Revenue with the help of any positive material. Since the research done by the assessee was used for the benefit of public, the claim of deduction of capital expenditure under section 35 was allowed.
- Consequently the Cross-objections of the assessee were dismissed as infructuous.