

## Market research exp. incurred by trader was in nature of revenue expense, says ITAT

**Summary – The Mumbai ITAT in a recent case of Mehra Eyetech (P.) Ltd., (the Assessee) held that Expenditure incurred on market research by a trader cannot bring into existence any capital assets; hence, it is revenue expenditure**

### Facts

- The assessee incurred an expenditure of Rs. 14.03 lakh for market research expenses. The assessee submitted that the assessee was the all India agent and trader of ophthalmic instruments manufactured by foreign company Topcon. The assessee had been supplying all types of such equipment to eye specialists, opticians and hospitals all over the country and was earning commission on the sale of such equipment. It was further submitted that the expenses in question were incurred on a study and analysis of the product performance, quality, satisfaction of customers, market potential, marketing, etc. for their current product and to increase the shares in the market.
- The Assessing Officer, however, held that the basic nature of expenses showed that it would bring benefit to the assessee for years to come and it would give the assessee an advantage of enduring nature. The Assessing Officer, therefore, made disallowance of the same by treating it as capital expenses. On appeal, the Commissioner (Appeals) confirmed the addition so made by the Assessing Officer.
- On appeal:

### Held

- The assessee is not a manufacturer but a trader only. The activity of the assessee, being the purchase and further sale of equipment and earning of commission upon such sales cannot be said in any way to be manufacturing activity but a trading activity only. The market research was done by the assessee for the betterment and expansion of its trading business. The expenditure incurred on the market research by a trader cannot be said to have brought into existence anything of enduring benefit in the sense of a capital asset. In view of the settled position of law on this issue as laid down by the High Courts of Bombay and Calcutta in the cases of *CIT v. Glenmark Pharmaceutical Ltd.* [2013] 351 ITR 359/213 Taxman 315/30 taxmann.com 167 and *CIT v. Ananda Bazar Patrika (P.) Ltd.* [1990] 184 ITR 542/[1989] 47 Taxman 436 this ground of the assessee is accordingly allowed.