

No disallowance of scientific research exp. just because benefit of research not shown in relevant year

Summary – The Mumbai ITAT in a recent case of FFC Aromas (P.) Ltd., (the Assessee) held that where assessee-company showed evidences of expenditure for scientific research and requisite infrastructure to carry out scientific research, said expenditure could not be disallowed only on ground that benefit of research were not shown in relevant year

Facts

- The assessee-company was engaged in business of producing Citronella oil and its derivatives for soap industry. It paid certain amount to a company viz GBPL to carry out scientific research and development to cultivate lemon grass for citronella oil. The assessee-company claimed deduction on this expenditure.
- The Assessing Officer held that the assessee claimed expenses as revenue expenses under the head 'research and development expenses', he placed reliance on provisions of sections 35 and 37 and made disallowance of Rs. 16,61,674 on account of research and development expense.
- On appeal, the Commissioner (Appeals) held that the GBPL did not have requisite infrastructure to carryout scientific research and development and activity carried out was primarily of nature of agriculture operations and not related to scientific research which did not have direct nexus with business of the assessee and GBPL was not a recognised institution under section 35(1) and upheld the decision of assessee.
- On appeal before the Tribunal:

Held

- The facts of this case and order passed by the Tribunal in the first round as well as details and evidences submitted by the assessee before the lower authorities. It is noted that Tribunal had sent this issue back to the file of the Assessing Officer with the direction to consider details and evidences submitted by the assessee with respect to infrastructure and necessary research work for the development of Citronella oil before deciding this issue afresh. It is noted that perusal of the orders of the lower authorities reveals that the details have not been properly considered in an objective manner. It was shown that whatever details were required by lower authorities, these were duly submitted, but these have been ignored or not considered properly due to few doubts. It is noted that assessee had filed exhaustive submissions along with requisite details and evidences before the Assessing Officer. One of the reply filed before the Assessing Officer was letter dated 24-10-2011.
- It is noted that after receiving this letter, nothing more was asked by the Assessing Officer and he simply proceeded to disallow the expenses after making his own analysis. First of all, the Assessing Officer referred to and analysed the provisions of section 35(1)(i) in his own manner, and whereby

he concluded that the payee was required to be certified by the prescribed authority for this purpose. It is noted that Assessing Officer has misunderstood the provisions of law in this regard. As per plain reading of section 35, the certification was required only if the expenditure was incurred before the commencement of business. For an expenditure to be allowable under section 35(1)(i), primary requirement of the law is that expenditure laid out or expended on scientific research should not be capital expenditure and should be related to the business of the assessee. It is nobody's case that it is a capital expense. It is not disputed that the assessee was engaged in the business of perfumery compound to be utilized in the soap industry. It is also not disputed that Citronella oil was one of the major raw materials to be used as a new perfumery compound to be used in the manufacturing of soap. It is also not disputed that Citronella oil is extracted from a particular variety of Lemon Grass. It is also not disputed that the aforesaid company namely Greenclone Biotech (P.) Ltd. (GBPL) was set up by Nanasaheb Bhosale, who is from Baramati and is an Agriculture Consultant. Under these circumstances, these expenses were incurred under the genuine circumstances. Thus, only grievance of the lower authorities left to be addressed was with regard to availability of requisite infrastructure of the said company. In this regard, few evidences including bills of lemon grass supplied and evidences of planting of its saplings. The copies of transportation vouchers were also submitted to show that all these evidences were brought before the Assessing Officer evidencing transportation of saplings and other related material. Nothing has been brought on record by the lower authorities to reject these evidences. No further query was raised in this regard by the lower authorities which was left to be addressed by the assessee. The disallowance has been made without bringing any cogent material on record to reject the details and evidences submitted by the assessee. The disallowance cannot be made only on the ground that results of the research were not shown by the assessee during the year under consideration. The benefit of research may or may not yield in the year under consideration. But, that would not determine allowability of the expenses or otherwise. Thus, taking into account totality of facts and circumstances of the case, the action of lower authorities in disallowing these expenses was not justified and therefore, same is reversed and Assessing Officer is directed to allow the claim of Rs.16,61,674.