

Purchase of assets for in-house R&D facility was eligible for sec. 35 deduction: ITAT

Summary – The Bangalore ITAT in a recent case of Tata Hitachi Construction Machinery Company Ltd., (the Assessee) held that Objective behind exclusion clause in section 43(4)(ii) is to be that expenditure on scientific research should be incurred on research actually carried out by assessee in-house and assessee should not spend money in acquiring rights in or arising out of scientific research carried on by some other person

Where assessee had sufficient interest free own funds to cover investments in shares, mutual funds, etc. that generated exempt dividend, no disallowance under section 14 read with rule 8D(2)(ii) was called for

Facts

- The assessee had claimed deduction of an amount on account of purchase of 'assets' for its in-house R & D facility.
- According to the Assessing Officer, the assessee could not substantiate that the above expenses on purchase of assets for utilization in its in-house R&D facility were incurred in accordance with the provisions of section 35, read with section 43(4)(ii), as its activities resulted in development of new products that gave rise to patents, which were Intellectual Property Rights (IPR) and, therefore, came under the exclusion clause in the definition of 'scientific research'. In this view of the matter, the Assessing Officer held that this expenditure did not qualify to be scientific research expenditure, but rather represented expenditure on intangible assets incurred in connection with acquisition of rights and, therefore, being in nature of capital expenditure, he disallowed the entire expenditure.
- The Commissioner (Appeals) concurred with and upheld the Assessing Officer's finding.
- On appeal:

Held

- Only basis on which disallowance of the expenditure incurred on assessee's in-house R&D facility was made was that the expenditure resulted in the acquisition of rights in or arising out of scientific research such as patents and it is for this reason that there is an exclusion under section 43(4)(ii). The objective behind the exclusion clause in section 43(4)(ii) appears to be that expenditure on scientific research should be incurred on research actually carried out by the assessee in-house and it should not spend money in acquiring rights in or arising out of scientific research carried on by some other person. If the interpretation sought to be urged by revenue was to be accepted, then the benefit sought to be conferred by the provisions of section 35(1)(iv) would virtually be denied in all cases by invoking the exclusion clause in section 43(4)(ii). Such a consequence would never have been intended by the Legislature. The object behind the provisions of section 35 is to encourage

scientific research. Therefore, the Assessing Officer was directed to allow the deduction claimed by the assessee under section 35(1)(vi) on account of expenditure incurred on in-house R&D facility of the assessee.