

Pending Govt. approval for R&D facility - Claim made towards weighted deduction u/s 35(2AB) allowable

Summary – The High Court of Madras in a recent case of TVS Electronics Ltd., (the Assessee) held that even in a case the government approval for R&D facility was pending, the claim made towards weighted deduction u/s 35(2AB) was allowable

Facts

- The assessee incurred expenditure on development of Research and Development facilities and claimed deduction under section 35(2AB).
- The Revenue disallowed assessee's claim on the ground that it did not produce approval from the prescribed authorities for the current year even though such approval was available for both the periods prior and subsequent to the current year.
- The Tribunal on perusal of Form 3CM submitted by the assessee determined that the approval for the in-house Research and Development facility was from 1-4-2003 to 31-3-2005 and held that the approval received for the subsequent years as such should be looked into for the earlier years on retrospective basis. The Tribunal granted weighted deduction.
- On the Revenue's appeal before the High Court:

Held

- The requisite approval for the project on which expenditure was incurred by the assessee on Scientific Research was approved for the period prior and even subsequent to the assessment year 2003-04. The approval from the Ministry for the year in question was also under active consideration and awaited.
- The HC held that the assessee cannot be punished for the bureaucratic delay in giving approval for the year in question. The fact that for the period anterior and posterior to the year in question such approval was granted by the Revenue, the weighted deduction for the expenditure incurred on the Scientific Research could not have been disallowed by the authorities and, therefore, the Tribunal rightly held such Scientific Research expenditure to be allowable under section 35 (2AB).