IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
****

201 **Date of Decision: 22.12.2025**

1. ITR-33-1995

M/S.SMITHKLINE BEECHAM CONSUMER HEALTHCARE LTD.
...Petitioner

Versus

COMMISSIONER OF INCOME TAX ...Respondent

2. ITR-34-1995

M/S.SMITHKLINE BEECHAM CONSUMER HEALTHCARE LTD.
...Petitioner

Versus

COMMISSIONER OF INCOME TAX ...Respondent

3. ITR-35-1995

M/S.SMITHKLINE BEECHAM CONSUMER HEALTH CARE LTD.
...Petitioner

Versus

COMMISSIONER OF INCOME TAX ...Respondent

4. ITR-36-1995

M/S.SMITHKLINE BEECHAM CONSUMER HEALTHCARE LTD.
...Petitioner

Versus

COMMISSIONER OF INCOME TAX ...Respondent

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present:- Mr. Rohit Jain *(through V.C.)* with
Mr. Abhishek Sharma, Advocate for
Mr. Vishal Gupta, Advocate
for the petitioner

Ms. Urvashi Dhugga, Sr. Standing Counsel with
Mr. Vidul Kapoor, Jr. Standing Counsel and
Ms. Kavita Advocate
for respondent-Income Tax Department
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JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order.

2. The petitioner-M/s Smithkline Beecham Consumer Health Care Ltd. (for short 'assessee') is engaged in the business of manufacture of consumer products. The assessee is selling its products inside as well as outside India. It filed Income Tax Return for the Assessment Year 1985-86. The Assessing Officer (for short **'AO'**) selected returns of the assessee and framed assessment under Section 143 (3) of Income Tax Act 1961 (for short, "1961 Act"). The AO disallowed few expenses as well as assessed closing stock at the value different from value declared by assessee. The matter reached Tribunal through First Appellate Authority. The Tribunal partially allowed appeal of the assessee. The Tribunal decided following against the assessee:-

(i) The assessee could change method of determination of value of closing stock, however, ordered to add few expenses relating to establishment in the value of closing stock;

(ii) Surtax paid by assessee;

(iii) Inclusion of Excise duty in the closing stock; and

(iv) Disallowed deduction beyond 80% of expenses relating to production of advertising material i.e. video film.

3. The parties approached Tribunal seeking reference on different issues to the High Court. The Tribunal and thereafter this Court considered few questions to be answered by this Court.

4. Learned counsel for assessee pointed out that issue with respect to

surtax paid by company stands settled against the assessee by Hon'ble Supreme Court in ***'Smith Kline & French (India) Ltd. Vs. CIT'*** **219 ITR 581.**

With respect to valuation of closing stock, he submitted that assessee w.e.f. assessment year 1982-83 adopted method of direct/variable cost method. The Revenue is claiming that assessee should continue to adopt total cost method as adopted prior to 1982-83. The Tribunal has partially decided in favour of Revenue. The Tribunal has held that assessee was free to adopt direct cost or total cost method, however, has ordered to include few indirect costs in the value of closing stock. This Court has decided aforesaid issue in ITR-62 to 65-1995. The opinion of Tribunal has been upheld. Appeal of Revenue as well as assessee has been dismissed.

The question of inclusion of excise duty in closing stock stands settled in ***'CIT Vs. Dynavision Ltd.'*** **348 ITR 380 (SC).**

The Tribunal has allowed expenses beyond 80% incurred on production of video-film which was displayed on different platforms. Production of video-film is a general business expense which is admissible for deduction under Section 37(1). The Tribunal has wrongly considered said expenses under Section 37(3A and 3B). Production of video-film cannot be treated as cost of advertisement.

5. Learned counsel for Income Tax Department submits that she does not dispute afore-stated factual and legal position. The Revenue has no objection to method of valuation as applied/approved by Tribunal. She does not press RA No.958/DEL/1993 filed by Revenue on the ground of monetary limit.

6. We have heard learned counsel for the parties and perused the record with their able assistance.

7. In view of monetary limit, RA No.958/DEL/1993 without expressing opinion on merit is hereby dismissed as withdrawn.

8. In the wake of aforestated factual and legal position as well as statement of both sides, question of surtax paid by assessee and inclusion of expenses as ordered by Tribunal in the value of closing stock are answered against the assessee. Question of inclusion of excise duty in the value of closing stock is answered in favour of assessee in terms of ***Dynavision Ltd. (supra)***

9. The question remains of deduction of expenses incurred on production of video-film which was displayed on different platforms. The assessee is not disputing that video-film was advertisement material which was finally used for the advertisement of product manufactured by them. Section 37(1) is a general provision and sub section (3A and 3B) are exceptions carved out from general provision. As per Section 37(1) all expenses relating to business without limit/cap are admissible for deduction. The Legislature has carved out cap with respect to few expenses which include advertisement, publicity and sales promotion. The Legislature as per its wisdom has restricted deduction of aforesaid expenses. The assessee prepared video-film for the promotion of its product. Said video-film was displayed on different platforms. Said video-film was certainly part of advertisement, publicity and sales promotion. It could not be treated as general expense. Once Legislature has provided that there would be cap with respect to expenses incurred on advertisement, publicity and sales promotion, it would be contrary to intention of the Legislature as well as plain language of aforesaid section if it is held that expenses incurred on preparation of advertising material is independent from advertisement, publicity and sales promotion. We do not find any infirmity in

the orders of Tribunal. The assessee was rightly allowed deduction with respect to production of video-film under Section 37(3A) instead of 37(1) of 1961 Act.

10. In the wake of above discussions and findings, questions raised by assessee are answered as below:-

i. Question of deduction of surtax is answered against the assessee;

ii. Question of valuation of closing stock is partially answered against the assessee. The opinion of Tribunal with respect to inclusion of few indirect expenses is upheld;

iii. Question of deduction of excise duty is answered in favour of assessee; and

iv. Question of denial of 100% deduction with respect to production of video-film is answered against the assessee. The assessee shall be entitled to deduction as per Section 37(3A) of the Act.

11. Disposed of in above terms.

12. Pending application(s), if any, stands disposed of.

13. Photocopy of this order be placed on the file of other connected case(s).

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

December 22, 2025
Deepak DPA

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No