

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201 Date of Decision: 27.11.2025

1. ITR-62-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

2. ITR-63-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

3. ITR-64-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

4. ITR-65-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

5. ITR-66-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

6. ITR-67-1995

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

Versus

COMMISSIONER OF INCOME TAX ...Respondent

7. ITR-68-1995

M/S.SMITHKLINE BEECHAM CONSUMER HEALTHCARE LTD.

...Petitioner

Versus

COMMISSIONER OF INCOME TAX

...Respondent

8. ITR-69-1995

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 and Mr. Vaibhav, Advocates (*through V.C.*) and
Mr. Abhishek Sharma, 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

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. For the sake of brevity and convenience, facts are borrowed from **ITR-62-1995 (RA No.882/DEL/1993).**

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 1982-83 onwards. 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 questions 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) Benefit of weighted deduction under Section 35B;
- (iii) Surtax paid by assessee;
- (iv) Deduction under Section 40(c);
- (v) Inclusion of Excise duty in the closing stock.

The Tribunal decided following questions in favour of the assessee:-

- (i) Deduction with respect to air-conditioning coolers, calculators and fans used in R&D; and
- (ii) Extra shift allowance on new plant and machinery as a whole or on the basis of number of days the machinery was put to use;
- (iii) Deduction under Section 40A(5).

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. This Court on 19.11.2025 passed the following order-

“1. Learned counsel for assessee with respect to ITR-62-1995 and connected matters 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.

2. Supreme Court in '**CIT Vs. Hero Cycle Ltd.**' 228 ITR 463 (SC) has remanded the matter back to Tribunal with respect to weighted deduction under Section 35B on commission paid to Indian agents.

3. 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.

4. On being pointed out that inclusion of few elements of indirect cost in the closing stock of one particular year would amount to exclusion in next assessment year, learned counsel for the assessee expressed his inability to controvert. He submits that it is revenue who is claiming that assessee should not be permitted at all to change method of valuation.

5. The Tribunal has decided question of deduction under Section 40(c) against assessee who has not preferred appeal, thus, revenue has wrongly raised question of said deduction. Question of deduction under Section 40A(5) stands settled against revenue by supreme court in '**CIT Vs. Mafatlal Gangabhai & Co. (P) Limited**' 219 ITR 644 (SC).

6. The question of extra-shift allowance on new plant and machinery as a whole or on the basis of number of days the machinery was put to use stands settled in '**South India Viscose Ltd. Vs. CIT**' 227 ITR 286 (SC).

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

8. The assessee has claimed deduction of Rs.25,628/- with respect to air conditioning & coolers, calculators, fans used by research and development department. The revenue claims that these expenses cannot form part of R&D.

9. *Learned counsel for Revenue seeks time. He assures the Court that no further adjournment would be sought.*

10. *On request, adjourned to 27.11.2025.*

11. *It is made clear that neither written nor oral request for adjournment shall be entertained.*

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

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 further submits that question of weighted deduction on commission paid to agent in India may be remanded to AO to ascertain factual position and thereafter decide as per judgments of Hon'ble Supreme Court as well as mandate of Section 35B.

6. 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 deduction under Section 40A(5) is answered in favour of assessee as per *Mafatlal Gangabhai and Co. (P) Ltd. (supra)*. Question of deduction with respect to air-conditioning, coolers, calculators, fans used in R&D is answered in favour of assessee. Question of extra shift allowance on new plant and machinery is answered in favour of assessee in terms of *South India Viscos Ltd. (supra)*. Question of inclusion of excise duty in the value of closing stock is answered in favour of assessee in terms of *Dynavision Ltd. (supra)*

7. The question remains of weighted deduction. The assessee is claiming that it appointed an agent outside India who promoted its product

outside India. The foreign agent appointed an agent in India. The assessee is entitled to deduction in terms of Clause (iv) of Section 35B(1)(b) of 1961 Act. The factual position needs to be examined and matter further needs to be adjudicated in the light of judgments of Supreme Court as well as mandate of Section 35B. Both parties are *in tandem* that this issue needs to be remanded to assessing authority, accordingly, this question is referred to Assessing Authority who would pass fresh order considering factual position as well judgment of Hon'ble Supreme Court in '*Commissioner of Income Tax Vs. Stepwell Industries Ltd*', [1997] 228 ITR 171 (SC).

8. Disposed of in above terms.
9. Pending application(s), if any, stands disposed of.
10. Photocopy of this order be placed on the file of other connected case(s).

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

November 27, 2025
Deepak DPA

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