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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 26.11.2025**

\+ **W.P.(C) 8334/2023 and CM APPL.31749/2024**

MS APPLIED RESEARCH INTERNATIONAL PVT LTD
.....Petitioner

Through: M. Harpreet Singh Ajmani, Ms. Ashmita Sharma, Advs.

versus

SECRETARY DEPARTMENT OF SCIENTIFIC AND INDUSTRIAL RESEARCH & ANR.
.....Respondents

Through: Mr. Neeraj (SPC) along with Ms. Sahaj Garg, Advs. for UOI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

The matter is taken up today as 25.11.2025 was declared a holiday on account of 350th Anniversary of "Guru Teg Bahadur's Martyrdom Day".

1. By way of the present petition, the petitioner has challenged the action on the part of the respondents in not favourably considering the applications dated 31.03.2016 and 30.03.2017 seeking recognition and approval for the petitioner's R&D facility under Section 35(2AB) of the Income Tax Act, 1961 for the FY 2015-16 & FY 2016-17.

2. Learned counsel for the Petitioner submits that the Petitioner had submitted applications, seeking recognition and approval for the R&D facility, which were filed in March 2016 and March 2017 respectively, for the concerned financial years, and various follow up applications were also

subsequently filed by the petitioner. However, the request of the petitioner for necessary approval was not heeded to. It is submitted that the respondents have, till date, not granted recognition to the petitioner for the said financial years viz. FY 2015-16 & FY 2016-17.

3. It is further submitted that, even though the Respondents have granted recognition to the Petitioner's R&D Unit on 26.10.2016 and approval under Section 35(2AB) of the said Act w.e.f. 01.04.2017, it appears that there is no in principle impediment to granting approval under Section 35(2AB) of the said Act, for the FY 2015-16 & FY 2016-17.

4. *Vide* letter dated 02.08.2021 it was intimated to the petitioner as under:-

No.TU/IV-15(1551)/2021 Date: 02/08/2021

To
The Shri Shravan Rewari, Managing Director (MD),
M/s Applied Research International Pvt Ltd,
46/13, EBlock, Phase-II, Okhla Industrial Area,
New Delhi-110020

Subject: Applied Research International Private Limited (ARI Limited / applicant), Application for recognition / approval in terms of Guidelines issue by the Department of Scientific & Industrial Research (DSIR) for claiming deduction under section 35 (2AB) of the Income Tax Act, 1961 (Act) for financial Year 2015-16.

Ref No.: Nil, Dated: 28th April 2021.

Sir,

This has been with above referred letter submitted to DSIR for issuance of Form 3CM to M/s Applied Research International Pvt Ltd.

It is intimated to M/s Applied Research International Pvt Ltd that: The DSIR, New Delhi has been already issued the Form No 3CM with reference to Form No 3CK: Nil, Dated: 14th December, 2017 as per DSIR, New Delhi guidelines, vide letter No: Order in Form No. TU/IV-15 (1551)/35 (2AB) 3CM/ (**1352**)/2018, dated: 6th July, 2018.

Yours Sincerely

अनिल कुमार
02/08/2021

(Dr. Anil Kumar)
Scientist 'C' Tel.: 011 – 26590579
Department of Scientific and Industrial Research (DSIR),
Room No. – 04, Hall "B",
Ministry of Science and Technology, Government of India,
Technology Bhawan, New Mehrauli Road
New Delhi-110016

5. It is submitted that the aforesaid letter rightly observes that the approval has been granted to the petitioner by issuing Form No. 3CM for the FY 2017-18. However, the said letter fails to consider the petitioner's eligibility/ entitlement for issuance of Form No. 3CM and 3CL for the FY 2015-16 & FY 2016-17.

6. It is the contention of the Petitioner that, in terms of the judgment of the Division Bench of this Court in *Maruti Suzuki India Ltd. versus Union of India* (W.P.(C) 9306/2015) there is no impediment in considering the petitioner's request/ application seeking recognition and approval for the R&D facility under Section 35(2AB) of the Income Tax Act, 1961 for the FY 2015-16 & FY 2016-17. The relevant observations in the said judgment are as under:-

> *38. It is the admitted position on both sides that the R&D Centre at Rohtak is recognized but the question being raised is as to whether the expenditure incurred on the said Centre since inception i.e., even prior to recognition being accorded is entitled to the benefit under Section 35 (2AB) of the ITA. The legislative intent behind this provision is to encourage innovation, research and development in India and non-grant of the benefit under Section 35 (2AB) of the Act defeats the legislative intent. The Auditor's certificate on record is categorical that the Petitioner is maintaining separate sets of accounts for the Gurgaon and the Rohtak Centres and the necessary details of the expenditure incurred therein have also been submitted as far back as on 31st October, 2011 and even thereafter. Even the Form 3CM which was issued by the DSIR under cover letter dated 2nd February, 2015, mentions both the Gurgaon and the Rohtak R&D Centres. Just because the Petitioner sought a correction in the certificate of expenditure which was issued to it, the complete removal of the R&D expenditure of the Rohtak R&D Centre in the certification issued by the DSIR is wholly unsustainable.*
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> *39. The Petitioner has fulfilled all the necessary conditions for availing the benefit under Section 35 (2AB) of the Act in view of the settled position in Sandan Vikas (supra) and Claris Lifesciences (supra). The relevant portion of the judgement in Sandan Vikas (supra) of the learned Division Bench of this Court which in turn approves the view taken by the Gujarat High Court in Claris Lifesciences (supra) reads as under:*

"3. …The objective is to encourage research and development by the business enterprise in India. 4. The provision further states that in order to claim this weighted deduction, it is to be certified by the competent authority that the assessee had undertaken research and development activity. … …in CIT v. Claris Lifesciences Ltd. [2010] 326 ITR 251 (Guj). We have gone through the aforesaid judgment of the Gujarat High Court and find that the Gujarat High Court detailed in no uncertain terms that the cut-off date mentioned in the certificate issued by the DSIR would be of no relevance. What is to be seen is that the assessee was indulging in research and development activity and has incurred the expenditure thereupon. Once a certificate by the DSIR is issued, that would be sufficient to hold that the assessee fulfils the conditions laid down in the aforesaid provisions. The discussion, which is undertaken by the Gujarat High Court while interpreting, the aforesaid provisions, is extracted below (Pg. 245) :

> *"7.…The lower authorities are reading more than what is provided by law. A plain and simple reading of the Act provides that on approval of the research and development facility, expenditure so incurred is eligible for weighted deduction*
>
> *8. The Tribunal has considered the submissions made on behalf of the assessee and taken the view that the section speaks of:*
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> *(i) development of facility;*
>
> *(ii) incurring of expenditure by the assessee for the development of such facility;*
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> *(iii) approval of the facility by the prescribed authority, which is DSIR; and*
>
> *(iv) allowance of weighted deduction on the expenditure so incurred by the assessee*
>
> *9. The provisions nowhere suggest or imply that the research and development facility is to be approved from a particular date and, in other words, it is nowhere suggested that the date of approval only will be the cut-off date for eligibility of weighted deduction on the expenses incurred from that date onwards. A plain reading clearly manifests that the assessee has to develop the facility, which presupposes incurring expenditure in this behalf, application to the prescribed authority, who after following proper procedure will approve the facility or otherwise and the assessee will be entitled to weighted deduction of*

any and all expenditure so incurred. The Tribunal has, therefore, come to the conclusion that on a plain reading of the section itself, the assessee is entitled to weighted deduction on expenditure so incurred by the assessee for development of facility. The Tribunal has also considered rule 6(5A) and Form No. 3CM and come to the conclusion that a plain and harmonious reading of the rule and Form clearly suggests that once facility if approved, the entire expenditure so incurred on development of the research and development facility has to be allowed for weighted deduction as provided by section 35(2AB). The Tribunal has also considered the legislative intention behind the above enactment and observed that to boost the research and development facility in India, the Legislature has provided this provision to encourage the development of the facility by providing deduction of weighted expenditure. Since what is stated to be promoted was development of facility, the intention of the Legislature by making the above amendment is very clear that the entire expenditure incurred by the assessee on development of facility, if approved, has to be allowed for the purpose of weighted deduction.

10. We are in full agreement with the reasoning given by the Tribunal and we are of the view that there is no scope for any other interpretation and since the approval is granted during the previous year relevant to the assessment year in question, we are of the view that the assessee is entitled to claim the weighted deduction in respect of the entire expenditure incurred under S.35(2AB) of the Act by the assessee."

5. We are in full agreement with the aforesaid approach of the Gujarat High Court. No substantial question of law, therefore, arises. The appeal is dismissed...."

40. The settled position in law is that, for availing the benefit under Section 35 (2AB) of the Act what is relevant is not the date of recognition or the cutoff date mentioned in the certificate of the DSIR or even the date of approval but the existence of the recognition. If a R&D Centre is not recognised it is not *entitled to deduction but if it is recognised, it is entitled to the benefit. The Gujarat High Court in Claris Lifesciences (supra) has rightly observed that the date of approval of the R&D Centre, not being a part of the provision, extending benefit only from the date of recognition "amounts to reading more in the law which is not expressly provided".*

41. Section 35 (2AB) clearly provides that any expenditure incurred by a party on its R&D facility except, insofar as it relates to land and building is liable to be allowed to be claimed as deduction (twice the amount of expenditure). A perusal of the scheme of the Act especially Sections 35 (2AB), 35A and 35AB reveals in no uncertain terms, that the purpose behind these provisions is to provide impetus for research, development of new technologies, obtaining patent rights, copyrights and know-how."

7. It is further pointed out that after the order dated 02.08.2021 was passed, during the pendency of the present petition, the petitioner has received the following communication dated 30.01.2021.

No. TU/IV-15(1551)/2025 Dated: 30/01/**2025**

To
Shri Shravan Rewari,
Managing Director (MD),
M/s Applied Research International Pvt Ltd,
46/13, EBlock, Phase II, Okhla Industrial Area,
New Delhi- 110 020.

Sub: Recommendation of the department on request of M/s Applied Research International Private Limited for 3CM approval and 3CL reports for FY 2015-16 and FY 2016-17,(PAN: AACCA4598A).

Sir/Madam,

This has reference to your letter for 3CM approval and 3CL reports for FY 2015-16 and FY 2016-17. In this regard it is informed that taking note of observations of discussion held with the company representatives on 19/12/2023 and re-examination of the applications & related documents, it is informed that: the department has upheld the decision of the department which was communicated to the company vide letter No. No.TU/IV-15(1551)/2021, dated 2nd August, 2021 and email: Mon, Mar 07, 2022. In view of the above the claim of the company for 3CM approval and 3CL reports for FY 2015-16 and FY 2016-17 cannot be accepted.

(Dr. P K Dutta)
Scientist - 'G'
(For and on behalf of Secretary, DSIR)

Place: New Delhi
Date: 30.01...../2025

File No: TU/IV-15(**1551**)/2025.
Copy to:

Copy to :
Shri Neeraj Kumar, Central Government counsel, 1, 103 Surya Mansion, Kaushalya Park, Hauz Khas 110016 New Delhi.

8. Again, it appears that the concerned authorities have failed to consider that there is no 'in principle' impediment to the grant of requisite certificates to the petitioner for the said financial years.

9. In the circumstances, the present petition is disposed of with a direction to the respondents to examine the matter afresh and to consider the grant of requisite certificate/ issuance of forms for the FY 2015-16 and FY 2016-17. Let the same be done as expeditiously as possible and preferably within a period of four weeks from today.

10. In case the petitioner's request/ application is sought to be rejected, a reasoned order shall be passed by the respondents under intimation to the petitioner.

11. Needless to say, the concerned authorities shall consider the aforesaid judgment of the Division Bench of this Court in *Maruti Suzuki India Ltd. versus Union of India* (W.P.(C) 9306/2015) while undertaking the aforesaid exercise.

12. The petition is disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

NOVEMBER 26, 2025/uk