



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

203-4

ITA-267-2009 (O&M)

Date of Decision: 04.02.2026

COMMISSIONER OF INCOME TAX

...Appellant

Vs.

M/S GLAXO SMITHKLINE CONSUMER HEALTHCARE LTD.

...Respondents

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

Present:- Ms. Urvashi Dugga, Advocate with for the appellant

Mr. Rohit Jain, Advocate (*through V.C.*) and
Mr. Abhishek Sharma, Advocate for
Mr. Vishal Gupta, Advocate for the assessee

JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal under Section 260A of the Income Tax Act, 1961 (for short '1961 Act') is seeking setting aside of order dated 21.03.2007 passed by Income Tax Appellate Tribunal, Chandigarh (for short 'ITAT').

2. The appellant has raised following questions for adjudication by this Court:-

(i) Whether on facts and in the circumstances of the case, the ITAT is right in law in treating the expenditure incurred on promotional and trade marketing as revenue expenditure, when the purpose of the expenditure & its intended reality is to obtain benefit of enduring nature?

(ii) Whether on the facts and in the circumstances of the case, the ITAT was right in holding that Excise Duty and Sales Tax will not form part of "total turnover" while computing deduction u/s 80HHC?

(iii) Whether on the facts and in the circumstances of the case the ITAT was right in law in allowing the deduction u/s 80-I of the I.T. Act, 1961, in as much as the machinery had been installed in the same existing factory premises, which is an expansion of the existing factory?

3. Learned counsel for the parties are *ad idem* that questions No.2 and 3 stand answered against Revenue by this Court or Hon'ble Supreme Court, thus, may be answered against Revenue. Ordered accordingly.

4. **Question No.1:-** Whether on facts and in the circumstances of the case, the ITAT is right in law in treating the expenditure incurred on promotional and trade marketing as revenue expenditure, when the purpose of the expenditure & its intended reality is to obtain benefit of enduring nature?

4.1 The respondent is engaged in the manufacture and sale of multiple consumer products. It is incurring expenses on promotion of its product. It besides other expenses incurred a sum of Rs.1.57 crore on promotional and trade marketing expenses and Rs.1.63 crore on product development expenses. The Assessing Officer formed an opinion that aforesaid expenses should be treated as capital expenses. The assessee preferred an appeal which came to be dismissed by CIT(Appeals). The assessee preferred second appeal which was allowed by ITAT. The Tribunal has held that promotional and trade marketing expenses as well as product development expenses should be treated as revenue expenses. From the perusal of nature of expenses incurred on promotional and trade marketing, it can be easily inferred that these expenses are recurring as well as revenue in nature. These expenses cannot be called capital expenses, however, matter needs to be examined with respect to product development expenses. The

detail of expenses incurred on product development is as below:-

<i>“B. Product Development Expenses</i>	
<i>Development Ex. For Nutribar chocolate</i>	<i>1441589</i>
<i>Nutribar Stock written off</i>	<i>1043028</i>
<i>Nutribar Trials</i>	<i>112216</i>
<i>Lotus Nuteribar Expenses</i>	<i>1297430</i>
<i>Nutribar research expenses</i>	<i>2923870</i>
<i>Development exp. for Ribena Softdrink</i>	<i>158938</i>
<i>Development exp. for Ribena</i>	<i>4225539</i>
<i>Horlicks 3-in-1 packaging expenses for free samples</i>	<i>700620</i>
<i>Market research & Consumer analysis for new produces-viz</i>	<i>1567281</i>
<i>Development exp. Existing products (Horlicks relaunch)</i>	<i>2850497</i> <i>16321008</i>
<i>Total Rs.321,02,870/-”</i>	

4.2 The Tribunal has held that in view of nature of the product and activities carried out by the assessee, these expenses should be treated as revenue expenses. The findings recorded by Tribunal read as:-

“10. Now we may examine the expenditure under the head "Product Development Expenses". The details of the expenditure show that the same has been incurred for introducing and developing new products. The assessee is engaged in the business of manufacture and sale of food and health care products under a well known brand. The expenses include development expenses for new products namely nutribar chocolate, Ribena soft drink, Horlicks re-launch expenses. Certainly such expenditure has the potential to improve the profitability of the assessee. However the issue to be considered is whether the expenditure seeks to enlarge the profit yielding capacity or it increases the efficiency of the business. This aspect, in our considered opinion, is to be decided in the light of the business realities under which the assessee is operating. The assessee is engaged in the business of manufacturing of fast moving consumer goods. The business of the assessee is subjected to volatility in consumer

preferences, tastes and wants. The assessee is therefore required to perennially study the market and launch new varieties in its products line and meet the competition in the market. It is in this background one has to examine as to whether the impugned expenditure incurred on development, introduction and launching of newer products is an advantage in the revenue filed or not. In our humble opinion the expenditure in question has merely enabled the assessee to remain competitive in the market and retain the customer preferences and loyalty towards its brand of products. The said advantage certainly is not limited to the period under consideration but spills over to the future also. So however that is not conclusive to hold that the expenditure in question is a capital expenditure. The parity of reasoning laid down by the apex court in the case of Empire Jute Co. Ltd. (Supra) discussed by us in the earlier paragraph is squarely applicable with respect to such expenditure also.

11. We may mention here the stand of revenue that the development and introduction of new products create a new line of business for the assessee and thus expenditure related thereof is to be treated as capital expenditure. On this aspect we are unable to appreciate as to how can it be said that mere development and introduction of new varieties of products result in creation of new line of business. Factually speaking, prior to the development and introduction of the impugned new products the assessee was in business of manufacturing and sale of food and health care products. Even post development and introduction of new products, the business of the assessee remains that of manufacturing and sale of food and health care products. Therefore it is erroneous to conclude that the assessee acquired a new line of business by merely developing and introducing new products in the existing line of business. The new products clearly relate to the same line of business that the assessee has been hitherto carrying on. Therefore, on above consideration also the plea of the assessee that the expenditure in question is a revenue expenditure deserves to be upheld.”

4.3 We are not in agreement with findings recorded by Tribunal. The assessee is claiming that these expenses are incurred year by year. The product manufactured by assessee is of such a nature that they have to incur expenses on these counts year by year. These are revenue expenses. The product cannot be promoted in the absence of these expenses. To remain in competitive market, the assessee is forced to incur these expenses.

4.4 The contention of assessee cannot be countenanced. Mere fact that assessee is incurring aforesaid expenses almost every year does not mean that these expenses can be treated as revenue expenses. These expenses have been incurred to promote the product. The expenses are going to benefit the assessee in subsequent years besides current year. These expenses are of capital in nature. The findings recorded by Tribunal deserves to be set aside and accordingly set aside.

4.5 In the wake of above discussions and findings, the questions raised by appellant are answered against Revenue except question with respect to expenses incurred on product development.

4.6 It is hereby made clear that assessee would be entitled to depreciation, in accordance with law, on aforesaid expenses declared as capital expenses.

5. Disposed of.
6. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)

JUDGE

(AMARINDER SINGH GREWAL)

JUDGE

February 04, 2026

Deepak DPA