

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

**ITANo. 280 of 2012**

Date of decision: 09.01.2013

The Commissioner of Income Tax-I, Chandigarh ...Petitioner

Versus

M/s Essen Deinki, Chandigarh ..Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA  
HON'BLE MS. JUSTICE RITU BAHRI**

Present:- Ms. Urvashi Dhugga, Advocate  
for the petitioner.

**HEMANT GUPTA, J. (Oral)**

The Revenue is in appeal under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order dated 24.05.2012 passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A' Chandigarh (for short 'the Tribunal) in ITA No. 704/CHD/2010 for the assessment year 2000-01.

The Revenue has framed the following substantial question of law:-

“Whether ITAT was right in law as well as on facts in allowing the Research & Development expenses where items for which Research & Development had been claimed as capital expenditure and the same were already developed and sold by the assessee?”

The assessee claimed that a sum of Rs.45,57,784/- is capital expenditure incurred on Research and Development during the relevant assessment year. The assessee furnished the information that such

expenditure was incurred for development of 14 Pin Double Decker Relay Socket and for 48x96 panel meter. The Assessing Officer found that such articles were already being sold by the assessee, therefore, it was found that the Research and Development expenditure claimed by the assessee is not allowable expenditure under Section 35(1)(iv) of the Act and consequently made addition to the income of the assessee.

The said order of the Assessing Officer was set aside by the Commissioner of Income Tax on 26.03.2010. The said order has been affirmed by the Tribunal vide order dated 24.05.2012.

The Tribunal observed that development of new project through Research is a continuous process because technology is changing very fast . Thus, even if assessee has developed 14 Pin Double Decker Relay Socket and 48x96 panel meter but still the prototype may require further improvement. Mere selling of units will not show that the assessee already has the technology of the same product. Consequently, the order of the Commissioner of Income Tax was upheld.

Learned counsel for the appellant has vehemently argued that the product on which the assessee has claimed capital expenditure was already being marketed, therefore, such expenditure has been rightly disallowed by the Assessing Officer and that such finding has been set aside without any adequate reasoning.

We have heard learned counsel for the appellant and do not find any merit in the present appeal. It could not be disputed that the assessee has carried out Research and Development activities. The entire basis of argument is that the product for which the assessee has claim expenditure

during the course of assessment proceedings was already being marketed.

We find that the capital expenditure incurred on the Research and Development activities is a continuous process and even if a specific product has been sold at one stage, but still the developments in the product can be carried out. It is finding of fact recorded by the Learned Tribunal that the assessee has incurred expenditure for research and development activities.

Consequently, we find that no substantial question of law arises for consideration by this Court in the present appeal. The same is accordingly dismissed.

**(HEMANT GUPTA)**  
**JUDGE**

**( RITU BAHRI )**  
**JUDGE**

January 09, 2013  
*G.Arora/Vimal*