

(2001) 11 P&H CK 0145

High Court Of Punjab And Haryana At Chandigarh

Case No: IT Reference No. 129 of 1990 21 November 2001

Commissioner of Income Tax

APPELLANT

Vs

INDO ASIAN SWITCHGEARS (P)
LTD.RESPONDENT

Date of Decision: Nov. 21, 2001**Acts Referred:**

- Income Tax Act, 1961 - Section 35B

Citation: (2002) 121 TAXMAN 69**Hon'ble Judges:** Jawahar Lal Gupta, J; Jawahar Lal Gupra, J; Ashutosh Mohunta, J**Bench:** Full Bench**Advocate:** R.P. Sawhney and Kishan Singh, for the Revenue Sanjay Bansal, for the Assessee, for the Appellant;

Judgement

Gupta, J.

The revenue seeks the opinion of this court on the following question :

"Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that weighted deduction u/s 35B of the Income Tax Act, 1961 on expenditure of Rs. 66,742 incurred by way of testing fees paid to different laboratories in India, is admissible ?"

2. The learned counsels for the parties agreed that in view of the decisions of their Lordships of the Supreme Court in CIT v. Stepwell Industries Ltd. (1997) 228 ITR 1711 and [Commissioner of Income Tax \(CNTL\), Ludhiana Vs. Hero Cycles Pvt. Ltd., Ludhiana](#), the issue regarding admissibility of the deductions claimed by the assessee has to be decided by the Tribunal after giving an opportunity to the assessee to establish its case. They further agreed that in view of the aforesaid decisions, the order of the Tribunal passed on 12-4-1985 in respect of the assessment year 1978-79 be set aside insofar as the admissibility of deductions u/s

35B of the Income Tax Act, 1961, is involved.

The statement made by the counsels is in conformity with the observations of their Lordships of the Supreme Court in the two cases noticed above.

3. Resultantly, the order of the Tribunal, insofar as deductions u/s 35B are concerned, is set aside. The question is answered in favour of the revenue and the case is remanded to the Tribunal for a fresh decision in accordance with the observations of their Lordships of the Supreme Court in the aforesaid cases.

4. No costs.