IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).2269 OF 2025
(ARISING OUT OF S.L.P. (CIVIL) NO(S). 2447/2021)

THE PRINCIPAL COMMISSIONER OF INCOME TAX **APPELLANT(S)**

VERSUS

M/S. SUN PHARMACEUTICALS INDUSTRIES LTD. **RESPONDENT(S)**

O R D E R

1. Leave granted.

2. The grievance of the appellant is only as regards the issue of disallowance under Section 35(2AB) of the Income-tax Act, 1961 for clinical trial expenses incurred outside the approved facility. The High Court while dealing with the issue relied upon its decision in the case of *Commissioner of Income Tax-1 vs. Cadila Healthcare Ltd.*[1]. This Court by an order dated 13th October, 2015 in CA No.8616/2015 @ SLP (C) No.770/2015, remanded the said issue to the High Court and the same is pending in R/Tax Appeal No.752/2012 before the High Court of Gujarat at Ahmedabad.

3. Therefore, we set aside the impugned order only insofar as the issue of disallowance under Section 35(2AB) of the Income-tax Act, 1961 for clinical trial expenses incurred outside the approved facility is concerned. To this limited extent, R/Tax Appeal No.92/2020 is remanded to the High Court of Gujarat at Ahmedabad. The remanded Appeal shall be heard along with R/Tax Appeal No.752/2012.

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Date: 2025.02.14 17:10:38 IST
Reason:

4. The Appeal is partly allowed on the above terms.

1 **(2013) 214 Taxman 672 (Gujarat)**

5. It is obvious that as the issue is pending before the High Court, this Court has not expressed any opinion on the merits of the case.

6. A copy of this order shall be forwarded by the Registry to the Registrar (Judicial) of the High Court of Gujarat at Ahmedabad.

.....J.
(ABHAY S. OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
FEBRUARY 11, 2025.

ITEM NO.2 COURT NO.4 SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 30870/2012

[Arising out of impugned final judgment and order dated 16-11-2010 in ITA No. 1330/2009 passed by the High Court of Kerala at Ernakulam]

THE COMMISSIONER OF INCOME TAX COCHIN Petitioner(s)

VERSUS

THE FEDERAL BANK LTD. THROUGH ITS MANAGER Respondent(s)

[ONLY SLP (C) Diary No. 20163/2019 AND SLP (C) No. 2447/2021 ARE LISTED UNDER THIS ITEM]

WITH
Diary No(s). 20163/2019 (III)
(IA No. 90645/2019 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 2447/2021 (III)

Date : 11-02-2025 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s): Mr. Rupesh Kumar, Sr. Adv.
Mr. V.C. Bharathi, Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. Raghvendra Shukla, Adv.
Mrs. Sunita Sharma, Adv.
Mrs. Alka Agarwal, Adv.
Mrs. Rekha Pandey, Adv.
Mr. Shyam Gopal, Adv.
Mr. Akshay Amritanshu, Adv.

For Respondent(s): Ms. Mahua Kalra, AOR
Mr. Mayank Nagi, Adv.

Mr. M. P. Vinod, AOR

UPON hearing the counsel the Court made the following
O R D E R

DIARY NO(S). 20163/2019

Delay condoned.

The learned senior counsel appearing for the petitioner states that the grievance of the petitioner is about the question of law relating to weighted deduction under Section 35(2AB) of the Income-tax Act, 1961 for expenses incurred on lunch, refreshments and brokerage paid for property used by R & D employees. It is pointed out that the same question of law is pending before the High Court in Tax Appeal No.317/2018. Though the Circular dated 17th September, 2024 may not apply to this situation, we find that as far as this question of law is concerned, the tax effect is of approximately Rs.15,000/- (Rupees Fifteen Thousand).

In view of this factual situation, we decline to entertain the Special Leave Petition and the same is dismissed. We, however, make it clear that the aforesaid question of law is kept open which can be decided in the pending cases by the High Court.

Pending application(s), if any, shall stand disposed of accordingly.

SLP(C) No. 2447/2021

Leave granted.

The Appeal is partly allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of accordingly.

(ASHISH KONDLE)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IN SLP(C) No. 2447/2021 IS PLACED ON THE FILE]