

Tax Hotline

May 15, 2003

"SOFTWARE DEVELOPMENT EXPENDITURE" CONSIDERED AS "R & D"

The Income Tax Appellate Tribunal, New Delhi ("ITAT") has recently held in the case of TCIL Bellsouth v Deputy Commissioner of Income Tax, New Delhi that software developers can claim a deduction under section 35 of the Income Tax Act, 1961 ("ITA") in respect of the software development expenditure incurred by them.

Section 35 of the ITA provides for a deduction in respect of expenditure incurred on scientific research, irrespective of whether the same is a capital expense or a revenue expense. However, software development was not considered as scientific research and hence no deduction was being available in respect of the same under section 35 of the ITA.

In the instant case, the counsel for TCIL Bellsouth (the Appellant) argued that a considerable time is usually spent in research while developing software. Also such research is original and planned investigation is undertaken with the hope of gaining new scientific or technical knowledge. Further, research and development expenses have to be viewed in the context of the dynamic and vibrant technology involved in the IT industry, irrespective of the fact that the benefits of software development would accrue to the company over the life of the product. At times there were cases that all development did not result in marketable products.

In view of the above arguments the Delhi ITAT held that software development would also fall within the ambit of section 35 of the ITA, thus entitled for 100% deduction.

Source: *The Economic Times*, May 14, 2003

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Proud Moments

Legal500 Asia-Pacific: Tier 1 for Tax, Investment Funds, Labour & Employment and TMT
2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012

Chambers and Partners Asia Pacific: Band 1 for Employment, Lifesciences, Tax and TMT
2020, 2019, 2018, 2017, 2016, 2015

IFLR1000: Tier 1 for Private Equity and Project Development: Telecommunications Networks.
2020, 2019, 2018, 2017, 2014

AsiaLaw Asia-Pacific Guide 2020: Tier 1 (Outstanding) for TMT, Labour & Employment, Private Equity, Regulatory and Tax

FT Innovative Lawyers Asia Pacific 2019 Awards: NDA ranked 2nd in the Most Innovative Law Firm category (Asia-Pacific Headquartered)

RSG-Financial Times: India's Most Innovative Law Firm
2019, 2017, 2016, 2015, 2014

Benchmark Litigation Asia-Pacific: Tier 1 for Government & Regulatory and Tax
2019, 2018

Research Papers

3D Printing: Ctrl + P the Future
April 02, 2020

Dispute Resolution in India: An Introduction
April 02, 2020

Impact of Covid-19 on Contracts
March 31, 2020

Research Articles

Chambers Global Practice Guide: Gaming Laws
December 19, 2019

The Tips and Traps to Avoid When Investing in India
December 31, 2018

Evolving HR Law: Giving GCs Sleepless Nights?

Audio

Seminar: Possible Last Window for the Start-Up Community's Say on Proposed Privacy Law

February 19, 2020

Webinar: India Budget 2020: Implications for the International Community

February 05, 2020

Webinar: A New Dawn for Privacy in India: the Personal Data Protection Bill, 2019

December 17, 2019

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

[Click here to view Hotline archives.](#)

Video

NDA cCep - Program Video

CNBC TV18 Startup Street

Webinar: Re-thinking Indian Private Equity Exits

