

# 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.

## Research Papers

### Littlel International Guide (India) 2024

November 08, 2024

### Unmasking Deepfakes

October 25, 2024

### Are we ready for Designer Babies

October 24, 2024

## Research Articles

### The Bitcoin Effect

November 14, 2024

### Acquirers Beware: Indian Merger Control Regime Revamped!

September 15, 2024

### Navigating the Boom: Rise of M&A in Healthcare

August 23, 2024

## Audio

### Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

### Renewable Roadmap: Budget 2024 and Beyond - Part II

August 26, 2024

## NDA Connect

Connect with us at events, conferences and seminars.

## NDA Hotline

Click here to view Hotline archives.

## Video

### "Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

### Analysing SEBI's Consultation Paper on Simplification of registration for FPIs

September 26, 2024

