

Indian Pharmaceutical Listed Company

One of our client, a large Indian pharmaceutical company from a reputed corporate house had been recognised by Department of Scientific & Industrial Research (DSIR) since the year 2000 and availing tax benefits under section 35 (2AB).

Our client had a large drug discovery centre in Mumbai and had invested millions of dollar to create new block buster molecules to solve unmet medical needs. But since the gestation period was long and the client had achieved limited success, they decided to prune down their drug discovery efforts.

Objective:

1. Handling disposal of equipments for DSIR recognised companies.
2. Change of address to be intimated to DSIR
3. Contract Research or CRO are eligible for DSIR recognition
4. Advantage of faster customs clearance in case of DSIR recognised companies

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As part of restructuring of the drug discovery business, our client decided to scale down the R&D lab set up as also relocate the same.

This involved shifting of equipments as also disposing off the equipments which were no longer required by them for R&D purpose.

As part of the guidelines laid down by DSIR, it needs to be informed if any equipment is being disposed off due to technical obsolesce or change of business focus as in this case and permission taken for the same.

In this case, we made an inventory of the equipments available at the drug discovery centre prior to shifting of the same as also a list of equipments which needed to be disposed. After which we advised our client to write to DSIR explaining them the business scenario and the need to dispose off the equipments and shifting of the facility from one location to another.

This was effectively communicated to DSIR which granted permission to client to dispose off equipments not in use as also shifting of the centre to another location.

In addition, the same client also had a contract research business also popularly known as CRO whereby they conducted research for 3rd parties primarily based outside India. This activity was different from the regular R&D activity being carried out by the company which was already recognised by DSIR.

It was important that the business model of the company properly explained to DSIR and the need to get recognition for the CRO centre of the client located in western India. The primary objective of getting recognition for the CRO centre was to ensure that the client is able to clear the imported raw material immediately from Customs Department since even a single day delay would cost the company loss of revenue as also they would need to adhere to promised turnaround time since the activity carried out by client was critical.

This was despite the fact that the CRO centre was located in a certified special economic zone (SEZ) whereby the client was exempt from paying customs duty on import of equipment and raw material but when the goods reached India, the goods would be kept in a customs notified area leading to delay in delivery of the same although customs duty was exempt on import of equipment and raw material being utilised within the SEZ zone

The case was properly presented to DSIR whereby the business model was well articulated to make them realise the difference between regular R&D activity and 3rd party R&D activity being carried out by client and why this didn't impact their regular R&D work and maintaining an arm's length distance between the two.

DSIR understood the same as also the fact that CROs are eligible for recognition which should be provided to them which provides client exemption from basic customs duty apart from excise duty benefits which would now be submerged into Goods & Service Tax (GST).

CRO activities are not eligible for income tax benefits under section 35 (2AB) since they are not into manufacturing producing products for sale

Both the matters discussed above were successfully handled hence ensuring client success in the project.

Takeaway from case study:

1. Important to intimate change of address or disposal of equipment for DSIR recognised cos
2. Contract Research companies are eligible for DSIR recognition and availing indirect tax benefits
3. Although companies located in Special Economic Zones (SEZ) are eligible for customs duty exemption, having DSIR recognition ensures faster customs clearance

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