

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "A", CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 233/CHD/2021

निर्धारण वर्ष / Assessment Year : 2019-20

Bajaj Sons Ltd., C-103, Phase V, Focal Point Ludhiana	बनाम	The DCIT-III, Kitchlu Nagar Market, Opp. Bhati Vidhya Mandir, 2 ND Floor, Ludhiana
स्थायी लेखा सं./PAN NO: AAACB6875H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Hearing though video Conferencing

निर्धारिती की ओर से/Assessee by : Shri Sarabjit Garg, CA
राजस्व की ओर से/ Revenue by : Dr., Ranjeet Kaur, Sr.DR
सुनवाई की तारीख/Date of Hearing : 25.11.2021
उदघोषणा की तारीख/Date of Pronouncement : 26.11.2021

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 09.07.2021 of the Commissioner of Income Tax (Appeals)-5, Ludhiana [hereinafter referred to as 'CIT(A)']

2. The assessee in this appeal has taken following grounds of appeal:-

1. *That the Ld. CIT(A) has erred in law and facts of the case in upholding disallowance of deduction claimed amounting to Rs. 529575/- u/s 80JJA on account of late filing of Form 10DA without appreciating that revised Form 10DA was notified and made available on e-filing portal of Income Tax Department after due date for filing income tax return.*
2. *The appellant craves leave to alter, amend or delete the aforesaid ground of appeal or to take any other ground at the time of hearing and till the time the appeal is finally disposed off.*

3. The sole issue raised by the assessee relates to the disallowance of deduction claimed by the assessee u/s 80JJA of the Income Tax Act, 1961 (in short 'the Act') on the ground that the assessee had late filed Form No. 10DA.

4. At the outset, the Ld. counsel for the assessee has invited our attention to the impugned order of the Assessing officer as well as impugned order of the CIT(A) to submit that the claim of deduction u/s 80JJA has been denied to the assessee due to not furnishing the required report in Form No. 10DA along with return of income. He, in this respect has submitted that, in fact, there was an amendment in the Income Tax Act and the Department amended the contents of Form 10DA which was not notified at the date of filing of the return of income on 19.10.2019. That the said Form 10DA was notified on 18.12.2019, but even the online uploading was not possible at that time

due to the technical glitches. The Form 10DA was uploaded by the assessee on 20.7.2020. That the non-filing of the Form No.10DA along with return of income was beyond the control of the assessee.

5. The Ld. DR, on the other hand, has submitted that the assessee, under the circumstances, could have uploaded the unrevised / old form 10DA along with return of income.

6. In rebuttal, the Ld. Counsel for the assessee has submitted that the said old form was not applicable to the case of the assessee as certain information as per revised form was to be furnished and the same could not be furnished due to the non-availability of new notified form 10DA. Even the assessee was under bonafide belief that only new /amended form has to be uploaded.

7. We have heard the rival contentions and gone through the record. In this case, the disallowance of deduction has been made because of the technical reason of non-furnishing of Form 10DA along with return of income. The assessee has duly explained that it was not due to any fault on the part of the assessee, rather, the same was due to technical glitches and non-availability of the revised Form 10DA by the Income Tax Department as the same was notified after the date of filing of return by the assessee. However, the assessee subsequently uploaded Form 10DA when it became available and cured the defect. In view of

the aforesaid explanation, in our view, the action of the lower authorities in denying deduction to the assessee on the technical reason, compliance of which was not possible at the time of filing of the return, as explained above, cannot be held to be justified.

In view of this, the impugned order of the CIT(A) is set aside and it is directed to allow the claim of deduction u/s 10 JJA to the assessee.

The appeal of the assessee stands allowed.

Order pronounced on 26.11.2021.

Sd/-

(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)

लेखा सदस्य/ Accountant Member

Dated : 26.11.2021

“आर.के.”

Sd/-

(संजय गर्ग / SANJAY GARG)

न्यायिक सदस्य/ Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar