

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA**

**Before Shri Rajpal Yadav, Vice-President  
and Shri Manish Borad, Accountant Member**

**I.T.A. No.651/Kol/2022**  
Assessment Year: 2020-21

**A R Overseas Tradecom (P) Ltd.....Appellant**  
86A, Topsia Road (South),  
Haute Street,  
Room No.207,  
Kolkata-700006.  
[PAN: AAICA5645C]

vs.

**DCIT, Circle-7(1), Kolkata.. .....Respondent**

**Appearances by:**

Shri Swati Baid, FCA, appeared on behalf of the appellant.  
Smt. Ranu Biswas, Addl. CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 31, 2023  
Date of pronouncing the order : February 06, 2023

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal is at the instance of the assessee pertaining to the Assessment Year (in short "AY") 2020-21 is directed against the order of the National Faceless Appeal Centre [in short ld. "CIT(A)"] dated 11.09.2022 which is arising out of the order u/s 154 of the Assessing Officer dated 06.01.2022.

2. The Registry has informed that the present appeal is delay by 7 days. Application for condonation of delay has been filed. We have perused the same and observed that there was sufficient cause which prevented the assessee to file the appeal in time. We, therefore, condone the delay and admit the appeal for adjudication.

3. The assessee has raised the following grounds of appeal:

*“1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) erred in passing an ex-parte order without affording a reasonable opportunity of hearing.*

*2. For that on the facts and circumstances of the case, the Ld CIT(A) was not justified in confirming the action of the A.O. in rejecting the claim of tax liability at the special rate specified in sec. 115BBA of the Act.*

*3. For that on the facts and circumstances of the case, the Ld. CIT(A) ought to have given direction to the A.O. to rectify the mistake by computing the tax liability as per the provisions of sec 115BAA of the Act.*

*4. For that on the facts and circumstances of the case, the Ld. CIT(A) ought to have given direction to the A.O. to rectify the mistake since the assessee had filed the Form 10 IC on 23rd December 2021 and as such eligible for the special rate specified in sec. 115BBA of the Act.*

*5. Without prejudice to the above, the Ld. CIT(A) ought to have given direction the A.O. to compute the tax at the basic rate of 25% u/s 115BA of the Act.*

*6. The appellant craves leave to add, alter or delete all or any of the grounds of appeal.”*

4. The sole grievance of the assessee is that that the ld. CIT(A) ought to have given the direction to compute the tax @25% as said in the Finance Act 2020.

5. The ld. counsel for the assessee vehemently argued referring to paper-book containing 43 pages.

6. On the other hand, the ld. DR supported the order of ld. CIT(A).

7. We have heard the rival contentions, perused the records placed before us. We notice that the assessee is private limited company which filed its return of income on 22.03.2021 for assessment year 2020-21. The assessee opted for a lower tax rate of 22% u/s 115BAA of the Act but failed to file the declaration of Form 10-IC before the due date of filing the return of income. However, since the assessee claimed the said relief u/s 115BAA of the Act in the income tax return, the Central

Processing Centre (CPC) denied and calculated the tax @30%. A rectification application was filed on 06.01.2022 by the assessee stating that its turnover is less than 400 crores as stated in Finance Act 2020, assessee is liable to tax @25% and the same should have been applied by the CPC while processing the income-tax return. But CPC failed to give relief to the assessee. Aggrieved, assessee preferred appeal before the ld. CIT(A). But the ld. CIT(A) only focused on the issue regarding exercising of the option u/s 115BAA of the Act and dismissed the ground raised by the assessee. Before us, the ld. counsel for the assessee has contended that tax rate of 25% is applicable in its case and suitable direction may be given to the Assessing Officer.

8. We find that so far as applicability of section 115BAA of the Act is concerned, the assessee does not fall in this category as it failed to file the option on Form 10-IC before the due date of filing the return of income u/s 139(1) of the Act and therefore, tax rate of 22% is not applicable. However, as regards the application of tax rate of 25% is concerned, we find force in the contentions of the assessee. On perusal of the extracted provision of Finance Act 2020 placed in the paper-book at pages 41 to 43, we notice that in Paragraph E, under the head rate of income tax, it states that where the total turnover or the gross receipt of a domestic company does not exceed four hundred crore then for such domestic company, Income Tax rate of 25% is applicable. On perusal of the audited financial statement, we find that for F.Y 2019-20, total turnover/gross receipt is 103.57 crores which is less than 400 crores, therefore, Income Tax rate applicable to assessee domestic company is 25%. We, therefore, reverse the findings of ld. CIT(A) and direct the Assessing Officer to apply the tax rate of 25% as against 30% applied by

CPC while processing the Income Tax return and re-compute the tax liability. Accordingly, the sole ground raised by the assessee is allowed.

9. In the result, the appeal of the assessee is allowed.

***Kolkata, the 6<sup>th</sup> February, 2023.***

Sd/-  
**[Rajpal Yadav]**  
**Vice-President**

Sd/-  
**[Manish Borad]**  
**Accountant Member**

Dated: 06.02.2023.

RS

*Copy of the order forwarded to:*

1. A R Overseas Tradecom (P) Ltd
2. DCIT, Circle-7(1), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches