

IN THE INCOME TAX APPELLATE TRIBUNAL
“GUWAHATI ‘SMC’ BENCH, GAUHATI
VIRTUAL HEARING AT KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य के समक्ष
Before Shri Sanjay Garg, Judicial Member

I.T.A. No.33/GTY/2021
Assessment Year: 2010-11

Santosh Kumar More (HUF)..... Appellant
C/o Advance Enterprise,
A.T. Road, Haibergaon,
Nagaon, Assam – 782002.
[PAN:AAVHS2044D]

vs.

ITO, Ward-2, Nagaon..... Respondent

Appearances by:

Shri Kishore Jain, FCA, appeared on behalf of the appellant.

Shri N.T. Sherpa, JCIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : March 14, 2023

Date of pronouncing the order : March 14, 2023

आदेश / ORDER

The present appeal has been preferred by the assessee against the order dated 17.02.2020 of the Commissioner of Income Tax(Appeals) -1, Guwahati [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. The only issue involved in this appeal is relating to denial of deduction u/s 80IC of the Act. The ld. counsel for the assessee has submitted that assessment year 2010-11 being the first year for which the assessee was mandatorily required to file the return of income electronically. It has been further submitted that the last date of filing the return electronically for the year under consideration was

15.10.2010. It has been further submitted that there was an issue of PAN correction and because of the aforesaid technical reason, the assessee could not upload his return electronically. However, facing the aforesaid technical glitches, the assessee filed its return manually with the concerned Assessing Officer on 11.10.10 i.e. before the due date of filing of the return. That the return was uploaded electronically after resolving of the technical reason/PAN correction. However, the Assessing Officer denied the deduction u/s 80IC invoking the provision of section 80AC of the Act on the ground that the return was not filed electronically within the due date as prescribed u/s 139(1) of the Act. The ld. counsel, in this respect, has submitted that the delay in uploading the return electronically was not intentional, rather, the assessee was prevented by sufficient cause and it was beyond the control of the assessee

3. Considering the above submission of the assessee and after going through the record, I find, that in this case, the delayed uploading of the return of income was not on account of negligence on the part of the assessee, rather, the assessee was prevented by sufficient cause and since it was beyond the control of the assessee, the assessee could not upload the return within the prescribed period. However, the assessee acted diligently and filed the return manually before the due date. Considering the above facts and circumstances, I do not find justification on the part of the lower authorities in denying the deduction to the assessee for the year under consideration. Accordingly, the impugned order of the CIT(A) is set aside and the Assessing Officer is directed to allow the admissible deduction u/s 80IC of the Act to the assessee in this case.

4. In the result, the appeal of the assessee stands allowed.

Kolkata, the 14th March, 2023.

Sd/-
[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 14.03.2023.

RS

Copy of the order forwarded to:

1. Santosh Kumar More (HUF)
2. ITO, Ward-2, Nagaon
3. CIT
(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches