

आयकर अपीलिय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"A" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No. 85/JP/2023
निर्धारण वर्ष / Assessment Years : 2021-22

Rajesh Kumar Agarwal Inside Sharma Building., M.I. Road, Jaipur	बनाम Vs.	DCIT Circle-01, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAVPA 5331 R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Smt. Suhani Meharwal (C.A.)
राजस्व की ओर से / Revenue by : Sh. A. S. Nehra (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 28/03/2023
उदघोषणा की तारीख / Date of Pronouncement : 17/04/2023

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

Feeling aggrieved from the order of the National Faceless Appeal Centre, Delhi dated 08/02/2023 [here in after (Id. NFAC/CIT(A))] for assessment year 2021-22 the assessee preferred the present appeal which in turn was arise against the order of the assessing officer passed u/s. 143(1) on 08.07.2022.

2. In the present appeal the assessee raised following

grounds:-

“1. On the facts and in the circumstances of the case as well as law that AO (CPC) has erred in disallowing the deduction u/s 80JJAA amounting to Rs. 762810/- u/s 143(1)(a) and simultaneously Ld. CIT also erred in sustaining the disallowance in spite of filing form no 10DA duly signed by chartered accountant is available at the time of making assessment u/s 143(1)(a). Hence the disallowance is against the well settled principle of law, unjustified and liable to be quashed.

2. Assessee prays to allow, add, delete, alter, and modify the ground of appeal on or before the date of hearing of appeal.”

3. Succinctly stated fact as culled out from the records is that assessee has been regular filer of ITR. For the A.Y 2021-22, he filed his ITR u/s 139(1) of the I.T Act, 1961. Assessee claimed deduction amounting to Rs 7,62,815/- u/s 80JJAA of the I.T Act, 1961. He complied with and eligible for all the conditions laid down for eligibility of deduction u/s 80JJAA. But merely the certificate in form no.10DA could not be attached and accordingly CPC did not allow the deduction u/s 80JJAA. Ld. CIT(A) also sustained the disallowance of deduction for want of form along with ITR before u/s 139(1). Apropos to the grounds taken by the assessee the relevant finding of the Id. CIT(A) on the issue is reproduced here in below:

“As per the requirement of section 80JJA(2)(c), the appellant was mandatorily required to furnish the prescribed report of accountant before the specified date mentioned in section 44AB. The requirement here is not to obtain the said report before the specified date but also to file it before the specified date. Appellant’s appeal is therefore dismissed.”

4. As the assessee not find any favour from the lower authorities the appeal is carried before this tribunal on the ground as stated here in above. To support the various grounds so raised by the assessee the relied upon the written submission and the same is reiterated here in below :

“Assessee has been regular filer of ITR. For the A.Y 2021-22, he filed his ITR u/s 139(1) of the I.T Act, 1961. Assessee claimed deduction amounting to Rs 762815/- u/s 80JJAA of the I.T Act, 1961. He complied with and eligible for all the conditions laid down for eligibility of deduction u/s 80JJAA. But the certificate in form no.10DA could not be attached and accordingly CPC did not allow the deduction u/s 80JJAA. Ld. CIT(A) also sustained the disallowance of deduction for want of form alongwith ITR before u/s 139(1). Aggrieved by the order of CIT(A), this appeal was preferred.

Ground of Appeal 1

Your honour, before making intimation u/s 143(1)(a) of the I.T Act, 1961, CPC Bengaluru issued a show cause notice to not to disallow the claim of deduction u/s 80JJAA, since the certificate in form no. 10DA was not filed alongwith ITR.

Assessee forthwith filed certificate in form no. 10DA on dated 31/05/2022 (Form attached in page no 1 of paper book) in response to notice u/s 143(1)(a) of the I.T Act, 1961. But CPC did not allow the claim of deduction of Rs. 762815/-.

Proposed adjustments u/s 143(1) (a) of I.T Act 1961 is issued on: 08/04/2022 (verified form page no 2 of paper book where screen shot of assessee portal is attached)

Respond Due Date: 14/07/2022 (page no 2 of paper book)

Response submit by assessee 31/05/2022(page no 2 and 3 of paper book)

Your honour, being eligible, assessee has been claiming the deduction u/s 80JJAA W.E.F from A. Y 2017-18. By Finance Act, 2016 W.E.F from A.Y 2017-18, this provision was inserted in statute and from the very first

year, assessee claimed the deduction. Every year, assessee obtained certificate from Chartered Accountant in form no. 10 DA before the date u/s 139(1) of the I.T Act, 1961 and furnish the same along with ITR filed u/s 139(1).

Your honour, the fact, figures, evidences and particulars were also given to Chartered Accountant to obtain the certificate. But as your honour, this was the unprecedented year we all felt in our life in which each and every person suffered with COVID-19. All the humanity in world were facing great loss by losing many family members, relatives and friends. Each and every person was in great stress. The date u/s 139(1) of the I.T Act, 1961 was extended about three time. The Chartered Accountant who happens to be the tax consultant also had checked, verified and compiled the form 10 DA but the UDIN could not be generated due to OTP issue. Thereafter, the form no. 10DA could not be signed and OTP could not be obtained. The figure of deduction u/s 80JJAA amounting to Rs. 762815/- had been worked out and the tax auditor mentioned this figure in form no. 3CD in para 33 of form. (Page no 4 to 33 of paper book and relevant page no is 26)

All the above facts were also mentioned in Affidavit by auditor. (Page no 34 of paper book)

Your honour, the mistake was come out in the knowledge first time when notice u/s 143(1)(a) of the I.T Act, 1961 is received. Assessee forthwith removed the defect and the form no. 10 DA was obtained and furnished.

Before making adjustment u/s 143(1)(a) of the I.T Act, 1961 the form no. 10 DA was available alongwith tax auditor report form no. 3CD in which the amount of deduction was available.

Your honour, assessee was eligible to get deduction being: -

- a) Assessee is businessman to whom the section 44AB of the I.T Act, 1961 was applied.
- b) Business was not formed by splitting up, or the reconstruction of an existing business.
- c) No business reorganization was there.
- d) He has additional employees at year end.
- e) Emoluments were paid by a/c payee cheque.
- f) Emoluments were less than Rs. 25000/- per month.
- g) Employees were subject to Provident Fund.
- h) Employees served for more than 240 days.
- i) Deduction had been claimed in ITR filed u/s 139(1)

- j) Tax auditor also certified the claim by giving particulars of deduction under s. no. 33 of form 3CD.

Only one condition could not be complied with that the form no. 10 DA was not furnished that too was available before making assessment u/s 143(1)(a) of the I.T Act, 1961.

Your honour, you may appreciate that all the substantiating conditions to get the deduction u/s 80 JJAA of the I.T Act, 1961 were fulfilled. Assessee failed to comply with the procedural compliance. But that is too complied with before making intimation u/s 143(1)(a) of the I.T Act, 1961.

Your honour, the condition in clause (c) of section 80 JJAA (2) is akin to the condition provided in 80 JJAA (1) of the I.T Act, 1961.

Clause (c) of sub- section (2) of Section 80 JJAA of the I.T Act, 1961

No deduction under sub- section (1) shall be allowed:

“Unless the assessee furnished the report of accountant before the specified date referred in section 44AB giving such particulars in the report as may be prescribed.”

Clause (iv) of sub-section (11B) of section 80-IB of the I.T Act, 1961

The amount of deduction in the case of an undertaking deriving profit from business of operating and maintaining a hospital in a rural area shall be 100% of profit and gains for 5 years if: -

“The assessee furnished the report of audit in such form and containing such particulars as may be prescribed duly signed by an accountant before the specified date referred to in section 44AB certifying the deduction has been correctly claimed.”

Similar condition is also provided in section 80-I (8), 80-IA (7) of the I.T Act, 1961.

Your honour, assessee argued before CIT(A) that the substantial compliance to get the deduction has been made and assessee only failed to make procedural compliance, which too has been complied with before making intimation u/s 143(1)(a). But Ld. AO simply denied the claim by saying “As per the requirements of section 80 JJAA, the appellant was mandatorily required to furnish the prescribed report of accountant before the specified date. But he failed to do so and resultantly appeal is dismissed.” Ld. CIT(A) failed to examine the

submission of assessee. (Copy of submission before CIT (A) page no. 35 to 39 of paper book)

On the law, I may rely upon the cases:

1. M/s Unique Builders & Developers v/s DCIT dated 29/03/2019 in which it is held that non-filing of audit report u/s 80IB which has been filed before assessment is the technical breach of law for which assessee should not be penalized. "In the above mentioned case it was held that In view of above judicial pronouncements, there is no reason to out rightly decline the claim of deduction U/s 80IB of the Act only on the plea of the report not filed electronically and when the report was duly submitted before the Assessing Officer during the course of assessment proceedings. Since the Assessing Officer has out rightly declined the assessee's claim of deduction U/s 80IB of the Act merely for non-filing of report electronically, there is no merit in the action of the Assessing Officer to decline claim of deduction U/s 80IB, unless the assessee had failed to fulfill the conditions stipulated U/s 80IB of the Act in respect of housing project. Nowhere, the Assessing Officer has pointed out failure of the assessee to fulfill any of the conditions required to be fulfilled for claim of deduction U/s 80IB of the Act, accordingly, there is no merit in the action of the Assessing Officer in declining the claim of deduction U/s 80IB of the Act. In the substantial interest of justice, we restore the matter back to the file of the Assessing Officer with a direction to allow the claim of deduction U/s 80IB of the Act if the conditions specified therein are fulfilled by the assessee like completion certificate etc. I direct accordingly." (page no 40-42 of paper book)
2. In another case, Hon'ble S.C in case of CIT v/s G.M. Knitting Industries Pvt Ltd upheld the order of hon'ble H.C "We concur with the aforesaid view of the High Court and hold that even if form 3AA was not filed along with return of income but the same was filed during the assessment proceedings and before the final order of the assessment was made that would amount to sufficient compliance. These appeals are, accordingly, dismissed."(page no 43 -44 of paper book)
3. On the similar facts, Jaipur ITAT which is the jurisdictional ITAT allowed the claim in case of ITO v/s Marathon India Ltd ITA No. 287/JP/2018. "The AO has not disputed the eligibility of the assessee for deduction U/s 80IE of the Act being nature of business and undertaking of the assessee engaged in the manufacturing of goods or articles. Only reasons for disallowance of claim of deduction U/s 80IE of the Act by the AO is not filing of the audit report in form No. 10CCB along with the return of income. It is also not in disputed that the assessee filed the

requisite tax audit report in Form No. 10CCB during the course of assessment proceedings and before the assessment order was passed by the AO” (page no 45-48 of paper book)

4. CIT v/s AKS Alloy Pvt Ltd 205 TAXMANN 11 (Madras) “While considering an identical issue of not filing of audit report in Form 10CCB along with return of income but filed the same before the assessment was completed is acceptable” (page no 49-51 of paper book)
5. CIT v/s Multitaxes System Pvt Ltd 317 ITR 20 (Karnataka) “Wherein it was held that when a relief is sought for under Section 80IB of the Act, there is no obligation on the part of the assessee to file return accompanied by the audit report, thereby, holding that the same is not mandatory. Therefore, it is clear that before the assessment is completed if such report is filed, no fault could be found against the assessee”
6. CIT v/s Contimeters Electricals Pvt Ltd (2009) 317 ITR 249 “Held that the filing of audit report along with the return was not mandatory but directory and that if the audit report was filed at any time before the framing of the assessment, the requirement of the provisions of the Act should be held to have been met” (page no 52-54 of paper book)
7. CIT v/s Berger Paints Ltd 254 ITR 503 (Kolkata) “That even in the case of the return itself, the documents and papers which should accompany it, do not cause its utter and complete failure from the very inception, even if those are not annexed with the return. A chance is always given to the assessee to put the matter right before the assessment. In our opinion, we should not interpret subsection (5) of section 32AB in a manner even more stringent than the requirement of the filing of the return itself”
8. Madras High Court in CIT v. A.N. Arunachalam [1994] 208 ITR 481/ 75 Taxman 529 and in CIT v. Jayant Patel [2001] 248 ITR 199/117 Taxman 707 (Mad.) “Held that the filing of audit report along with the return was not mandatory but directory and that if the audit report was filed at any time before the framing of the assessment, the requirement of the provisions of the Act should be held to have been met”
9. CIT vs. Fortuna Foundation Engineers & Consultants (P.) Ltd. 81 taxmann.com 189 “Submitted that the Hon’ble High Court has held that the filing of audit report in Form No. 10CCB along with return of income is

not mandatory and only directory and assessee cannot be denied the claim of deduction if it filed audit report in Form No. 10CCB in the course of assessment proceedings”

10. ITAT Lucknow held that in case of M/s Satish Cold Storage vs. Dy.CIT that “(page no 55-60 of paper book)
11. ITAT Bengaluru in case of Jitendra Kumar Nahata v/s JCIT appeal ITA no. 41/Bang/2022 dated 13/05/2022 held that “Since the assessee has filed its ROI before the due dates as specifies u/s 139(1) of the I.T Act, 1961 and in the ITR has claimed deduction. The tax auditor has also certified the deduction claimed. Therefore, only for want of not filing the form no. 10 CCB within due date the claim of deduction should not be disallowed
12. ITAT Kolkata in case of DCIT vs Mackintosh Burn Limited held that the assessee claimed deduction u/s 80IA in revised ITR which replaces the original. Therefore, the certificate not filed with the original ITR does not form basis of disallowance of the exemption.
13. CIT vs Gujarat Oil & Allied Industries 201 ITR 325, if audit report in the prescribed form is furnished before assessment then it is sufficient compliance.
14. Your honors, I also rely upon the decision of hon'ble Delhi High Court dated 07/04/2021 in case of International Tractors Limited vs DCIT ITA no 35/2019 in which: -
 - i. Assessee could not claim deduction u/s 80JJA while filing of ROI u/s 139(1).
 - ii. First time during assessment proceedings new claim for deduction u/s 80JJA was moved by way an application along with certificate of Chartered Accountant in form no. 10 DA.
 - iii. Ld. CIT (A) allow the claim which was allowed by Hon'ble High Court.(copy of judgement is enclosed herewith)

Prayer

Being eligible to deduction, assessee claimed he deduction in ITR and form no. 3 CD. Before the date allowed by notice u/s 143(1)(a) the form no. 10 DA had been filed. Reasonable cause was also there. Procedural lapse should be condoned and allow the deduction u/s 80JJA.”

5. In addition to the written submission so filed the Id. AR of the assessee submitted that the claim is duly mentioned and certified by the Chartered Accountant and the same is reflected in the 3CD report filed by the assessee [assessee's paper book page 26 clause 33 of the form no. 3CD]. The said 3CD report is filed in time. This the revenue cannot take a plea the claim of the assessee is after thought. Even the form no. 10DA which was filed later on by the assessee is signed by the same Chartered Accountant who signed the tax audit report. The delay was not intentional but was on account of pandemic fear wherein the working life of everybody was disturbed the assessee unintentionally forget the same to file while filling the ITR. It is not disputed by the revenue that the assessee does not fulfil the conditions to claim the deductions. The CPC denied the claim based on the following observations:

“Deduction u/s. 80JJAA is claimed but Form no. 10DA is not filed within due date or extended due date for the A. Y. 2021-22. Hence no deduction will be allowed u/s. 80JJAA.”

Thus, from the above finding it is clear the assessee has already filed the report in form no. 10DA before the processing of return by CPC. The only contention taken by the CPC that the report was not filed by the due date. This delay is procedural lapse and the same

can be condoned. To support this contention the Id. AR of the assessee relied upon the following decisions :

- M/s Unique Builders and Developers (Ajit), Jaipur vs. DCIT, Central Circle-02, Jaipur in ITA No. 249/JP/2018 dated 27th March, 2019
- CIT, Maharashtra vs. M/s G. M. Knitting Industries (P) Ltd., Mumbai in Civil Appeal No. 10782 of 2013 dated 24th July, 2015 (Supreme Court)
- ITO vs. M/s Marathon India Ltd., Jaipur in ITA No. 287/JP/2018 dated 27/06/2018
- DCIT, Company Circle 1(1), Chennai vs. M/s AKS Alloys Ltd., in ITA No. 298/Mds/2009 dated 19/05/2011
- CIT, Delhi (Central)-1 vs. Contimeters Electricals Pvt. Ltd. ITA No. 1366/ 2008 (Delhi High Court)

6. Per contra, the Id. DR representing the revenue supported the orders of the lower authorities and submitted that the act does not give power to condone the delay in filling the statutory form. The decision are on different facts and for different form. Even one decision cited is of SMC bench.

7. In the rejoinder the Id. AR of the assessee stated that the delay is on account of covid-19 where in the courts have taken liber view. The similar reasons have been sworn the Chartered Accountant of the assessee. The contention of the affidavit of the CA is reiterated here in below :

AFFIDAVIT

I Ram Niranjn Maharwal s/o Shri Radhey Shyam Ji Maharwal aged 58 years R/O 1/121, Vidyadhar Nagar, Jaipur do hereby solemn affirm on oath as under:

- 1) That I am a practicing Chartered Accountant and partner with M/s Maharwal & Associates, Chartered Accountants having office at 1/121, Vidyadhar Nagar, Jaipur.
- 2) That I have been the tax auditor of a person, Rajesh Kumar Agarwal, Jaipur PAN: **AAVPA5331R**.
- 3) That during the course of finalization of tax audit for F.Y 2020-21 relevant to A.Y 2021-22 the figures and facts relevant to issue form no. 10 DA under rule 19AB for claiming exemption u/s 80JJAA of the I.T Act, 1961 had been available to me and also had examined by me.
- 4) That due to pandemic COVID-19, I was in great stress being affected myself and most of my family members, the Form 10DA could not be signed inspite of finalization.
- 5) On issue of notice u/s 143(1) (a) the I.T Act, 1961 indicating the defect, the Form 10DA was signed on dated 31.05.2022 and furnished.
- 6) That the form 10 DA was furnished on dated 31/05/2022 i.e., the date before processing which was done on dated 08/07/2022.



Deponent

Verification

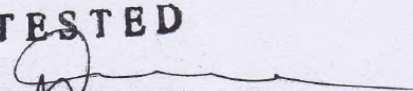
I Ram Niranjn Maharwal do hereby verify that whatever stated in para 1 to 6 are true and correct.



Deponent

Place: Jaipur

Date: 13.12.2022

ATTESTED

NOTARY PUBLIC
JAIPUR (RAJ)
13 DEC 2022

8. We have heard the rival contentions and perused the material placed on record. The bench noted that the revenue has not disputed the fact the assessee is eligible for claim the deduction u/s. 80JJAA but the only fault of the assessee is that the required report in Form no. 10DA was filed after the due date of filling the ITR for the year under consideration. To support the reasons

affecting the delay the assessee filed the affidavit of the CA who filed the Form no. 3CD and Form no. 10DA thus it is not disputed that the same CA has certified the claim of the assessee in Form no. 3CD which was submitted in time and Form no. 10DA is not filed on account of the pandemic time wherein everybody life was disturbed for one or the other reasons. In that period it is not unusually that assessee or CA may make mistake and thereby the whole claim of the assessee cannot be denied. The Hon'ble High Court of Delhi in the case of International Tractors Ltd. Vs. DCIT(LTU) 127 Taxmann.com 822(Delhi) held as under on the similar issue of delay in filling the required form no. 10DA:

12. A perusal of the aforementioned extract would show that the CIT(A) insofar as the deduction claimed under section 80JJAA was concerned, not only had before him the chartered accountant's report in the prescribed form, i.e., Form 10DA but also examined the details concerning the new regular workmen, numbering 543, produced before him. In this context, the CIT(A) examined the details concerning the dates when the said workmen had joined the services, the period, during which they had worked, relatable to the AY in issue, as also the details concerning the bank accounts in which remuneration was remitted.

13. Based on the aforesaid material, the CIT(A) concluded that the deduction under section 80JJAA was correctly claimed by the assessee.

13.1 Likewise, insofar as prior period expenses were concerned, as noticed above, out of a total amount of Rs. 51,21,024/- claimed by the assessee, a sum of Rs. 24,78,391/- was not allowed, for the reason, that withholding tax had not been deducted by the assessee.

13.2 It is pertinent to note that the assessee had disclosed the same in its statement/communication dated 14-12-2009 placed before the AO. The other amounts, which did not concern the period in issue, amounting to a cumulative value of Rs. 1,02,328/- was also disallowed.

14. Therefore, to our minds, once the Tribunal accepted the view taken by the CIT(A) that it could entertain fresh claims; a view which the CIT(A) has expressed in paragraph 6.6.2 of its order, all that the Tribunal was required to examine was: as to whether the CIT(A) had, scrupulously, verified the material placed before it before allowing deductions claimed by the assessee. The Tribunal, however, instead of examining this aspect of the matter, observed, and in our view, incorrectly, that because an opportunity was not given to the AO to examine the material, therefore, the matter needed to be remanded to the AO for a fresh verification.

15. In our view, unless the Tribunal would have reached to a conclusion and expressed its clear view, in that respect, as to what was wrong or missing in the examination made by the CIT(A), a remand was not called for. We agree with Mr. Seth's contention that the CIT(A) in the exercise of its powers under section 250(4) of the Act was entitled to seek production of documents and/or material to satisfy himself as to whether or not the deductions claimed were sustainable/viable in law. This was, however, a case where the details were placed before the AO, who declined to entertain the claims only on the ground that they did not form part of assessee's original return and that the assessee had not made a course correction by filing a revised return.

15.1 This view was based, as noticed above, on the judgment of the Supreme Court rendered in *Goetze (India) Ltd. (supra)*. The CIT(A), squarely, dealt with this and concluded, that a fresh claim could be entertained. Therefore, the Tribunal, as noticed above, has accepted this view of the CIT(A) and the revenue has not come up in appeal before us assailing this conclusion of the Tribunal.

16. In any event, we are of the view that, if a claim is otherwise sustainable in law, then the appellate authorities are empowered to entertain the same. This view finds reflection in a judgment of the coordinate bench of this Court in titled *CIT v. Aspentech India (P.) Ltd.* [IT Appeal No. 1233 of 2011, dated 28-11-2011]. The relevant observations made by the coordinate bench of this court, which are apposite, are extracted hereafter:

"5. The ITAT has agreed the reasoning given by the CIT (Appeals) and has relied upon the decision of this Court in *CIT v. Jai Parabolic Springs Ltd.* [\(2008\) 306 ITR 42 \(Del.\)](#). In the said case Delhi High Court has referred to the powers of the appellate forum and the decisions of the Supreme Court in *National Thermal Power Co. Ltd. v. Commissioner of Income-tax* [\(1998\) 229 ITR 383 \(SC\)](#), *Gedore Tools Pvt. Ltd. v. Commissioner of Income-tax* [\(1999\) 238 ITR 268](#), *Jute Corporation of India Ltd. v. Commissioner of Income-tax* [\(1991\) 187 ITR 688 \(SC\)](#) and held that the appellate forum could have entertained and decided the said aspect. The decision in the case of *Goetze (India) Ltd. (supra)* is distinguishable. In the said case the assessee had filed

the return of income for the Assessment Year 1995-96 on 30-11-1995. Thereafter, on 12-1-1998, the assessee wrote a letter to the Assessing Officer and made a new claim for a deduction, which was rejected by the Assessing Officer as there is no provision to amend the return. The Supreme Court further clarified that the issue raised in *Goetze (India) Ltd. (supra)* was limited to the power of assessing authority and did not impinge on the power of the tribunal as was in the case of *National Thermal Power Ltd. (supra)*. In the present case also the appellate forum had entertained the claim made by the respondent-assessee and allowed the same. There is no dispute that the claim/deduction towards the expense is otherwise correct and allowable."

Conclusion:

17. Therefore, in our view, the judgment of the Tribunal deserves to be set aside. The fresh claims made by the assessee, as allowed by the CIT(A), will have to be sustained. It is ordered accordingly.

18. The questions of law are answered in the favour of the assessee and against the revenue.

Considering the above finding of the High Court and other decision cited by the Id. AR of the assessee we are of the considered view that when the assessee has acted diligently, made the claim which is otherwise eligible cannot be denied merely the delay in filling the procedural form. In terms of these observations the appeal of the assessee is allowed.

In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on 17/04/2023

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)

न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 17/04/2023

***Ganesh Kr.**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Rajesh Kumar Agarwal, Jaipur
2. प्रत्यर्थी / The Respondent- DCIT, Circle-01, Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 85/JP/2023 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar