

॥ आयकर अपीलीय न्यायाधिकरण, पुणे "ए" न्यायपीठ, पुणे में ॥  
IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE "A" BENCH, PUNE  
BEFORE HON'BLE SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

AND

**SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER**

आयकर अपील सं. / ITA No.221/PUN/2023

निर्धारण वर्ष / Assessment Year : 2020-2021

Bajrang Pulses and Agro Products (P) Ltd.,

Bajrang Dal Mill Compound,

Sardar Patel Rd., Jalna-431203

PAN : AAIFB0690H

..... अपीलार्थी / Appellant

**बनाम / V/s.**

Income Tax Officer,

Ward -1, Jalna

..... प्रत्यर्थी / Respondent

**द्वारा / Appearances**

Assessee by : Shri Hari Krishan

Revenue by : Deepali Kalbandhe

सुनवाई की तारीख / Date of conclusive Hearing : 24/04/2023

घोषणा की तारीख / Date of Pronouncement : 24/04/2023

**आदेश / ORDER**

**PER G. D. PADMAHSHALI, AM;**

The present appeal of the assessee for the assessment year ["**AY**" in short] 2020-21 is directed against the order of National Faceless Appeal Centre, Delhi ["**NFAC**" in short] dt. 26/12/2022 passed u/s 250 of the Income-tax Act, 1961 ["**the Act**" in short] which in turn originated out of order of rectification passed u/s 154 of the Act dt. 02/03/2022 by the CPC, Bengaluru.



2. Albeit the appellant raised five grounds challenging the action of both the tax authorities below, however without re-producing them it shall be purposive to state that the sum and substance of contest relates to denial of beneficial rate of taxation envisaged u/s 115BAA of the Act for the want of Form No. 10IC.

3. After hearing both the parties at length, perused the material placed on record in the light of Rule 18 of ITAT, 1963 and we note that;

3.1 The appellant assessee is a domestic company incorporated under the Companies Act 1956 on 29/03/2007 and since then has assessed to income tax under PAN AAI**F**BO690H.

3.2 For the impugned AY 2020-21 the assessee has filed its return of income [**"ITR"** in short] on 10/11/2020 offering to tax a total income of ₹84,85,850/- under the provisions of section 115BAA of the Act, thus claiming entitlement to beneficial rate of taxation @22%.



3.3 However, the said ITR was summarily processed u/s 143(1) of the Act applying the regular provisions taxation thus determining a tax demand of ₹6,34,440/-. On the assessee's online request, the Ld. CPC vide its rectification order 02/03/2022 reprocessed the said ITR denying the benefit of provisions of 115BAA of the Act and thus confirmed no-change in the tax demand raised earlier.

3.4 Aggrieved appellant carried the matter before first appellate authority, wherein the Ld. NFAC confirmed the denial of entitlement by a well-reasoned speaking order underlining the undisputed fact of non-filing of Form No. 10-IC within the due date prescribed u/s 139(1) of the Act *vis-à-vis* extension granted by CBDT vide its circular no. 6/2022 dt. 17/03/2022.

3.5 Aggrieved by the said denial the appellant domestic company is before us in the extant appeal.



4. We have given our thoughtful consideration to the facts and circumstances of the case and to the applicable provisions of section 115BAA of the Act and we find that w.e.f. AY 2020-21 the domestic company as against the normal taxation, subject to certain conditions is entitled to lower or beneficial the rate of taxation @22% under newly inserted provision of section 115BAA of the Act. One of the mandate for entitlement of this reduced/lower rate of taxation is '**opting to it**' by filing of Form No. 10-IC r.w.s 21AE of IT-Rules, 1962 on or before the due date prescribed u/s 139(1) of the Act, and failing to which the company disentitles to the benefit of section 115BAA of the Act.

5. In the present case, we note that the assessee since 2007 was carrying it's PAN with a status that of a FIRM inspite being a COMPANY and for the impugned AY has continued to file its ITR under the same PAN but without exercising an option subscribing reduced rate of taxation entitled u/s 115BAA of the Act.



6. Since the application of provisions of section 115BAA of the Act are non-automatic and admittedly the assessee company has never *opted* for its application by filing a mandatory Form No. 10-IC r.w.r. 21AE (supra) **neither** on or before the due date prescribed for filing return of income u/s 139(1) of the Act **nor** within the extended time limit in terms of CBDT Circular (supra), thus this leaves no room for the appellant to challenge the denial of benefit of provisions of section 115BAA of the Act, Ergo we find impugned order flawless.

**7. Resultantly, the appeal of the appellant assessee stands DISMISSED.**

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Monday 24<sup>th</sup> day of April, 2023.

-S/d-

**S. S. VISWANETHRA RAVI**  
**JUDICIAL MEMBER**

-S/d-

**G. D. PADMAHSHALI**  
**ACCOUNTANT MEMBER**

पुणे / PUNE ; दिनांक / Dated : 01st day of May, 2023.

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-NFAC, Delhi (India)
4. The CIT- 1, Nashik (MH-India)
5. DR, ITAT, Bench 'A', Pune
6. गार्डफ़ाइल / Guard File.

Ashwini

आदेशानुसार / By Order,  
वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.