

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, HON'BLE VICE-PRESIDENT**

ITA No.2552/Del/2023
Assessment Year: 2021-22

With

S.A. No.352/Del/2023
[Arising out of ITA No.2552/Del/2023]
Assessment Year: 2021-22

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| Concentrix Daksh Services India Pvt. Ltd., DLF SEZ, Building No. 14, Tower-C, 17 th Floor, DLF Cyber City, Sector-24 & 25A, DLF Phase-3, Gurgaon | Vs. | ACIT, Circle-4(2), New Delhi |
| PAN :AABCD4187D | | |
| (Appellant) | | (Respondent) |

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| Assessee by | Sh. Kamal Sahwney, Advocate Sh. Nikhil Aggarwal, Advocate |
| Department by | Sh. Sanjay Kumar, Sr. DR |

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| Date of hearing | 15.09.2023 |
| Date of pronouncement | 20.09.2023 |

ORDER

The present appeal has been filed by the assessee assailing order dated 09.08.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, pertaining to assessment year 2021-22.

2. We have heard Sh. Kamal Sahwney, learned counsel appearing for the assessee and Sh. Sanjay Kumar, learned Departmental Representative.

3. The short issue arising for consideration in the present appeal relates to applicability of concessional rate of tax as provided under section 115BAA of the Income-tax Act, 1961 (in short 'the Act').

4. Briefly the facts are, the assessee is a resident corporate entity stated to be engaged in providing Information Technology Enabled Services ('ITES') in the nature of customer relationship management services. For the year under dispute, the assessee had filed its return of income under section 139(1) of the Act on 12.03.2022, declaring total taxable income of Rs.3,58,03,99,280/-. The assessee computed its taxable liability and paid tax, including interest and surcharge by applying the provisions of section 115BAA of the Act. The return of income filed by the assessee was processed by the Centralized Processing Centre (CPC). In the intimation issued under section 143(1) of the Act to the assessee, the CPC computed the tax liability of the assessee by denying the benefit of concessional rate of tax, as per the provisions of section 115BAA of the Act. Challenging such

computation of tax liability by the CPC, the assessee preferred an appeal before the first appellate authority. However, the first appellate authority dismissed the appeal of the assessee by holding that since the assessee has not exercised a fresh option under section 115BAA of the Act for the assessment year under dispute, it is not entitled to claim the benefit of concessional rate of tax under the said provision.

5. Having considered rival submissions, we find, as per section 115BAA of the Act, which begins with a non-obstante clause, from the assessment year 2020-21 a domestic company can opt for concessional rate of tax at the rate of 22% subject to fulfillment of certain conditions. In terms with the aforesaid provision, the assessee exercised its option under section 115BAA by furnishing Form 10IC on 10th February, 2021 and the benefit of section 115BAA was granted to the assessee for the assessment year 2020-21. In the impugned assessment year, the CPC and the first appellate authority have denied the benefit under section 115BAA simply for the reason that the assessee has not filed fresh Form 10IC, exercising its option for concessional rate of tax for the impugned assessment year.

6. This, in our view, is totally irrational and militates against the statutory provisions. The second proviso to section 115BAA(5) makes it abundantly clear that once option for concessional tax regime under section 115BAA is exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year. In fact, the department has issued a FAQ (copy placed at page 137 of the paper-book) clearly stating that if an assessee has opted for concessional rate of tax once, it shall apply to subsequent assessment years and cannot be withdrawn. Even, in the instructions issued by the Departmental for filing Form ITR 6, it has been specifically mentioned that Form 10IC is required to be filed only in the first year wherein concessional rate of taxes was opted for the first time by an assessee.

7. Thus, not only the statutory provisions, but the clarifications issued by the Department from time to time clearly states that the assessee seeking benefit under concessional rate of tax under section 115BAA has to exercise its option in Form 10IC only once in the initial assessment year, wherein, he intends to avail the benefit, and thereafter, there is no need for exercising the option again. That being the statutory mandate, in our view, the Departmental Authorities have gone completely wrong in denying

the benefit of concessional rate of tax under section 115BAA to the assessee on the misconceived notion that the assessee again has to file Form No. 10IC for the impugned assessment year.

8. In view of the aforesaid, we set aside the order of learned first appellate authority and direct the Assessing Officer to allow assessee's claim of concessional rate of tax under section 115BAA of the Act, after factual verification.

9. In view of our decision in the appeal, the stay application, having become infructuous, is dismissed.

10. In the result, the appeal is allowed and stay application is dismissed.

Order pronounced in the open court on 20th September, 2023

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 20th September, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi