

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

**BEFORE,  
SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.2152/Del/2022  
(ASSESSMENT YEAR-2018-19)**

M/s Securico Electronics India Ltd. Plot No.4, 14/3, Mathura Road, Faridabad Haryana-121 001 PAN-AAKCS 2658F	Vs.	ACIT CPC, CELL Bangalore
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Dr. Rakesh Gupta, Adv.
Respondent by	Sh. Anuj Garg, Sr. DR

Date of Hearing	04/01/2024
Date of Pronouncement	10/01/2024

**ORDER**

**PER YOGESH KUMAR U.S., JM:**

This appeal filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi, ["Ld. CIT(A)", for short], dated 18/07/2022 for Assessment Year 2018-19. The following grounds of appeal taken by the assessee:

*"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. ACIT/CPC in denying the claim of deduction u/s 80IC of*

*Rs.33,97,998/- and that too by recording incorrect facts and finding and further erred in making allegation based on surmises and conjectures and without observing the principal of natural justice.*

*2. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. ACIT/CPC in denying the claim of deduction u/s 80IC of Rs. 33,97,998/- is bad in law and against the facts and circumstances of the case and the same is not sustainable on various legal and factual ground.*

*3. That in any case and in any view of the matter, denial of deduction u/s 80IC of Rs. 33,97,998/- could not be made in the intimation u/s 143(1) in view of the limited and restrictive nature of the proceedings under that section.*

*4. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in confirming the action of Ld. ACIT/CPC in charging interest u/s 234A, 234B and 234C of the Income Tax Act, 1961.*

*5. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

2. The brief facts of the case are that the assessee engaged in the business of manufacturing of Security Systems since last several years and filed its Return of Income on 22/10/2018 declaring total income at Rs.41,50,850/- after claiming deduction under chapter VIA of Rs.34,47,498/-. Later on, the assessee filed Form 10CCB on 03/04/2019 i.e., after the due date for filing of ITR. The intimation u/s 143(1) of the Income Tax Act, 1961 (“Act”, for short) was issued by the ADIT, CPC, Bangalore on 12/01/2020 determining total income at Rs.90,54,230/- with addition to the business income of Rs.15,05,381/- and denied the deduction u/s

80IC of Rs.33,97,998/- due to non-filing of Form No.10CCB within due date. As against the intimation dated 12/01/2010, the assessee preferred an appeal before the Ld. CIT(A), the Ld. CIT(A) vide order dated 18/07/2022 dismissed the appeal filed by the assessee. Aggrieved by the order of the Ld. CIT(A) dated 18/07/2022, the assessee filed the present appeal on the grounds mentioned above.

3. The Ld. Counsel for the assessee submitted that the assessee filed return of income on 22/10/2018 claiming deduction u/s 80IC of the Act, 80IC Form has been filed on 03/04/2019 and intimation order u/s 143(1) has been issued on 12/01/2020. Therefore, submitted that the Ld. ACIT/CPC erred in denying the claim of deduction u/s 80IC of the Act. The Ld. Counsel also submitted that the denial of deduction u/s 80IC of Act cannot be made in the intimation u/s 143(1) of the Act in view of the limited and restrictive nature of the proceedings under the said section and relied on the various judicial pronouncements in support of the said contentions.

4. Per contra, the Ld. DR by relying on the orders of the lower authorities, submitted that the assessee has not filed the Audit

Report on time as required under the Law, therefore, the orders impugned passed by the lower authorities requires no inference and sought for dismissal of the appeal filed by the assessee.

5. We have heard the parties and perused the materials available on record. In the present case, the return of income has been filed on 22/10/2018 by the assessee by claiming the deduction under Chapter-VIA of the Act. Later on, the assessee filed Form No.10CCB on 03/04/2019 after the due date for filing the Income Tax Return. The intimation u/s 143(1) of the Act was passed by the ADIT (CPC), Bangalore on 12/01/2020 determining the total income wherein denied the deduction u/s 80IC of the Act of Rs.33,97,998/- due to non-filing of Form No.10CCB within due date. It emerges from the record that intimation order was communicated to the assessee through its registered mail ID on 17/03/2019 mentioning the proposed adjustment due to incorrect claim of deduction u/s 80IC of the Act without filing Form No.10CCB. After the receipt of Intimation, the assessee furnished Audit Report in Form No.10CCB on 03/04/2019. Thus, the assessee failed to furnish the requisite Audit Report in Form No.10CCB on or before due date for filing of

tax return. Admittedly, audit u/s 80IC of the Act was conducted only on 03/04/2019 i.e., after the due date for filing the ITR and the Audit Report u/s 80IC of the Act, which shows that Audit was not conducted on or before filing the ITR. Thus, it is clear from the above that the assessee did not possess the Audit Report in Form No.10CCB at the time of filing the ITR. It is not the case where the delay was occurred in filing of the Form No.10CCB though the Audit Report was in existence on or before the last date of filing the return, but it is the case where no Audit Report in Form No.10CCB was in exist at the time of claim u/s 80IC of the Act in the Return. Therefore, the decisions relied by the Ld. AR are not applicable to the facts and circumstances of the case.

6. As the assessee has not complied with the provisions of filing the Audit Report under section 80IC of the Act in time in the year under consideration, which is pre-requisite for claiming deduction u/s 80IC of the Act as the same is on year-to-year basis, the contention of the Ld. AR that the assessee has been claiming deduction u/s 80IC of the Act from A.Y.2009-10 has not bearing.

Thus, we find no merit in the grounds of the appeal of the assessee.

Accordingly, the appeal filed by the assessee is dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in open Court on 10<sup>th</sup> January, 2024.

Sd/-

**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 10/01/2024

*Pk/Sr.ps*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI