

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH: 'SMC': NEW DELHI)**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 1830/Del/2023
(Assessment Year- 2021-22)**

Mehar Developers Private Limited, M-2, First Floor, Greater Kailash-1, New Delhi.	Vs.	Additional Director of Income Tax, CPC CPC Bengaluru, Ward 17(1), 560500.
PAN No: AAECM1370L		
APPELLANT		RESPONDENT

Assessee by : Shri Pushpdeep Singh, Adv.
Revenue by : Shri Om Prakash, Sr. DR

Date of Hearing : 14.05.2024
Date of Pronouncement : 22.05.2024

ORDER

PER SUDHIR PAREEK, JM

The instant appeal has been preferred by the assessee against the order of National Faceless Appeal Centre ('NFAC' in short) / Ld. Commissioner of Income Tax ('Ld. CIT', in short), Delhi, dated 04.05.2023 for Assessment Year 2021-22.

2. Brief facts of this matter in hand may be summarized as that Appellant / Assessee is a Private Limited Company, filed its return of income for the Assessment Year 2021-22 on dated 25.11.2021 by opting the provisions of section 115BAA and declaring total income of Rs. 2,27,040/-. The return of income, filed by the assessee, was processed by Assessing Officer ('AO', for short) and intimation u/s 143(1) of the Income Tax Act, 1961 ('the Act', for short) was passed on 07.07.2022. The AO denied the benefit of tax rate as per Section 115BAA and processed the return as per normal provisions. Thereafter, the assessee filed an appeal against the order of the AO before NFAC, Delhi for redressal of grievances, but after hearing, the NFAC, Delhi vide order dated 04.05.2023 dismissed the said appeal by stating that the absence of Form-10-1C filed before the due date of filing of return as per Section 115BAA(5), claim of Section 115BAA cannot be availed by the assessee. Aggrieved by this order, hence appeal filed by the assessee.

3. On 14.05.2024, during the course of hearing, the Ld. Counsel for the assessee sought leave to withdraw the appeal by submitting an application by stating that the matter in the appeal relates to denial of

benefit u/s 115BAA because the assessee had not filed Form 10-IC for claiming benefit of beneficial rate of tax @ 22% . The assessee's case is simply that it is filed that Form – 10-IC on 15.07.2022, which is not visible on the system because of technical glitches. He further submitted that during the pendency of the appeal, the CBDT has issued a circular no. 19/2023, dated 23rd October, 2023, regarding condonation of delay in filing of Form 10IC for Assessment Year 2021-22. In pursuance, thereof, the assessee has filed an application before the Ld. AO, ward 17(1) C.R. Building, New Delhi on 19.12.2023 for availing the benefit of the said circular. He also mentioned that the CBDT circular provided three conditions which are to be satisfied by the company in order to take the benefit from it: firstly, the company must have filed its income tax return by the specified due date under section 139(1) of the Act, Secondly, the assessee company has opted for taxation u/s 115BAA of the Act in its tax return form (ITR-6) and thirdly, Form no. 10IC is filed electronically within a specified time frame.

3.1 The assessee satisfies all the conditions as specified under the said circular and is eligible for condonation of delay of its late filing of

Form 10-IC and the Ld. AO granted the relief to the assessee by giving the relief of beneficial tax rate @ 22% to the Assessee Company vide intimation u/s 143(1) of the Act. The Ld. Counsel for the assessee submitted an application stating that the appeal of the assessee becomes infructuous and accordingly he desires to seek leave to withdraw the caption appeal.

4. After hearing rival submissions and carefully perused the records, it is expedient to grant the assessee / appellant's desired leave to withdraw the appeal, as it has become infructuous. Accordingly, the same is granted, and consequently, this appeal has been dismissed as withdrawn. The appeal is disposed of accordingly.

5. In the result, appeal of the assessee is dismissed, as indicated above.

Order pronounced in the Open Court on 22.05.2024

Sd/-
(S RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 22/05/2024.
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	16.05.2024
Date on which the typed draft is placed before the dictating Member	16.05.2024
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	