

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं  
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.707/Chny/2024  
निर्धारण वर्ष/Assessment Year: 2022-23

M/s.Timescan Logistics (India) Ltd., No.18/3, Annex III Floor, Raja Annamalai Building, Rukmani Lakshmipathy Road, Egmore, Chennai-600 008.	v.	The Income Tax Officer, Corporate Ward-3(1), Chennai.
[PAN: AACCT 5483 F]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri N.V.Balaji, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Shri P. Sajit Kumar, JCIT
सुनवाईकीतारीख/Date of Hearing	:	21.05.2024
घोषणाकीतारीख /Date of Pronouncement	:	05.07.2024

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/JCIT, (hereinafter in short 'the Ld.CIT(A)'), Mumbai, dated 31.01.2024 for the Assessment Year (hereinafter in short 'AY') 2022-23.

2. The main grievance of the assessee is against action of the Ld.CIT(A) dismissing the appeal preferred by the assessee and thereby upholding the intimation given by CPC u/s.143(1) of the Income Tax Act,



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1961 (hereinafter in short 'the Act"), levying 30% tax rate despite assessee having exercised option u/s.115BAA of the Act.

**3.** The brief facts are that the assessee filed its return of income on 11.10.2022 declaring total income of Rs.4,26,84,422/-; and the same was processed u/s.143(1) of the Act on 16.03.2023 determining total income of Rs.4,32,75,330/- after making addition/disallowance of Rs.5,90,908/- on account of disallowance u/s.36(1)(va) of the Act (*which is not subject matter of dispute before us*). However, the sole grievance of the assessee is that the CPC while passing the order has disallowed the benefit of Sec.115BAA of the Act, in its order u/s.143(1) of the Act, for the reason that assessee has not opted for the same. The assessee on receipt of intimation order dated 16.03.2023, preferred a rectification u/s.154 of the Act, which was rejected by CPC vide order dated 07.08.2023. On appeal, the assessee explained before the Ld.CIT(A) that assessee had in fact opted option u/s.115BAA of the Act, but due to an inadvertent mistake while filling up ITR-6 at Item (e) in Part A-GEN of the Form of Return of income, the assessee didn't fill up the acknowledgment number [*which is generated while filing Form 10-IC, which assessee had got on 11.02.2022 i.e, before the due date*]. And the assessee, thereafter, again filed rectification-application wherein the *acknowledgment number* was filled up, but omitted to fill the date of filing in Column (e) of the ITR-6. Therefore, the CPC again rejected the



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claim/option exercised u/s.115BAA of the Act by order of the CPC dated 07.08.2023. Thereafter, again assessee filed rectification-application [while the first appeal proceeding was going on before the First Appellate Authority]. Mean while the Ld.CIT(A) noted in the impugned order that one of the conditions for allowing the benefit of provisions of Sec.115BAA of the Act was that the assessee company has opted for taxation u/s.115BAA of the Act in (e) of 'Filing Status' in 'Part A-GEN' of the form of return of income/ITR-6. However, since assessee has not opted for taxation u/s.115BAA of the Act in (e) of "Filing Status" in "Part A-GEN" of the Form of return of income, he rejected the appeal. Before us, the Ld.AR brought to our notice that the CPC meanwhile had passed the rectification order u/s.154 of the Act on 29.03.2024 allowing the assessee the benefit of Sec.115BAA of the Act. However, he fairly submitted that even though assessee have got the benefit from the CPC, the same could not have been passed by the CPC, since sub-section (1) of Sec.154 of the Act does not allow such action of the CPC, when appellate proceedings are going on and the issue has been taken cognizance by the Appellate Forum. Therefore, he prayed that the appeal may be allowed and the assessee may be granted the benefit of Sec.115BAA of the Act.

**4.** Per contra, the Ld.DR submitted that CBDT Circular No.6/2023 gives power to the Chief Commissioner/competent authority named therein to



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condone the delay for mistake of such nature and therefore, assessee can take steps accordingly to rectify the mistakes.

**5.** We have heard both the parties and perused the material available on record. The issue is that assessee had uploaded Form No.10-IC viz application for exercise of option under sub-section (5) of Sec.115BAA promptly on 11.10.2022 which fact is discernable from perusal of the Page Nos.1-2 of the Paper Book. However, the assessee while filing ITR-6 made an inadvertent mistake in the ITR-6 i.e. column (e), wherein, assessee failed to file "Filing Status" in "Part A-GEN" which facts has been discussed (supra). And in order to correct the mistake, assessee had filed rectification applications as noted (supra), and ultimately allowed by the CPC on 24.03.2024, which we note was fragile, since passed after the impugned order has been passed by the First Appellate Authority; and as pointed out by the Ld.DR, the CBDT Circular No.6/2023 empowers the Chief Commissioner to condone the delay for correcting such in advertent mistakes. Taking into consideration the overall facts and circumstances merely because of mistake in filling up the ITR-6 [(filing status at Column-(e)] the assessee ought not to have been denied the benefit of Sec.115BAA and in any case as noted (supra) the CPC itself has rectified its order on 29.03.2024. Having considered the fact that assessee had rectified the mistake, which prompted CPC to allow the benefit of Sec.115BAA vide order dated 29.03.2024, we set aside the impugned



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M/s.Timescan Logistics (India) Ltd.

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order of the Ld CIT(A) dated 31.01.2024, and direct the AO to grant the benefit of Sec.115BAA of the Act to the assessee.

**6.** In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on the 05<sup>th</sup> day of July, in Chennai.

**Sd/-**

(अमिताभ शुक्ला)

**(AMITABH SHUKLA)**

लेखा सदस्य/**ACCOUNTANT MEMBER**

**Sd/-**

(एबी टी. वर्की)

**(ABY T. VARKEY)**

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 05<sup>th</sup> July, 2024.

**TLN, Sr.PS**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF