

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, KOLKATA**

डॉ. मनीष बोरड, लेखा सदस्य

एवं

श्री संजय सरमा, न्यायिक सदस्य

के समक्ष

**Before**

**Dr. Manish Borad, Accountant Member**

**&**

**Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No.1141/KOL/2024**

**Assessment Year: 2020-21**

***Atindra Infrastructure Pvt. Ltd.***  
***(PAN: AADCR0604F)***

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***Appellant***

***Vs.***

***Income Tax Officer, Ward-1(1), Kolkata***

.....

***Respondent***

**Appearances by:**

*Divya Mohta, C.S appeared for Appellant.*

*Shri Nicholash Murmu, Addl. CIT, DR appeared for Respondent.*

Date of concluding the hearing : 22.08.2024

Date of pronouncing the order : 29.08.2024

**ORDER**

**Per Dr. Manish Borad, Accountant Member:**

This appeal filed at the instance of the assessee pertaining to the Assessment Year (in short “AY”) 2020-21 is directed against the order passed u/s 250 of the Income Tax Act, 1961 in short the “Act”) by Ld. Commissioner of Income-tax, (Appeals), Addl/JCIT(A)-13, Mumbai [in short Ld. “CIT(A)”] dated 18.03.2024 arising out of the intimation framed u/s. 143(1) of the Act by ACIT, CPC, Bengaluru dated 19.08.2021.

2. The only grievance of the assessee is that Ld. CIT(A) erred in confirming the action of the CPC for not calculating the tax on the income of the assessee under the new regime u/s. 115BAA of the Act.

3. We have heard the rival submission and perused the material placed before us. Sole grievance of the assessee is that the CPC has not calculated the tax at the lower rate of 22% u/s. 115BAA of the Act even though the assessee had opted in the income tax return. We notice that for the assessee in order to fall in the category of lower rate of tax u/s. 115BAA of the Act, one of the important condition is to furnish Form 10-1C within the prescribed time limit which is prior to the due date of filing return of income provided u/s. 139(1) of the Act. For AY 2020-21 the due date of filing return of income was 15.02.21 (extended due date) and the assessee filed the return on 15.02.2021 and in this return assessee has opted for the lower tax rate u/s. 115BAA of the Act. Apart from the other conditions mentioned in section 115BAA of the Act one of the important condition is of furnishing Form 10-1C contains all the information about the assessee company and on filing of such option prior to the income tax return, on the e-portal and as such application if found to be correct then in the computer system of CPC the lower tax rate provided u/s. 115BAA of the Act is applied and the taxes on the income are computed accordingly.

4. Now in the instant case, assessee neither filed Form 10C prior to the due date of filing return of income nor could furnish

Form 10-1C within the extended time limit given by the CBDT in its circular no. 6/22 dated 17.03.2022 extending the due date for electronically filing of form 10-1C up to 30.06.2022 or three months from the end of the month in which circular is issued. Now from the 15.02.2021 till 30.06.2022 assessee had sufficient time to furnish Form 10-1C but it has missed the opportunity. The crux of the matter is that assessee has not filed Form 10-1C which is mandatory for opting lower tax rate u/s. 115BAA of the Act. Reason given before us is that the consultant who was looking after the taxation work failed to upload Form 10-1C. Also, after the lapse of extended due date of window of filing Form 10-1C stands closed and there remained no mechanism for the assessee to file the Form 10-1C. In the given facts and circumstances of the case, where the assessee has not furnished Form 10-1C, the grounds raised in the instant appeal do not have any merit because merely taking option in the income tax return will not be sufficient for the assessee to be taxed under the lower tax rate provided u/s. 115BAA of the Act. Therefore, all the grounds of appeal raised by the assessee are dismissed.

5. Though we have dismissed the ground of appeal raised by the assessee, however, considering the fact that assessee was dependent upon its consultant for looking after tax work and the assessee has to suffer for the mistake committed by its consultant, we give liberty to the assessee to file an application u/s. 119(1)(b) of the Act to the CBDT mentioning the reasonable cause due to which it could not file the application on Form 10-1C within the specified time limit and if Board finds any merit,

then they may consider the application and decide in accordance with law.

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

Order is pronounced in the open court on 29<sup>th</sup> August, 2024.

Sd/-  
(Sonjoy Sarma)  
Judicial Member

Sd/-  
(Dr. Manish Borad)  
Accountant Member

Kolkata 29.08.2024

*J.D. Sr. PS.*

*Copy of the order forwarded to:*

1. **Appellant – Atindra Infrastructure Pvt. Ltd., Near Football Ground, Hatiara, Ward No. 18, Kolkata-700059.**
2. **Respondent – ITO, Ward-1(1), Kolkata**
3. CIT(A), Addl/JCIT(A)-13, Mumbai
4. CIT-
5. Departmental Representative
6. Guard File.

*True copy*

By order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata