

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एसएमसी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं . 2766/दिल्ली/2024 (नि . व. 2022-23)
ITA No.2766/DEL/2024 (A.Y.2022-23)

Cosmo Specialty Chemicals P. Ltd.,
1st Floor, Uppals Plaza, M-6 District Centre,
Jasola, Delhi 110025
PAN: AAICC-6706-G

..... अपीलार्थी / Appellant

बनाम Vs.

Income Tax Officer,
Ward-6(1), C.R Building
Delhi 110002

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : Dr. Rakesh Gupta, &
Shri Shrey Jain, Advocates
प्रतिवादीद्वारा / Respondent by : Ms. Shivani Bansal, Sr. DR
सुनवाई की तिथि / Date of hearing : 10/09/2024
घोषणा की तिथि / Date of pronouncement : 10/09/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-4 Chennai (hereinafter referred to as 'the CIT(A)') dated 14.05.2024, for assessment year 2022-23.

2. The solitary issue raised in appeal by the assessee in denial of benefit of new tax regime u/s. 115BAB of the Income Tax Act 1961, (hereinafter referred to as 'the Act').

3. Dr. Rakesh Gupta, appearing on behalf of the assessee submitted that in accordance with provisions of section 115BAB(7) of the Act, the assessee was required to file Form 10ID along with the return of income within the time prescribed u/s. 139(1) of the Act. The assessee filed return of income for AY 2021-22, the assessee exercised one time option for new tax regime in AY 2021-22 and filed Form 10ID alongwith return of income within the time prescribed u/s. 139(4) of the Act. The benefit of section 115BAB of the Act was denied to the assessee in AY 2021-22.

3.1. In appeal before the Tribunal in ITA No. 809/Del/2024 for AY 2021-22, the Tribunal held that the assessee is eligible for benefit of section 115BAB of the Act. Merely for the reason that return of income was not filed within the due date as specified u/s. 139(1) of the Act, benefit of section 115BAB of the Act cannot be denied. Since, benefit of section 115BAB of the Act has been allowed to the assessee in first year of claim, the benefit of section 115BAB cannot be denied in the subsequent assessment year.

4. Per contra, Smt. Shivani Bansal representing the department strongly supported the impugned order and prayed for upholding the same.

5. Both sides heard. In AY 2021-22, the co-ordinate Bench has allowed the benefit of section 115BAB of the Act to the assessee holding as under:

5. Upon careful consideration, I find that the assessee's claim is cogent as benefit of Section 115BAB cannot be denied merely on the ground that Form 10ID was not filed within due date of Section 139(1) but was filed on 19.05.2021 with revised return u/s. 139(5) within the permissible time. However, I note that facts submitted in this case need to be verified from the factual details available with the Assessing Officer. Accordingly, I

remit back the issues to the file of the Assessing Officer with the directions to examine the submissions of the assessee and decide the appeal accordingly.

Since, the assessee has been granted the benefit of section 115BAB of the Act in the first year of exercising option by the Tribunal, now the benefit of said section cannot be denied to the assessee in the subsequent assessment year solely for the reason that Form 10ID was filed beyond time specified u/s. 139(1) of the Act in first year.

6. I find merit in submission of the assessee. The AO is directed to allow the benefit of section 115BAB of the Act to the assessee. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on Tuesday the 10th day of September, 2024.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 10/09/2024

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि. , दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI