

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" , HYDERABAD**

BEFORE

**SHRI LALIET KUMAR, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER**

ITA No.706/Hyd/2024		
Assessment Year – 2023-24		
Granules CZRO Private Limited Hyderabad PAN : AAKCC8412H	Vs.	Income Tax Officer Ward-2(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri YV Bhanu Narayan Rao, Ld.AR	
Revenue by:	Shri Jeevan Lal Lavidiya, CIT, DR	
Date of hearing:	10.10.2024	
Date of pronouncement:	15.10.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi on 27.05.2024 for the AY 2023-24 on the following grounds :

On the facts and circumstances of the case and in law, the Deputy Director of Income Tax, Centralized Processing Centre, Bangalore [“Ld.AO”] and Ld.CIT(A) as has

Validity of the Intimation

- 1. Erred in holding that the Intimation issued by the Ld.AO u/s 143(1) of the Act as valid without issuing show cause notice u/s 143(1)(a) of the Act;*
- 2. Erred in upholding the action of Ld.AO u/s 143(1) of the Act, denying the claim of u/s 115BAB of the Act, which is a debatable issue, without providing any justification which is beyond the jurisdiction u/s 143(1) of the Act;*

Non granting of sufficient opportunity of being heard:

- 3. Erred in not considering the adjournment application filed by the Appellant on 20/05/2024 and in passing the order without according sufficient opportunity of being heard to the Appellant and thereby violates the principles of natural justice;*

Absence of ‘Reasoned Decision’ mandatory facet of ‘Audi Alteram Partem’

- 4. Erred in upholding the order of Ld.AO(CPC) passing the intimation under section 143(1) of the Act without assigning any reason or passing a speaking order, thus the action of Ld.CIT(A) is without application of mind and hence, the order of the Ld.CIT(A) is bad in law and ought to be quashed.*

Claim u/s 115BAB of the Act

- 5. Erred in holding that the Appellant was not entitled to avail benefits of section 115BAB of the Act without appreciating the facts that the Appellant made a substantive claim for benefit in accordance with Section 115BAB(7) of the Act and filed Form 10-ID before filing its first return of income.*
- 6. Erred in holding that the Appellant has not began manufacturing activities though the time for the same is till*

31/03/2024, whereas the period relevant to the AY has ended on 31/03/2023 only.

7. Erred in holding that the conditions of section 115BAB are not complied with.

The above grounds of appeal are mutually exclusive and without prejudice to each other. The Appellant craves leave to add or substitute, withdraw any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.

2. At the outset, the learned Ld.AR submitted that assessee company was set up on 16/01/2023 and after setting up on 16/01/2023, the assessee has filed its return of income for the year ending upto 31/03/2023 in accordance with law and along with the return of income, the assessee had filed Form 10ID on 21/10/2023. CPC had processed the return filed by the assessee and had denied the claim of the assessee u/s 115BAB of the Income tax Act, 1961 ("the Act") for the reason that the assessee had not commenced its production. Ld.AR has drawn our attention to page No.53 of the appeal memo, wherein, intimation u/s 143(1) of the Act was issued to the assessee, which is to the following effect :

धारा 143(1) के तहत सूचना



नाम : कृष्ण कृष्ण प्रॉपर्टी इन्वेंस्टर्स
पता : 206 स्टार, 301 ब्लॉक सी रोड, गंधपुर सी.ओ रोड, हैदराबाद, तेलंगणा 500081, इंडिया
फ़ोन: 91-9492978695

सूची संख्या : AA00004126 | निर्धारण वर्ष : 2023-24 | पत्र सं. : 482294281273023 | एआर संख्या : CPC/2024/AA/404983716

निर्धारण वर्ष 2023-24 के लिए आपकी विवरणी को संसाधित किया गया है। कोई भुगतान देय नहीं है।

ITR का प्रकार ITR6 सूत्र	सूचित की तिथि 27/10/2023	सूचना प्राप्त की तिथि 26/11/2023
पत्र संख्या 31/10/2023	विवरण प्राप्त तिथि 31/10/2023	व्यक्ति Private company
		आवास स्थिति Resident

आपका विवरणी का विवरण

क्र.सं.	विवरण	विवरण संदर्भ	संकेत (+ / -)	
			कंप्यूटर द्वारा उत्पन्न संकेत	धारा 143(1) की गणना के अनुसार
01	करदाता विवरण	115888 का विवरण सुत्र	Yes	No
02	ज्यादा का विवरण	कुल ज्यादा	0	0
03	कर का विवरण	कर के बाद कर प्रतिक्रिया	0	0
04	कर का और देय सुत्र	कुल ज्यादा और सुत्र (234A, 234B, 234C और 234F)	0	0
05	पूर्व संकेत का	कुल अनुमानित संकेत का (अर्थान्त कर, वी वी एस , टी वी एस , सी-सूचक संकेत)	0	0
06	देय संकेत		0	0
07	कुल देय संकेत / देय इतिहास		0	0

[Click here for English version](#)

एन आईटीआर, आ.आ.आ.आ.
एन आ.आ.आ.आ.आ.
सी.सी.सी., हैदराबाद

धारा 143(1) के तहत सूचना		आयकर केंद्र CENTRALIZED PROCESSING CENTER INCOME TAX DEPARTMENT		
क्र.सं.	विवरण	सिस्टमिक सीरिज	पंक्ति (एनई) संख्या द्वारा प्रदान किया गया धारा 143(1) की कक्षा के अनुसार	
01	अस के सीरिज	घर सीरिज सीरिज के तहत अस	0	
02		इंजीनियरिंग या एडमिनिस्ट्रेशन से आय और अधिलेखन सीरिज के तहत अस	0	
03		पूंजी अधिलेखन सीरिज के तहत अस	0	
04		अस सीरिज के तहत अस	0	
05	अस सीरिज एकाग्रता	अस सीरिज एकाग्रता	0	
06		कुल (अस सीरिज एकाग्रता के बाद) $[6+1+2+3+4]$	0	
07		6 के विस्तृत वर्गीकरण बर्न की हदों का एकाग्रता	0	
08		वर्गीकरण बर्न की हदों के बाद रोक $[6-(8-7)]$	0	
09		8 के विस्तृत अर्थों में हदों का एकाग्रता	0	
10		कुल एकाग्रता $[10-3+5]$	0	
11		विवेक अस	घ) धारा 115BEE के तहत विवेक पर कर प्रदर्शन अस	0
			घ) धारा 115BEE के अलावा विवेक पर कर प्रदर्शन अस	0
12	अस $115B$ के तहत कटौती	क) अस $115B$ के तहत	0	
		ख) अस $115B$ का $115B-C$	0	
		ग) कुल $(12a + 12b)$	0	
13		घर $106A$ के तहत कटौती	0	
14		कुल अस $(13+(12+23)+(13))$	0	
15		विवेक बर्न पर कर प्रदर्शन अस	0	
16		समान्य बर्न पर कर प्रदर्शन अस $(14+15)$	0	
17		कुल बर्न अस	0	
18		अस में जहाँ नहीं वर्गीकरण बर्न की हदों	0	
19		घर $115B$ के तहत अस कुल अस	0	
20	घर $115B$ के तहत कर का विवरण	घर $115B$ के तहत अस कुल अस पर देय कर	0	
21		घर 20 पर अधिभार	0	
22		इ. सं. (20+21) पर समस्त और शिक्षा उपादान @ 4%	0	
23		घर $115B$ के तहत कुल देय कर $(20+(20+21)+22)$	0	
24	कुल अस पर देय कर	समान्य बर्न पर कर, ए. सं. 15 पर कर	0	
25		घ) धारा 115BEE	0	
26		घ) धारा 115BEE के अलावा विवेक अस पर कर	0	
27		कुल अस पर देय कर $(24+(24+25)+26)$	0	
		घर 26 पर अधिभार	0	
		घ) धारा 115BEE के तहत देय नहीं गई अस पर 20% कर	0	
		घ) $[27(20)] - (असुरणी एकाग्रता के 1600)$	0	
		घ) कुल $(27+8)$	0	
28		समान्य और शिक्षा उपादान @ 4% की दर से $(26+27)$ पर	0	
29		एकल कर देयता $(28+(26+27)+38)$	0	
30		एकल देय कर $(29$ या 28 में से जो भी अधिक हो)	0	

3. Feeling aggrieved by the denial of the lower tax regime u/s 115BAB of the Act, the assessee filed rectification application before the CPC, however, this was also rejected by the CPC. Now, feeling aggrieved by the order passed by the CPC, assessee filed

appeal before the Ld.CIT(A) and the Ld.CIT(A) also dismissed the appeal of the assessee by giving the following reasons :

6. DECISION

The main ground of appeal is that the Ld. AO (CPC) has grossly erred in law as well as in facts by erroneously not granting the benefit of lower tax regime provided under section 115BAB of the Act, inspite of the fact that the Appellant had opted for lower taxation u/s 115BAB of the Act and had duly filed Form 10ID on 27-10-2023.

6.1 The provisions of Section 115BAB reads as under:

Tax on income of new manufacturing domestic companies.

115BAB. (1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under [section 115BA](#) and [section 115BAA](#), the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent, if the conditions contained in sub-section (2) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (6) shall be computed at the rate of thirty per cent:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent:

Provided also that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(a)	the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, ⁴⁰ [2024] and,—
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(i)	the business is not formed by splitting up, or the reconstruction, of a business already in existence:
	Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B , in the circumstances and within the period specified in the said section;
(ii)	does not use any machinery or plant previously used for any purpose.
	<i>Explanation 1.</i> —For the purposes of sub-clause (ii), any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(A)	such machinery or plant was not, at any time previous to the date of the installation used in India;
(B)	such machinery or plant is imported into India from any country outside India; and
(C)	no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

	<p><i>Explanation 2.</i>—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (ii) of this</p>
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	<p>clause, the condition specified therein shall be deemed to have been complied with;</p>
(iii)	<p>does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.</p>
	<p><i>Explanation.</i>—For the purposes of this sub-clause, the expressions "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (a) and clause (b) of sub-section (6) of section 80-ID;</p>

(b)	<p>the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.</p>
	<p><i>Explanation.</i>—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (b) shall not include business of,—</p>

(i)	<p>development of computer software in any form or in any media;</p>
(ii)	<p>mining;</p>
(iii)	<p>conversion of marble blocks or similar items into slabs;</p>

(iv)	bottling of gas into cylinder;
(v)	printing of books or production of cinematograph film; or
(vi)	any other business as may be notified by the Central Government in this behalf; and

(c)	the total income of the company has been computed,—
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(i)	without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of ⁴¹ [Chapter VI-A other than the provisions of section 80JJAA or section 80M];
(ii)	without set-off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (i).
	<i>Explanation.</i> —For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (7) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (2) are continued to be satisfied by such company; and
(iii)	by claiming the depreciation under the provision of section 32 , except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in [section 92BA](#), the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of [section 92F](#):

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.

(7) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner⁴³ on or before the due date specified under sub-section (1) of [section 139](#) for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Explanation.—For the purposes of [section 115BAA](#) and this section, the expression "unabsorbed depreciation" shall have the meaning assigned to it in clause (b) of sub-section (7) of [section 72A](#).]

6.2 The main condition as per Sec 115BAB(2)(a) is that the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, ⁴⁰[2024] —

Therefore the company has to commence manufacturing and production of article or thing on or before the 31st day of March, ⁴⁰[2024] —

The Return of the appellant was perused. **The company has been set up on 16.1.2023.** The details of the manufacturing account of the appellant is as under;

⁴²[*Explanation.*—For the purposes of clause (b), the "business of manufacture or production of any article or thing" shall include the business of generation of electricity.]

(3) The loss referred to in sub-clause (ii) of clause (c) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(4) If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (2) or clause (b) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(5) Every guideline issued by the Board under sub-section (4) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.

(6) Where it appears to the Assessing Officer that, owing to the close connection between

PART A-MANUFACTURING ACCOUNT- MANUFACTURING ACCOUNT FOR THE FINANCIAL YEAR 2022-23 (FILL ITEMS 1 TO 3 IN A CASE WHERE REGULAR BOOKS OF ACCOUNTS ARE MAINTAINED, OTHERWISE FILL ITEMS 61 TO 62 AS APPLICABLE)						
1	Debits to manufacturing account					
	A	Opening Inventory				
		i	Opening stock of raw-material	i	0	
		ii	Opening stock of Work in progress	ii	0	
		iii	Total (i + ii)	iii	0	
	B	Purchases (net of refunds and duty or tax, if any)				B 0
	C	Direct wages				C 0
	D	Direct expenses (Di + Dii + Diii)				D 0
		i	Carriage inward	Di	0	
		ii	Power and fuel	Dii	0	
		iii	Other direct expenses	Diii	0	
	E	Factory Overheads				
		i	Indirect wages	i	0	
		ii	Factory rent and rates	ii	0	
		iii	Factory Insurance	iii	0	
		iv	Factory fuel and power	iv	0	
		v	Factory general expenses	v	0	
		vi	Depreciation of factory machinery	vi	0	
		vii	Total (i+ii+iii+iv+v+vi)	vii	0	
	F	Total of Debits to Manufacturing Account (Aiii+B+C+D+Evi)				F 0
2	Closing Stock					
		i	Raw material	2i	0	
		ii	Work-in-progress	2ii	0	
		iii	Total (2i +2ii)	2	0	
3	Cost of Goods Produced - transferred to Trading Account (3F-2)					3 0

This therefore indicates that no manufacturing has taken place during the year, the company having been set up only on 16.1.2023. Therefore the main condition for claiming 115BAB is not satisfied. The appellant has however satisfied the other condition of filing return as per provisions of Sec 139(1) and filing of Form 10ID in time. The appellant having not satisfied the main condition the appellant is not eligible for the tax rates specified in 115BAB. This ground is dismissed.

7. The second ground relates to the adjustments made by the Ld. AO (CPC) are invalid as it is beyond the powers to make the adjustments enshrined under the provisions of Section 143(1) of the Act.

4. Feeling aggrieved with the order of Ld.CIT(A), now the assessee is in appeal before us. The contention of the assessee is that as per the provision of section 115BAB of the Act, Ld.CIT(A) / Assessing Officer was required to satisfy that the assessee company has been set up on or after 01/10/2019 and has commenced the manufacturing or production of article /thing on or before 31/03/2024.

5. It is the contention of the assessee before us that the CPC had passed intimation on 26/11/2023 and also the Ld.CIT(A) had also passed order on 27/05/2024. It was submitted that both the authorities i.e. CPC and the Ld.CIT(A) were not having the benefit of examining the fact whether the assessee had commenced its manufacturing activities prior to 31/03/2024 or not. It was submitted by the Ld.AR that as per the record filed before us, the assessee had commenced its manufacturing activity before 31/03/2024 and for that purpose, he had drawn our attention to page No.28 to 54 of the paper book which consist of all the documents showing the consent letter from the Pollution Control Board as well as invoices for sale of goods along with supporting documents. It is the case of the Ld.AR that the above said

document clearly shows that the manufacturing of the articles has started prior to 31/03/2024 and therefore, the assessee was entitled to benefit of lower tax regime u/s 115BAB of the Act. It was also the contention of the Ld.AR that the assessee is put to a precarious and catch-22 situation, where by virtue of Income tax Act, 1961, the assessee was required to file the return of income for previous year, despite the fact that the assessee company started on 16/01/2023 and was required to file the return of income for the period 16/01/2023 to 31/03/2023 in accordance with law. However, requirement of claiming advantage u/s 115BAB is that the assessee should have set up and started manufacturing before 31/03/2024. It was the contention of the learned Ld.AR that it is impossible to carry out the manufacturing activity immediately after setting up of the plant as setting up of plant and manufacture of goods / articles need breathing / set up time which is not possible prior to filing the return of income for the assessment year 2023-24.

6. In any case, the assessee has started carrying out of the manufacturing activity prior to the date 31/03/2024 and

therefore, the assessee is entitled to advantage of provision of section 115BAB of the Act.

7. Per contra, Ld.DR submitted that the order passed by the Ld.CIT(A) is speaking order and the Ld.CIT(A) has given strict interpretation to the language of the statute i.e. section 115BAB is clear and unambiguous, as the assessee failed to fulfil the requisite condition as contemplated u/s 115BAB (2) of the Act, therefore, the Ld.CIT(A) has rightly denied the benefit of lower tax regime specified u/s 115BAB of the Act. Ld.DR relied on the order passed by the Ld.CIT(A).

8. In rebuttal, Ld.AR has submitted that it is correct that the manufacturing activities were not commenced by the assessee prior to 31/03/2023 and it has only started prior to 31/03/2024, however, the fact remained that as per the mandatory requirements of law, the assessee was required to file the return of income in accordance with law and along with the return of income, the assessee was also required to file Form 10ID. In the return of income, the assessee has rightly mentioned that no manufacturing activity has been started which has been captured by the Ld.CIT(A), however, that cannot be a ground to deny the

benefit of the provision of law, as the assessee has commenced the manufacturing activities prior to 31/03/2024 and it was submitted that the issue has cascading effect for subsequent assessment years and for that purpose he has drawn our attention to the application filed by the assessee for the assessment year 2024-25 for exercising option under section 115BAB(7) of the Act.

9. We have heard the rival contentions of the parties and perused the material available on record. Section 115BAB reproduced by the Ld.CIT(A) in paragraph 6.1 (supra) of his order clearly postulates for fulfilment of the conditions mentioned therein namely, that the company must have been set up on or after 01/10/2019 and the said company has commenced manufacturing or production of article or thing on or before 31/03/2024.

10. Form 10ID of the Act provides that any new manufacturing domestic company can opt to pay tax at a concessional tax rate of 15% u/s 115BAB of the Act subject to certain conditions. To fulfil the conditions, it is essential to file Form 10ID on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the first assessment year

commencing on or after first day of April 2020 to avail the benefit. Admittedly FAQs on Form 10ID is reproduced hereunder for the sake of clarity.

1. What is Form 10-ID?

New Manufacturing Domestic Companies can opt to pay tax at a concessional tax rate of 15% (plus applicable surcharge and cess) under Section 115BAB of the Income Tax Act, 1961 subject to certain conditions. In order to do so, it is essential to file Form 10-ID on or before the due date specified under sub-section (1) of Section 139 for furnishing the returns of income for the first assessment year commencing on or after 1st day of April, 2020 to avail the benefit.

2. Who is required to file Form 10-ID?

A New Manufacturing Domestic Company incorporated on or after the 1st day of October, 2019 which has commenced manufacturing or production of an article or a thing on or before the 31st day of March, 2023, and opts to be taxed at concessional rate, is required to file Form 10-ID.

3. Is it mandatory for all applicable taxpayers (domestic companies) to file Form 10-ID?

No. This is optional. Form 10-ID is required to filed only if a domestic company chooses to opt for concessional tax rate of 15% (plus applicable surcharge and cess) under Section 115BAB of the Income Tax Act, 1961.

4. How can I file and submit Form 10-ID?

You can file form 10-ID through the online mode only (through the e-Filing portal).

5. What is the timeline for filing this form?

You will be required to file Form 10-ID before due date for filing of ITR.

6. Do I need to file the form again for the next assessment year?

No. If you have opted for concessional tax rates once, it shall apply to subsequent assessment years and cannot be withdrawn.

7. How do I know that the form has been submitted successfully?

You will receive a confirmation on your email ID and mobile number registered with the e-Filing portal. Additionally, you can also view the status in your Worklist under For your Actions tab.

8. Is e-Verification necessary for submitting Form 10-ID? if yes, how can I e-Verify the Form 10-ID?

Yes, it is necessary to e-Verify Form 10-ID. You can e-Verify using Digital Signature Certificate.

From the perusal of Form 10ID, it is essential that the said Form 10ID is required to be filed along with the return of income for the first assessment year. In the present case, first assessment year is 2023-24, however, there will not be any fulfilment of the condition of Form 10ID as it is filed prior to commencement of the manufacturing activities and the assessee cannot be expected to file Form 10ID, showing the commencement or manufacturing activity when the date of commencement of manufacturing activity was upto 31/03/2024. It is highly improbable for an assessee to file Form 10ID after setting up of the manufacturing unit

immediately before the commencement of production for the first assessment year. If we ask the assessee to file Form 10ID for certifying that the manufacturing activity has commenced, before its actual commencement, in our view that would amount to asking the assessee to do the impossible. Hence, in our view, if the assessee is able to prove that the assessee has commenced activities before 31/03/2024, that would be sufficient compliance of the Act and a subsequent commencement of activity after filing the return of income and Form 10ID should factor in and take into account the subsequent commencement of the manufacturing activity albeit prior to 31/03/2024. Further FAQs on Form 10ID, which are available in the website of the Income Tax authority clearly provide that the assessee is not required to file fresh Form 10ID after filing it along with the first return of income for the first assessment year. The contradiction is clear that even if the assessee has not commenced its activities, the assessee was required to file the certificate showing the commencement of business activities and manufacturing activities, however, the assessee is prohibited to file the Form 10ID in the subsequent year, when it has actually started manufacturing its article or

thing. In view of the above harmonious interpretation, reconciliation is required and in our view, though the manufacturing activity has not been commenced for the assessment year in question, however as and when the assessee started its manufacturing activity, this should be factored in and taken into account by the Revenue for the purpose of giving benefit of section 115BAB of the Act. In view of the above, though, we are of the opinion that the assessee has failed to fulfil the condition as laid down u/s 115BAB of the Act for the present assessment year, therefore, assessee's appeal is required to be dismissed, however the fact remains that the Revenue is under obligation to take into account the commencement of the manufacturing activity for the subsequent assessment year and should not act upon the earlier Form 10ID. In view of the above, we deem it appropriate to consider the commencement of the manufacturing activities for the subsequent year and grant relief as the assessee may be entitled to. We are conscious of the fact that the issue before us is for the assessment year 2023-24, however, the said observations of ours are essential as the assessment is a continuous process and the denial of the benefit in the present year will definitely

effect the subsequent year as no fresh Form 10ID can be filed by the assessee. In view of the above, we are of the opinion that if the assessee is able to prove the commencement of manufacturing for the subsequent assessment year, the insistence of the fulfilment solely on the basis of the Form filed for the present assessment year should not be insisted upon and in a holistic and pragmatic view, the Assessing Officer to consider and grant the applicability of lower tax regime for the assessee for the subsequent assessment years.

11. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 15th October, 2024.

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad, dated 15.10.2024.
L.Rama, SPS

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

Copy to:

S.No	Addresses
1	M/s Granules CZRO Private Limited.2 nd Floor, 3 rd Block, My Home Hub, Madhapur B.OO, Shaikpet, Hyderabad
2	The Income Tax Officer, Ward-2(1), Hyderabad
3	Pr.CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order