

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, KOLKATA

BEFORE SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMEBR

I.T.A. Nos. 1509 & 1510/KOL/2024
Assessment Year: 2021-22

Pran panda [PAN : AFVPP3562N] & Rama Panda [PAN : ANFPP8233J] Ward No.10, Sahebganj Road, Bhagni Parti B.O. Dinhata (P), Coochbehar, West Bengal- 736135	Vs	I.T.O., Ward - 2(1), Aayakar Bhawan, Debibari,, Coochbehar, West Bengal, 736101
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	None
Revenue by :	Shri Supriya Pal, Add. CIT (DR)

सुनवाई की तारीख/Date of Hearing : 24.09.2024
घोषणा की तारीख /Date of Pronouncement : 04.11.2024

आदेश/O R D E R

PER SONJOY SARMA, JUDICIAL MEMBER:

The captioned appeals filed by the Revenue, pertaining to assessment years 2021-22 are directed against the orders passed by the Learned Commissioner of Income Tax (Appeals) – 22, Kolkata (hereinafter referred to as the 'Id. CIT(A)') even dated 17th May, 2024, passed u/s 250 of the Income Tax Act, 1961 ('Act').

2. Since, the issues involved in both the appeals are common and arise from similar set of facts & circumstances, we for the purpose of adjudication taken up the facts from ITA No. 1509/KOL/2024, for A.Y. 2021-22 in the case of Pran Pandia and our decision shall apply *mutatis mutandis* to ITA No.1510/KOL/2024 for A.Y. 2021-22, they have been heard together and are being disposed off by this common consolidated order.

3. Brief facts of the case are that in ITA No.1509/KOL/2024, where assessee filed its return of income for the A.Y. 2021-22 under the provisions of Section 139(1) of the Act, claiming benefit of concessional tax rate u/s 115BAC of the Act. The Central Processing Centre (CPC), Bangalore processed the return but denied the concessional tax rate benefit on the grounds that the assessee had failed to file form no.10IE electronically before the due date of filing of return of income. An intimation was issued u/s 143(1) of the Act on 22nd March, 2022 to the assessee denying such claim as made by the assessee.

4. Aggrieved by the intimation assessee filed an appeal before the Id. CIT (A) which is delayed by 709 days in filing the appeal. However, the Id. CIT (A) rejected the appeal on the grounds that the reasons for the delay were not sufficient. Thereby Id. CIT (A) confirming the CPC's decision.

5. Aggrieved by the order of Id. CIT (A), the assessee has now filed an appeal before this Tribunal raising multiple grounds, primarily contesting the rejection of the claim for concessional tax rate u/s 115BAC of the Act. At the time of hearing, no one present on behalf of the assessee. Although, consecutive notices were

served upon the assessee. However, no one turned up before the Bench on behalf of the assessee. In such situation, we have no other alternative but to decide the appeal on the merits of the case and with the assistance of the Id. Departmental Representative.

6. On perusal of the material available on record, we find that the assessee's main contention is that the failure to file form no.10IE, was mere inadvertent lapse and did not result any revenue loss. The assessee had complied with all other provisions of Section 115BAC of the Act and the failure to file the form should not result any denial of the concessional tax benefits. The contention of the assessee is that it is a procedural lapse and on this issue various judicial decisions has been passed by the various authorities, where it was held that procedural lapse were to be condonable if they did not result any substantial loss to the Revenue.

7. On the other hand, the Id. DR supported the order of the Id. AO and the Id. CIT (A). The Id. DR argued that the provisions of the Act are clear and mandatory in nature and form no.10IE is required to be filed before the due date u/s 139(1) of the Act for availing concessional tax rate u/s 115BAC of the Act. The assessee's failure to comply with this requirement disqualified him from availing the concessional tax benefit.

8. We have heard the submissions of the Id. DR and perused the materials available on record. After carefully considering the facts of the case, it is evident that assessee failed to file form no.10IE within the prescribed due date. However, it is also noted that the assessee has otherwise complied with other conditions u/s 115BAC of the Act. We also noted that there has been no loss



to the Revenue due to this procedural lapse. On this context, we find that various judicial precedent have been held that substantial justice should not be denied due to technical lapse. In the interest of justice, we are of the view that the failure to file form no.10IE within the due date is a procedural requirement which does not affect the eligibility of the assessee to claim concessional tax rate benefit, provided that other conditions of this Section 115BAC are satisfied.

9. In the light of the above discussion, we condone the delay in filing form no.10IE and direct the AO to grant the benefit of concessional tax rate u/s 115BAC of the Act, subject to verification of compliance with other conditions under the said section.

10. Since, we have allow the appeal in ITA No.1509/KOL/2024, our decision in this appeal will equally apply to ITA No.1510/KOL/2024, as both the appeals pertains to similar facts and issues. Accordingly, both the appeals filed by the assessee are allowed for statistical purposes.

11. In the result, both the appeals of the assessee are allowed for statistical purpose.

Order pronounced in the Court on 4th November, 2024 at Kolkata.

Sd/-

(RAKESH MISHRA)
ACCOUNTANT MEMBER

Sd/-

(SONJOY SARMA)
JUDICIAL MEMBER

Kolkata, Dated 04.11.2024

*SS, Sr.Ps



आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Sr. PS/ Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata