

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No. 3090/DEL/2024
[Assessment Year: 2023-24]

Anuyog Verma, C/o Kamal Kumar Verma, 103, Paradise Apartment Kalidas Road, Dehradun-248001. PAN- AHAPV 0567 A	<u>Vs</u>	Income-tax Officer-3(1), Nazibabad.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Yogesh Sharma, Sr. DR	
Date of hearing	06.11.2024	
Date of pronouncement	14.11.2024	

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee’s appeal for assessment year 2023-24 arises against DIN and order no. ITBA/APL/S/250/2024-25/1065367269(1), dated 04.06.2024, passed by the learned CIT(Appeals)-12, Mumbai in appeal no. ADDL/JCIT(A)-12 MUMBAI/10001/2022-23, in proceedings u/s 250 of the Income-tax Act, 1961, hereinafter referred to as the “Act”. Case called twice. None appears at assessee’s behest. He is accordingly proceeded ex parte.

2. The assessee pleads the following substantive grounds in the instant appeal.

“1 That the Ld. Addl/JCIT (Appeal) as well as Ld.AO CPC has acted wrongly and against the law in not allowing taxation benefit u/s 115BAC (new Regime of taxation) while processing u/s 143(1) the return for this year

as the form 10IE was operative for this year and not withdrawn by the assessee.

2 That Ld. Addl/JCIT (Appeal) has acted wrongly on facts and in law in rejecting the appeal of assessee saying that "the appellant has not filed form 10IE for AY 2023-24" which is wrong as per Act because form 10IE filed in earlier year and not withdrawn is valid for coming years, and assessee is not required to file every year, so the calculation made by CPC under old regime is wrong and is liable to be corrected.

3 That the benefit u/s 115BAC is legally allowable to assessee this year so the calculation made by CPC under old regime is wrong and is liable to be corrected.

4 That the order of Ld. Addl/JCIT (Appeal) as well as of Ld. A. O. is quite arbitrary, illegal and unjust.

5 The appellant reserves its right to advance such other grounds before or at the hearing, which it may consider fit and appropriate, for which it craves leave to amend, alter or otherwise modify the grounds appearing hereinbefore with the kind permission of the ITAT."

4. Learned DR vehemently argued during the course of hearing that both the lower authorities have rightly rejected the assessee's contentions for having not filed Form 10IE for the purpose of opting under the new tax regime, which is in the nature of mandatory condition.

5. I have given my thoughtful consideration to the assessee's pleadings and Revenue's vehement contentions supporting their respective stands. Suffice to say, this Tribunal in ITA no. 782/Pune/2024 Akshay Devendra Birari v. DCIT dated 05.06.2024 has already settled the issue against the department that such a compliance of filing of Form 10IE is only directory than mandatory in nature as under:

7. We heard the ld. Sr.DR and perused the relevant material on record. The solitary issue that arises for our consideration in the present appeal is

whether the CPC was justified in denying the benefit of New Tax Regime. Admittedly, the appellant had failed to submit the prescribed Form No.10IE in order to claim the benefit of New Tax Regime before the due date for filing the return of income. However, the appellant had filed the said form on 10.01.2024 on which date the CPC had processed the return of income u/s.143(1)(a) denying the benefit of New Tax Regime. In any event, it is not a mandatory requirement for filing of Form No.10IE but directory in nature. The Form No.10IE was very much available with the CPC and the CPC ought to have considered the same allowing the benefit of New Tax Regime. Therefore, we direct the CPC to amend the intimation by taking into consideration the Form No.10IE, as the same was available with the CPC at the time of processing the return of income. We order accordingly.”

6. I adopt the forgoing detailed discussion mutatis mutandis and restore the assessee’s instant sole substantive ground back to the CIT(A)/NFAC for his fresh factual verification as per law. Ordered accordingly.
7. This assessee’s appeal is allowed for statistical purposes.

Order pronounced in open court on 14.11.2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI