

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
&
SHRI RAJ KUMAR CHAUHAN, HON'BLE JUDICIAL MEMBER

I.T.A. No. 5098/Mum/2024
Assessment Year: 2023-24

Ganesh Raghunath Ghuge, Andheri East 6 th Floor, B 602 Bldg No. 7, Bhim Nagar CHS Road No. 7 MIDC Maharashtra - 400093 [PAN: AJVPG9872E]	Vs	Income Tax Officer, Ward- 42(2)(2), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Bhupesh Negandhi, A/R
Revenue by :	Ms. Kakoli Ghosh, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 21/11/2024
घोषणा की तारीख /Date of Pronouncement: 21/11/2024

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the Id. CIT(A)/Addl./JCIT(A)-3, Delhi, dated 08/08/2024, pertaining to AY 2023-24.

2. The grievance of the assessee reads as under:-

"1. The CPC Bangalore has. Erred in denying the benefit of concessional tax rate U/S 115BAC of the income tax act due to non-filing of Form 10IE electronically on or before 30th September, 2023.

2. Kindly stay the demand pending decision in appeal.

3. The assessee craves leave to add or alter any of the ground of appeal on or before the date of hearings."

3. The sum and substance of the grievance of the assessee is that the revenue authorities erred in denying the benefit of lower tax as per

Section 115BAC of the Act only for the reason that Form 10IE was not filed before the due date of filing of return u/s 139(1) of the Act.

4. Briefly stated, the facts of the case are that the assessee filed its return of income on 23/10/2023. The assessee wanted to opt for new tax regime but could not select the option for new regime while filing the ITR Form. The assessee had not claimed any deduction under Chapter VIA, even though he has himself invested in PPF, paid medical insurance premium and also paid housing loan and housing interest. The return was processed by the CPC Bengaluru u/s 143(1) of the Act on 29/12/2023 and the returned income was accepted without granting any deduction under Chapter VIA. The assessee revised his return of income on 30/12/2023 and filed Form 10IE alongwith. Once again, the return was processed u/s 143(1) of the Act by CPC, Bengaluru, but the benefit of lower rate of tax was denied.

5. The assessee filed an appeal before the Id. CIT(A) but did not find any favour from him only because the assessee could not submit Form 10IE.

6. Before us, the Id. Counsel for the assessee stated that, furnishing of Form 10IE is directory in nature and not mandatory and it is a sufficient compliance, if it is filed before the AO before the date of assessment. Referring to Rule 21AG of the Income Tax Rules, 1962, the Id. Counsel for the assessee pointed out that the said Rule does not specifically provide for disallowing the claim of lower rate of tax for late filing of Form 10IE.

Per contra, the Id. D/R strongly supported the findings of the Id. AO.

7. The undisputed fact is that the original return was revised before the due date of revising the return and, therefore, the original return of income is substituted by a valid revised return meaning thereby that the original return is obliterated for all the purposes under the Act. In our understanding, filing of Form 10IE is not mandatory requirement and only directory in nature and CPC ought to have considered the same.

8. Similar view was taken by the Co-ordinate Bench in *ITA No. 25/Asr/2024* and in *ITA No. 354/Pun/2024*. Considering the facts of the case in totality in light of the decision of the Co-ordinate Benches (*supra*), we direct the AO to allow the benefit of lower rate of tax as per the provisions of law.

9. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 21st November, 2024 at Mumbai.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 21/11/2024

[Signature]

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, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai