

आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता ।
IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, KOLKATA

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER
&
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 1794/KOL/2024
Assessment Year: 2020-21

SSK Exports Limited 37, Shakespeare Sarani, 1 st Floor, S.B. Tower, Kolkata-700 017 [PAN : AADCS8046E]	Vs	NFAC, Delhi Assessment Unit, Income Tax Department
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri Rip Das, AR
Revenue by :	Shri P. P. Barman, DR

सुनवाई की तारीख/**Date of Hearing** : 24.10.2024
घोषणा की तारीख /**Date of Pronouncement** : 19.11.2024

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 2nd July, 2024 by the Commissioner of Income-tax (Appeals) (hereinafter referred to as the 'Id. CIT(A)') passed u/s 250 of the Income Tax Act, 1961 ('Act').

2. The assessee has raised following grounds of appeal: -

"1. That the Appeal Order passed u/s 250 of the Act dated 02.07.2024 by the Learned Additional / Joint Commissioner (Appeals) of Income Tax, Nasik is unlawful, unwarranted and against natural justice.

2. That ignoring filing of Form No. 10-IC on 11.04.2022 by your appellant when the date was extended by CBDT till 30.06.2022 for AY 2020-21 is against the law as a subordinate Departmental Officer is duty bound to abide the directive issued by CBDT. Hence, it is prayed to issue suitable direction to charge Tax @22% in place of 30% as per the provision of section 115BAA of the Act. {Relief claimed suitable direction to allow benefit of tax u/s 115BAA.}

3. *Your appellant submits that deduction u/s 10(35) amounting to Rs. 10,00,000/- for Dividend Received From Mutual Funds be allowed to it as it has been clearly mentioned in the Chapter of "Exempt Income" in ITR-6 filed by it. [Relief claimed - allowance of deduction of Rs. 10,00,000/- u/s 10(35)].*"

3. Ground no.1- Ground no.1 is general in nature and does not require any adjudication.

4. **Ground no.2-** Vide ground no.2, the assessee has agitated against the action of the lower authorities in charging tax at the rate of 30% instead of 22% as claimed by the assessee under the provisions of Section 115BBA of the Income-tax Act, 1961 (the Act).

5. Vide amendment in Finance Act, 2019, an option has been given to the assessee either to pay tax as per the old regime or to pay tax under the new scheme. The assessee opted to pay the tax under the new scheme u/s 115BBA of the Income-tax Act, 1961 (the Act), whereby the assessee opted to pay tax at the rate of 22% along with applicable surcharge etc. under the said scheme and one of the condition for opting the new scheme was that the assessee should file form no. 10IC on or before the due date of filing of return of income. The assessee filed the said form on 11th April, 2022, however, the CPC while processing the income of the assessee u/s 143(1) of the Act, charged the tax at the rate of 30% on the ground of late filing of form 10IC.

6. The CIT (A) confirmed the addition, so made by the CPC in this respect.

7. Before us, the ld. Counsel for the assessee has drawn our attention to Circular no.6 of 2022, whereby the due date for filing of form no.10IC for the assessment year 2021-21 was extended up to 30th June, 2022. Under this Circular, the assessee has filed the form no.10IC within the due date, therefore, the action of the CPC

in charging the tax at the rate of 30% was not justified. We accordingly, allow this ground and direct the AO to charge the tax at the rate of 22% as per the provisions of Section 115BBA of the Act. This ground of appeal of assessee stands allowed.

8. **Ground no.3-** Vide ground no.3, the assessee has agitated against the action of the lower authorities for not allowing the exemption u/s 10(35) of the Act of ₹10 lacs in respect of dividend received from the mutual fund. The ld. Counsel for the assessee has stated that during the year, the assessee had received dividend income of ₹27,80,252/- and that the assessee had claimed exemption u/s 10(35) of the Act to the maximum limit of ₹10 lacs as per the statute.

9. The ld. DR could not justify the aforesaid disallowance made by the lower authorities.

10. In view of this, the impugned order of the ld. CIT (A) on this issue is also set aside and it is directed that the assessee may be given exemption on the dividend income as per Section 10(35) of the Act. This ground of appeal raised by the assessee is allowed.

11. **Ground no.4-** Ground no.4 is general in nature.

12. In view our observation made above, the appeal of the assessee stands allowed.

Order pronounced in the Court on 19th November, 2024 at Kolkata.

Sd/-

(SANJAY AWASTHI)
ACCOUNTANT MEMBER

Kolkata, Dated 19.11.2024
*SS, Sr.Ps

Sd/-

(SANJAY GARG)
JUDICIAL MEMBER



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