

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.3686/Del/2023
(Assessment Year: 2021-22)**

Bajaj Resources Pvt. Ltd, Old Station Road, Sevashram Choraha, Udaipur, Rajasthan (Appellant) PAN:AAACD8001D	Vs.	DCIT, Circle-4(2), New Delhi (Respondent)
--	-----	--

Assessee by :	Shri Sandeep Jhanwar, CA
Revenue by:	Shri Poojan Rana, Sr. DR

Date of Hearing	20/11/2024
Date of pronouncement	25/11/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.3686/Del/2023 for AY 2021-22, arises out of the order of the Id. Commissioner of Income Tax (Appeals), Mumbai [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. ITBA/APL/S/250/2023-24/1058400841(1) dated 01.12.2023 against the order of assessment passed u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.07.2022 by the Assessing Officer, ADIT, CPC, Bengaluru (hereinafter referred to as 'Id. AO').

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

"1. Under the facts and circumstances of the case, the CIT(A) has erred in confirming the tax liability of rs. 15,99,72,078/- as computed by the Id DCIT(CPC) in intimation order without applying the provisions of section 115BAA and raising an additional tax liability of Rs. 2,13,68,710/- against the refund claimed by the assessee fo Rs. 10,52,120/-. The Id CIT(A) ought to have allowed the assessee's appeal on this issue considering the facts

and circumstances and the submission made by the assessee in this respect.

3. We have heard the rival submissions and perused the material available on record. The return of income for AY 2021-22 was electronically filed by the assessee company on 14.03.2022 opting the provisions of Section 115BAA of the Act by declaring total income of Rs. 54,65,32,300/-. The assessee paid tax as prescribed u/s 115BAA of the Act. The assessee is supposed to file Form 10IC for opting the scheme under New Tax Regime provided u/s 115BAA of the Act before the due date prescribed u/s 139(1) of the Act. The return filed by the assessee was duly processed by the Id CPC, Bengaluru u/s 143(1) of the Act on 21.07.2022 raising the demand of Rs. 2,13,68,710/- by computing the tax demand as per normal provisions of the Act (i.e. under the Old Tax Regime) instead of applying the provisions of Section 115BAA of the Act. **It is not in dispute that the assessee had filed Form 10IC of the Act on 07.07.2022 indicating its option u/s 115BAA(5) of the Act.** The CBDT Circular No. 19/2023 dated 23.10.2023 had extended the date of filing of form 10IC upto 31.01.2024. The year under consideration is AY 2021-22 for which the due date of filing the return of income u/s 139(1) of the Act was 15.03.2022. **The assessee had filed its return of income on 14.03.2022 i.e. within the due date prescribed u/s 139(1) of the Act.** As stated earlier, the Form 10IC was filed by the assessee on 07.07.2022 which is beyond the due date prescribed u/s 139(1) of the Act but before extended date as permitted by the CBDT Circular No. 19/2023 dated 23.10.2023. Hence we hold that the assessee should be given the benefit of computing the tax under the New Tax Regime as provided u/s 115BAA of the Act as admittedly the Form No. 10IC has been filed by the assessee within the date prescribed by the CBDT Circular No. 19/2023 dated 23.10.2023. This view of ours is further fortified by the coordinate bench decision of Ahmedabad Tribunal in the case of Sunpack Barrier Films (P) Ltd vs. Asst. Director of Income-tax reported in

206 ITD 700 (Ahmedabad Tribunal). Accordingly, the grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 25/11/2024.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated:25/11/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi