

Department has assessed the assessee's income and subsequently raised a demand of Rs. 1,57,41,360/-.

3. That having regard to the facts and circumstances of the case, the assessee has filed its income tax return for the AY 2022-23 by opting for taxation as per the Section 115BAB of the Income Tax Act, 1961 vide acknowledgement no. 896324171311222 dated 31.12.2022, declaring a total income of Rs. 8,14,87,930/-.
 4. That having regard to the facts and circumstances of the case, due to technical gap, the assessee inadvertently late filed Form 101D within the time limit of due date of filing of the income tax return.
 5. That having regard to the facts and circumstances of the case, the assessee should not be denied their rightful entitlement to justice based on a mere technical gap. It is essential to ensure that the principle of justice is upheld and that the assessee is treated fairly and equitably in this situation.
2. The brief facts of the case are that assessee has filed its return of income on 31.12.2022 declaring total income of Rs. 8,14,87,930 and rejected the claim of taxation u/s. 115BAB of the Act. The said return was processed u/s. 143(1) of the Act wherein, CPC rejected the claim of taxation under section 115BAB on the ground that Form 10ID was not attached. Before the Ld. CIT(A) it was contended that due to technical oversight assessee could not file Form 10ID within stipulated time. It was further contended that for filing Form 10ID is merely a procedural lapse which shall not deprive the assessee of getting the entitled benefits under the Income Tax Act. However, Ld. CIT(A) rejected the aforesaid contention.
3. Against the order of the Ld. CIT(A), assessee is in appeal before us.
 4. We have heard both the parties and perused the records. It is true that in order to claim the benefit of section 115BAB, assessee is required to file Form 10ID within time, as prescribed under the Act. However, the assessee furnished

Form No. 10ID on 30.12.2022, hence, in our considered opinion, furnishing of Form 10ID may be considered as procedural lapse and in the interest of justice, the issues in dispute are remitted back to the file of the AO with the directions to decide the same afresh, after giving adequate opportunity of being heard to the assessee. We hold and direct accordingly.

5. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced on 18/12/2024.

SD/-

(YOGESH KUMAR US)
JUDICIAL MEMBER

SD/-

(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRBHATNAGAR

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar