

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,  
AND  
SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 1289/Del/2024		
	A.YR. : 2023-24		
ISPACE DEVELOPERS PVT. LTD., 5 <sup>TH</sup> FLOOR, BHANDARI HOUSE, NEHRU PLACE, NEW DELHI – 19 (PAN: AABCI6591C)	VS.	CPC BENGALURU	
APPELLANT)		(RESPONDENT)	

Appellant by : Shri M.K. Madan, CA

Respondent by : Shri Om Parkash, Sr. DR.

Date of hearing : 16.12.2024

Date of pronouncement : 18.12.2024

**ORDER**

**PER SHAMIM YAHYA, AM :**

The Assessee has filed the instant Appeal against the Order of the Ld. Addl/JCIT(A)-1, Bengaluru dated 22.2.2024, relating to assessment year 2023-24 on the following grounds:-

1. That the order passed by Addl. CIT/JCIT(A) under section 250 dated 22.2.2024 not giving the benefit u/s. 115BAA and affirming the demand of Rs. 32,06,620/- created by CPC is bad in law.
2. (a) That Addl. CIT/JCIT has erred in law in denying the benefit u/s. 115BAA merely on the technical grounds that assessee has not filed the Form 10-IC before the due date of return u/s. 139(1) and has ignored the legislative intent of

the section 115BBA.

(b) That the legislative intent of section 115BAA is not to deny the concessional rate of tax if form 10-IC is not filed before the filing of return of income.

3. (a) That Addl. CIT/JCIT(A) has erred in law in ignoring the fact that the assessee has not violated the substantive conditions prescribed under section 115BAA(2) and had clear intent of claiming the benefit of concessional rate of tax which is evident from the ITR that was filled by assessee.

(b) That the assessee due to inadvertent mistake has wrongly mentioned acknowledgement no. in ITR Form of Form 10-IC.

2. The brief facts of the case are that assessee has filed its return of income on 28.9.2023 declaring total income of Rs. 57,29,78,630/-. The assessee opted in the ITR for the concessional rate of tax regime under section 115BAA of the Act but on account of inadvertence, assessee mentioned the wrong acknowledgement number of having filed form 10C on 6.9.2022 of some other group concern. As a result, the form 10IC could not be filed before the due date u/s. 139(1) of the Act. The above shows that the assessee intended to avail the benefit of the concessional scheme of tax but could not do so on account of genuine mistake on the part of the employee. As a result CPC vide order u/s. 143(1) dated 22.12.2023 denied the assessee, the benefit of concessional tax rate and created a demand of Rs. 32,06,620/-. In order to claim benefit u/s. 115BBA, assessee has filed Form 10-IC dated 5.1.2024. Against the above action of the CPC, Bengaluru, assessee appealed before the Ld. CIT(A), who was not convinced and he dismissed the appeal of the assessee.

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. We find that furnishing of Form 10IC beyond the stipulated date can be considered as procedural lapse, since assessee has filed the same. In our considered view, the authorities below have erred in holding that since Form 10IC has been filed after due date the assessee is not entitled to benefit under the Act. Therefore, 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. AO shall consider the issues in dispute in light of furnishing of Form 10IC by 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