

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**(HYBRID HEARING)**

**श्री के.नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष  
BEFORE SHRI K. NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.286/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2018-19)**

<b>Brandix Intimate India Private Limited</b> Plot No. 11 Brandix India Apparel City Sez (BIAC SEZ) Pudimadaka Road, Atchutapuram Mandal Andhra Pradesh – 531011  [PAN: AADCB3644F] <b>(अपीलार्थी/ Appellant)</b>	<b>v.</b>	<b>Income Tax Officer</b> National e-Assessment Centre Delhi  <b>(प्रत्यर्थी/ Respondent)</b>
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri SP Chidambaram, AR
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	04.12.2024
घोषणा की तारीख/Date of Pronouncement	:	10.01.2025

**आदेश /ORDER**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/NFAC/S/250/2024-25/1064864339(1) dated 14.05.2024 for the A.Y.2018-19 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 21.04.2021.

2. Briefly stated facts of the case are, assessee is a job worker of apparels and filed its return of income declaring a total income of Rs. 6,87,34,760/- on 30.11.2018. The return was summarily processed under section 143(1) of the Act. Assessee being an undertaking in SEZ claimed exemption under section 10AA of the Act. Subsequently, the case was selected for scrutiny and accordingly notice under section 143(2) of the Act dated 29.09.2019 was issued and served on the assessee. Subsequently, assessee filed its revised return of income on 30.10.2019 declaring a gross total income of Rs. 23,21,53,732/- and claimed deduction under section 10AA of the Act for Rs.11,59,27,224/- while declaring total income at Rs. 11,62,26,510/-. Thereafter, notice under section 142(1) of the Act dated 04.12.2020 was issued and served on the assessee along with the questionnaire. In response to the notice, assessee submitted that assessee is engaged in the business of job work and has claimed deduction under section 10AA of the Act amounting to Rs. 6,84,35,474/- and has also filed audit report in Form No. 56F claiming deduction under section 10AA of the Act. However, while filing revised return of income on 30.10.2019 assessee has claimed deduction under section 10AA of the Act for Rs. 11,59,27,224/-.

Ld. Assessing Officer [hereinafter in short "Ld. AO"] issued a show-cause

notice dated 16.04.2021 as to why the deduction should not be restricted to Rs.6,84,35,474/- in the absence of Form 56F claiming revised deduction under section 10AA of the Act amounting to Rs.11,59,27,224/-. In response, assessee filed revised Form 56F on 19.04.2021. Ld. AO observed that assessee has filed Form 56F only after issuance of show-cause notice on 16.04.2021 and therefore did not consider the revised Form 56F claiming deduction under section 10AA of the Act, thereby allowing deduction of Rs. 6,84,35,474/- as filed in original Form 56F.

**3.** Aggrieved by the order of the Ld. AO, assessee is in appeal before Ld.CIT(A). Ld. CIT(A) after considering the similar submissions made by the assessee, dismissed the appeal of the assessee thereby upholding the decision of the Ld. AO allowing the deduction under section 10AA of the Act of Rs.6,84,35,474/-.

**4.** Aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

*“1. The order of the Commissioner of Income-tax (Appeals) National Faceless Appeal Centre, Delhi u/s 250 is erroneous in law and facts of the case.*

*2. The Ld. CIT(A) has erred in law in non-issuance of a speaking order while disposing off the objections raised by the Appellant against the adjustment proposed by Ld. AO u/s 143(3) of the Act.*

*3. The Ld. CIT (A) had erred in upholding the action of Ld. AO, denying the enhanced deduction under section 10AA of the Act claimed by the Appellant.*

4. *The Ld. CIT (A) has erred in upholding the action of Ld. AO, without considering that the assessment order was passed without providing an opportunity of being heard, thereby violating the principles of natural justice.”*

5. The only issue arising from the above grounds is with respect to denial of deduction under section 10AA of the Act amounting to Rs. 4,74,91,750/- by not considering the revised Form 56F filed by the assessee during the assessment proceedings.

6. On this issue, Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that filing of Form 56F is purely directory in nature and not mandatory. He also submitted that assessee has filed revised Form 56F during the assessment proceedings before passing of the final assessment order. However, Ld. AO has not considered the revised Form 56F filed by the assessee and thereby denied the revised deduction claimed under section 10AA of the Act. Ld.AR relied on the cases as cited in paper book.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee has not filed Form 56F along with the return filed under section 139(1) of the Act. Ld. DR further submitted that revised Form 56F was filed only after the issuance of show-cause notice by the Ld. AO and therefore cannot be accepted. He therefore pleaded that the order of the Revenue Authorities be upheld.

8. We have heard both the sides and perused the material available on record. Admittedly, assessee while filing the original return of income has filed Form 56F claiming deduction under section Rs. 6,84,35,474/-. However, subsequently assessee revised its return of income but has not filed revised Form 56F by claiming the deduction under section 10AA of the Act amounting to Rs.11,59,27,224/-. The contention of the Ld. AO is that since the revised Form 56F was filed after the issuance of show-cause notice it cannot be considered as filed within the prescribed time frame specified under the Act. The assessee ought to have furnished the audit report in the form specified in the I.T. Rules along with the return of income.

9. Whether filing of such audit report along with return of income is mandatory or directory is presently the issue before us. Various judicial pronouncements have held that the filing of audit report in support of the deduction claimed is mandatory, however, the same being procedural in nature it is sufficient for the assessee to file the audit report at any time till the completion of the assessment or even at the stage of appeal. This view has been unanimously held by various judicial authorities and therefore if assessee files such report before Ld. AO during the course of assessment it shall be considered as a sufficient compliance with the requirement of law for claiming the profit linked deduction.

10. In the present case, it is an admitted fact that during the course of assessment proceedings assessee has filed revised audit report in Form 56F before Ld. AO. This fact is not denied by the Learned Revenue Authorities. Therefore, judicially following the ratio laid down by various judicial precedents it can be concluded that deduction under section 10AA of the Act could not be denied for non-filing of audit report in Form 56F along with return of income. The decision of the Co-ordinate Bench of Ahmadabad Bench in the case of ACIT *v.* Vishnu Export [2023] 149 taxmann.com 65 (Ahmedabad-ITAT), on similar facts held that since there was no specific provision under section 10AA of the Act to file return of income within the provisions of section 139(1) of the Act the assessee could not be deprived of claims merely on the ground that the audit report in Form 56F was filed during the assessment proceedings. Further, our reasoning is strengthened by the Finance Bill, 2023 wherein it was proposed to file the return of income within the due date under section 139(1) of the Act for claiming the benefit of deduction under section 10AA of the Act which is effective from 01.04.2024 for the A.Y. 2024-25. Further, from the above insertion of the proviso to section 10AA of the Act it becomes clear that there is no such condition applicable for the year under consideration for claiming the deduction under section 10AA of the Act. The Revenue has not brought anything on record, contrary to the above findings. In view of the aforesaid discussions, we are of the considered view that the assessee is entitled for deduction under section 10AA of the Act amounting to

Rs.11,59,27,224/- based on the revised Form 56F filed by the assessee during the assessment proceedings and the grounds raised by the assessee are thus allowed.

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

Order pronounced in the open court on 10<sup>th</sup> January, 2025.

Sd/-  
(के.नरसिम्हा चारी)  
(K.NARASIMHA CHARY)  
न्यायिक सदस्य/JUDICIAL MEMBER  
Dated: 10.01.2025  
Giridhar, Sr.PS

Sd/-  
(एस बालाकृष्णन)  
(S. BALAKRISHNAN)  
लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Brandix Intimate India Private Limited**  
Plot No. 11  
Brandix India Apparel City Sez (BIAC SEZ)  
Pudimadaka Road, Atchutapuram Mandal  
Andhra Pradesh – 531011
2. राजस्व/ The Revenue : **Income Tax Officer**  
National e-Assessment Centre  
Delhi
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam