

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, AMRITSAR**

**BEFORE SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER  
AND SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 37/Asr/2024

निर्धारण वर्ष / Assessment Year : 2021-22

Rahul Khindri, 2157, Bazar Sirki Banda, Katra Dullo, Amritsar Indra Nagar, 143001	बनाम	A.O., CPC, Banglore
स्थायी लेखा सं./PAN NO: APFPK9150F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

( Hybrid Hearing )

निर्धारिती की ओर से/Assessee by : Shri Rohit Kapoor, CA

राजस्व की ओर से/ Revenue by : Mrs. Neelam Sharma, Sr.DR

सुनवाई की तारीख/Date of Hearing : 23.12.2024

उद्घोषणा की तारीख/Date of Pronouncement : 10.03.2025

**आदेश/Order**

**Per Krinwant Sahay, AM:**

Appeal in this case has been filed by the Assessee against the order dated 31.07.2023 passed by Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi. 2. Grounds of appeal are as under:-

1. That the Ld. CIT(A) vide order u/s 250(6) dated 31.07.2023 has erred in confirming the action of the AO in not providing the benefit of lower tax as per section 115BAC due to the fact that form 10 IE was not filed before the due date of filing of return u/s 139(1) i.e. 31.12.2021.

2. *That the Ld. CTT(A) vide order u/s 250(6) dated 10.07.2023 has erred in confirming the action of the AO without appreciating that form 10 IE could not be filed before the due date of filing of return u/s 139(1) i.e. 31.12.2021 due to technical glitch.*
  3. *That the order passed u/s 250(6) of the Income Tax Act, is bad in law as the requirement of filing of form 10 IE before the due date of filing of return u/s 139(1) is directory in nature and as such the benefit of lower tax rate cannot be denied.*
  4. *That the order passed u/s 250(6) of the Income Tax Act, is bad in law as since the adoption of lower tax rate as per section 115BAC cannot be brought under the ambit of adjustment u/s 143(1) which covers 'arithmetical error, incorrect claim, disallowance of loss, disallowance of expenditure, disallowance of deduction or addition of income appearing in form 26AS or form 16A'*
  5. *Without prejudice to the aforesaid grounds, the Ld. CIT(A) has erred in not appreciating that even if the benefit of lower tax rate as per section 115BAC is denied to the assessee, then, in such a case, the assessee is entitled to avail deduction under chapter VI-A of the income tax act 1961.*
  6. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is heard and disposed off*
3. Registry has brought to the notice that filing of appeal in this case is time barred by 123 days. The Assessee has already filed an affidavit

dated 1.2.2024 for condonation of delay in this case, which is reproduced as under:-

The image shows an e-Stamp certificate from the Government of Punjab. It includes a QR code, a notary seal for Praveen Kumar Joshi, and a date stamp of 01 FEB 2024. The certificate details the issuance of an affidavit for Article 4.

Field	Value
Certificate No.	: IN-PB02185896532967W
Certificate Issued Date	: 01-Feb-2024 07:29 PM
Certificate Issued By	: pbrdnhktsu
Account Reference	: NEWIMPACC (SV)/ pb7059004/ AMRITSAR/ PB-AS
Unique Doc. Reference	: SUBIN-PB705900465417909469326W
Purchased by	: RAHUL KHANDRI SON OF DARSHAN LAL KHANDRI
Description of Document	: Article 4 Affidavit
Property Description	: ASFI
Area of Property	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: RAHUL KHANDRI SON OF DARSHAN LAL KHANDRI
Second Party	: Not Applicable
Stamp Duty Paid By	: RAHUL KHANDRI SON OF DARSHAN LAL KHANDRI
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)
Social Infrastructure Cess(Rs.)	: 0 (Zero)
Total Stamp Duty Amount(Rs.)	: 100 (One Hundred only)

IRID 0024527205

01 FEB 2024

E-Stamp Paper No. IN-PB82185886532967W

**AFFIDAVIT**

1. That I Rahul khindri S/o Sh. Darshan Lal Khindri R/O 2157, Bazar Sikri Banda, Katra Dullo, Amritsar, Punjab, 143001 having PAN : APFPK9150F was withdrawing salary of Rs.1,80,000 from the firm Bajj Nath Darshan Lal, earning business Income of Rs 4,78,250 and earning interest income of Rs 9,83,834 for the financial year 2020-21 relevant to AY 2021-22.
2. That my previous counsel was Sh. Virsen Aggarwal at Amritsar
3. That in login credentials of Income tax Portal email id and mobile number were of my previous counsel as he was taking care of all my legal matters.
4. That he has received order u/s 250 for the same on 30/07/2022 at the E-mail id of previous counsel Sh. Virsain Aggarwal.
5. That we did not have any knowledge regarding the order u/s 250 as the order was lying with previous counsel.
6. That after this I engaged my new counsel Chartered Accountant Sh. Rajesh Chadda to pursue my case.
7. That the new counsel informed me regarding some demand appearing on the online portal for AY 2021-22. Thereafter, I requested CA Rajesh Chadda to pursue the matter and file the necessary appeal against the order passed by the assessing officer.
8. That the delay in filing the appeal is only due to the change of Counsel Sh. Virsain Aggarwal to CA RAJESH CHADDA.
9. That condone the delay.

*Rahul Khindri*  
Deponent  
Rahul Khindri

That the averments above are true to the best of my knowledge and belief and nothing has been concealed or misrepresented.

Date: 1<sup>st</sup> February 2024

*Rahul Khindri*  
Deponent.  
Rahul Khindri



Attested as *[Signature]*

RAJINDER KUMAR JOSHI  
Notary Public For Distt. Courts  
Amritsar

01 FEB 2024

4. We have considered the reasons for delay in filing the appeal and we find that the delay should be condoned keeping in view the issue discussed in the letter.

5. The Id. DR had no objection to the condonation of delay.

6. Brief facts of the case, as per the Assessee are as under:-

The Assessee Rahul Khindri was an individual during the year under consideration, the Assessee had earned salary income amounting to Rs. 4,78,250/- and income from other sources amounting to Rs. 9,83,834/- which is duly disclosed in the return of income filed on 31.12.2021. The said return was processed on 12.04.2022 accepting the returned income filed on 31.12.2021. That there were difficulties faced by the taxpayers in electronic filing of Income-tax returns and various forms. In present case, the assessee was not able to opt new regime as there was technical glitch in filing Form 10-IE and as such assessee filed the return in old regime claiming the deductions. The said fact has been admitted by board that the whole portal was revamped on 01.06.2021 and the due date for filing the return of income and various Forms has been extended multiple times due to technical glitch in the new portal. Later on, the Assessee filed a revised return of income on 25.03.2022 in which he had opted for taxation as per the provisions of section 115BAC and also filed Form 10 IE. The Assessee in his revised return of income had claimed a refund of Rs. 15860/-. However, the claim of refund in return filed on 25.03.2022 was rejected by the CPC, Bengaluru vide order passed u/s 143(1) dated 30.07.2022. The refund was rejected merely due to the fact that the Assessee had failed to file

form 10IE before the due date of filing of return i.e. 15.03.2022. In the present case, the delay in filing the Form was only by ten days that to only due to technical glitch.

7. During the course of hearing before us, the ld. Counsel for the Assessee has filed written submissions on this issue which is reproduced as under:

1. The appellant, Rahul Khindri was an individual having PAN APFPK9150F. During the year under consideration, the appellant had earned salary income amounting to Rs. 4,78,250/- and income from other sources amounting to Rs. 9,83,834/- which is duly disclosed in the return of income filed on 31.12.2021. The said return was processed on 12.04.2022 accepting the returned income filed on 31.12.2021. That there were difficulties faced by the taxpayers in electronic filing of Income-tax returns and various forms. In present case, the assessee was not able to opt new regime as there was technical glitch in filing Form 10-IE and as such assessee filed the return in old regime claiming the deductions. The said fact has been admitted by board that the whole portal was revamped on 01.06.2021 and the due date for filing the return of income and various Forms has been extended multiple times due to technical glitch in the new portal.

Later on, the appellant filed a revised return of income on 25.03.2022 in which he had opted for taxation as per the provisions of section 115BAC and also filed Form 10 IE. The appellant in his revised return of income had claimed a refund of Rs. 15860/-. However, the claim of refund in return filed on

25.03.2022 was rejected by the CPC, Bengaluru vide order passed u/s 143(1) dated 30.07.2022. The refund was rejected merely due to the fact that the appellant had failed to file form 10IE before the due date of filing of return i.e. 15.03.2022. In the present case, the delay in filing the Form was only by ten days that to only due to technical glitch.

3. The summary of date extensions made by CBDT admitting the technical glitch in the online portal is tabulated as under:

Circular No	Date Extended to	Reason for extension of date as explained by CBDT in circulars
Circular No. 9/2021 dated 20-5-2021	30th September, 2021	Difficulties reported by the taxpayers and other stakeholders in electronic filing of Income-tax returns and various reports of audit
CITCULAR NO. 17/2021	31st December, 2021	Difficulties reported by the taxpayers and other stakeholders in electronic filing of Income-tax returns and various reports of audit
CIRCULAR NO. 01/2022	15th March 2022	On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act,1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, provides relaxation in respect of the following compliances:  4. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 and 15th February 2022 by Circular No.9/2021

		dated 20-5-2021 and Circular No.17/2021 dated 9-9-2021 respectively, is hereby further extended to 15th March, 2022
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4. That immediately when the technical glitch regarding the portal was resolved and utility for filing FORM 10IE got started working, assessee acted responsibly and filed the Form 10IE along with revised ITR on 25.03.2022 Copy of Form 10-IE is enclosed at page No. 16-17 of paper book. Therefore, there was no delay in uploading the form as it was beyond the control of the assessee to file the same on or before 15.03.2022. Thus the technical glitch would seriously prejudice the rights of the assessee to file the income tax return under the new tax regime u/s 115BAC. That before going into the merits of the case, it is pertinent to appraise with the sequence of events which is produced hereunder:

S.NO	Events	Date
1.	Original return filed	31.12.2021
2.	Original return processed	12.04.2022
3.	Due date of filing form 10IE	15.03.2022
4.	Revised return of Income filed	25.03.2022
5.	Form 10IE filed 25.03.2022	25.03.2022
6.	Claim of refund rejected by CPC	30.07.2022

5. The said revised return was filed by the appellant before processing of the original return on 25.03.2022 and by no stretch of imagination, could have been ignored in view of the following facts: -

5.1 That Revised Income Tax Return under Section 139(5) refers to the opportunity provided to taxpayers to correct errors,

omissions, or any inaccuracies in their originally filed income tax returns by filing a revised return. Section 139(5) of the Income Tax Act 1961 grants taxpayers the right to file a revised return in case they discover any mistakes or need to update information that was not included in the original filing.

5.2 There are key aspects and features of a Revised Income Tax Return under Section 139(5):

- **Correction of Errors:** The primary purpose of filing a revised return is to rectify any errors or omissions present in the originally filed return. This could include inaccuracies in reporting income, claiming deductions, or providing other financial details.
- **Timeframe for Filing:** Taxpayers can file a revised return within a specified timeframe; the revised return must be filed before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- **Voluntary and Involuntary Revision:** Taxpayers can file a revised return voluntarily if they discover mistakes on their own. Additionally, the income tax department may request a taxpayer to file a revised return if discrepancies are identified during the assessment process.
- **Replacing the Original Return:** The revised return replaces the original return filed for a particular assessment year. Once the revised return is

submitted, it is considered the final return for that year.

5.3 That any individual or entity that has filed an original income tax return under Section 139(1) of the Income Tax Act, 1961, can file a revised income tax return under Section 139(5).

5.4 That Revised Return can be filed before the fast date of filing the return (upto end of Assessment Year) or before the completion of the assessment, whichever is earlier.

5.5 Your Honor will appreciate that the appellant had filed a valid revised return and the same could not have been ignored by the CPC.

5.6 That it was found that Form No. 10IE was available with the Centralized Processing Centre (CPC) at the time of processing the return. The existence of Form No. 10IE with the CPC clearly indicates the appellant's intention to opt for the New Tax Regime. That the /submission of Form No. 10IE is directory in nature and not a mandatory requirement. The non-mandatory nature implies that as long as the form is available and the intention to opt for the New Tax Regime is clear, the benefit should not be denied on technical grounds.

6. Furthermore, it is also not the case where no such FORM 10IE was filed by assessee. It is just a case in which FORM 10IE was filed by assessee, which was belated only by ten days (25.03.2022) due to the reason beyond the control of the assessee of technical glitch on web portal. It is also to be noted here that FORM 10IE was filed by assessee before any defect was pointed

out by the department. Therefore, the ADIT (CPC) has erred in law by denying the benefit u/s 115BAC while processing the return u/s 143(1). That the denial of benefit u/s 115BAC by CPC u/s 143(1) is beyond the inherent scope in section 143(1). That the option under section 115BAC has rightly been opted by the appellant and being a genuine claim the same may kindly be allowed.

7. Aggrieved by the order of Ld. ADIT (CPC), the appellant filed an appeal before the CIT(A) vide form 35 dated 19.08.2022 challenging the disallowance made by the Ld. ADIT (CPC). However, the Ld. CIT(A) passed an order u/s 250 on 31.07.2023 dismissing the appeal.

8. Subsequently, the appellant filed an appeal before ITAT Amritsar Bench vide form 36 on 30.05.2024 against the order of CIT (A) on the following grounds: -

9. SUBMISSIONS IN RESPECT OF GROUND NO 1

Ground No 1

That the Ld. CIT(A) vide order u/s 250(6) dated 31.07.2023 has erred in confirming the action of the AO in not providing the benefit of lower tax as per section 115BAC due to the fact that form 10IE was not filed before the due date of filing of return u/s 139(1).

9.1 That Ground No 1 is general in nature and stands covered in subsequent grounds of appeal.

10. SUBMISSIONS IN RESPECT OF GROUND NO 2

Ground No. 2

That the Ld. CIT(A) vide order u/s 250(6) dated 31.07.2023 has erred in confirming the action of the AO without appreciating that form 10IE could not be filed before the due date of filing of return u/s 139(1) due to technical glitch.

Ground No. 3

That the order passed u/s 250(6) of the income Tax Act, is bad in law as the requirement of filing of form 10IE before the due date of filing of return u/s 139(1) is directory in nature and as such the benefit lower tax rate cannot be denied.

The Assessee has further submitted that -

10.1 The only objection of ADIT (CPC) is that the assessee has not filed Form 10-IE electronically before due date for filing return of income under section 139(1) of the Act. That Form 10-IE could not be uploaded on ITBA Portal due to the technical glitch as submitted above. The ADIT (CPC) had failed to consider that the minor technical lapse cannot disentitle the assessee from substantial benefit. It is a matter of record that form 10IE was available with CPC at the time of processing return u/s 143(1). Further, filing of form 10IE is directory and not mandatory. In this regard your kind attention is drawn towards the following case of - "ITAT PUNE AKSHAY DEVENDRA BIRARI VERSUS PCIT. CPC. BENGALURU. 2024 f6) TMI 272" where it was held that that the Form No. 10 IE was available with the CPC at the time of processing the return, and it was not a mandatory requirement but directory in nature. Therefore, the Tribunal directed the CPC to consider the Form No. 10 IE and allow the benefit of the New Tax Regime.

(a) [2024] 165 taxmann.com 146 (Amritsar - Trib.) IN THE ITAT AMRITSAR BENCH Singh v. A.O.

Section 115BAC of the Income-tax Act, 1961 - Income of individuals and Hindu Undivided Family - Tax on total income (Option for new tax regime) - Assessment year 2021-22 - Assessee-individual filed return claiming deduction under Chapter VI-A under old scheme - Subsequently, assessee filed revised return, wherein assessee opted for new scheme of taxation under section 115BAC and also submitted Form 10-IE on date of filing revised return - Assessing Officer completed assessment under section 143(1) without allowing benefit of tax rate prescribed under new scheme of taxation on ground that Form 10-IF had not been filed within e allowed under section 139(1) - Whether since requirement of filing Form 10-IE was directory in nature and not mandatory and it was sufficient compliance if said form was before Assessing Officer at time of assessment, Assessing Officer was to be directed to take into consideration Form 10-IE filed by assessee - Held, yes [Para 10.6] [In favour of assessee].

8. The ld. Counsel of the Assessee has filed different case laws as under :

- a) [2024] 165 taxmann.com 146 (Amritsar -Trib) in ITAT Amritsar Bench vs. A.O.
- b) 2024 (6) TMI 272 – ITAT Pune Akshay Devendra Birari vs. DCIT, CPC, Bengaluru

- c) 2025 (5) TMI 23 – ITAT Jaipur Jagdish Sone, Prop. of Dhruv Jewels vs. ITO, Jaipur.
- d) [2024] 158 taxmann.com 114 (Ahmedabad- Trib) ITO (Exemptions) vs. Ramji Mandir Religious and Charitable Trust.
- e) 2020 (7) TMI 625 – ITAT Cochin M/s Krythium Solutions Pvt Ltd C/o Menon & PAI Advocates Vs. the ACIT, Circle 1(2), Kochi.

9. Besides these two case laws, the Counsel of the Assessee has filed other case laws on this issue. The Counsel of the Assessee also brought on record the order of the Hon'ble Delhi High Court in the case of 'CIT vs. Web Commerce (India) Ltd [2008 (12) TMI 13. In this order the Hon'ble Delhi High Court has held that the provision regarding the filing of audit report along with return of income is only directory and not mandatory. The Audit Report can be filed either during the course of assessment or during the appellate proceedings.

10. The ld. Counsel has also filed case laws on technical glitch which are as under:-

- 1) 2022 (1) TMI 947 – Gujarat High Court in the Southern Gujarat Income Tax Bar Association, Surat Vs. Union of India and 1 other(s); and

II) 2023 (11) TMI 656 – Bombay High Court Matrix Publicities and Media India Pvt Ltd. vs. DCIT, Circle 16(1), Mumbai & Ors.

11. We have considered the findings of the Addl. CIT(A) on the issue raised by the Assessee and we have also gone through the written submissions as well as arguments preferred by the Counsel of the Assessee during the proceedings before us.

12. The ld. DR relied on the order of the ld. CIT(A).

13. We find that the Assessee could not file its return of income on or before the date of filing of return of income as required u/s 139 of the Act but filed its ITR within the extended period of time ( extended by CBDT ). But in this case, there was some technical glitch on the part of the CPC and Income Tax Portal of filing of return of income. The Counsel of the Assessee has already brought on record different case laws in its favour passed by different authorities. We find that the Assessee has filed its return during the extended period (as already extended for filing of the return by the CBDT vide its different Circulars mentioned above). A copy of form 10 IE was also filed before the processing of the return. Therefore, keeping in view different case laws brought on record, we find that the Assessee has fulfilled its duty as required under the law. Accordingly, the findings given by the Addl.

CIT(A) on different issue raised by the Assessee cannot be sustained.

Thus, Assessee's appeal filed before us on all the issues is allowed.

14. In the result, Assessee's appeal is allowed.

Order pronounced on 10.03.2025

Sd/-

Sd/-

**( UDAYAN DAS GUPTA )**  
**Judicial Member**

**( KRINWANT SAHAY )**  
**Accountant Member**

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT,  
CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar