

**आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA**

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष  
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

**I.T.A. No. 1534/Kol/2024**  
**Assessment Year: 2020-21**

Experion Capital Pvt. Ltd.  (PAN: AABCK 4938 P)	Vs.	ADIT, CPC, Bengaluru
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	13.03.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	02.04.2025
For the assessee / निर्धारिती की ओर से	Shri Siddharth Agarwal, Advocate
For the revenue / राजस्व की ओर से	Smt. Monalisha Pal Mukherjee, JCIT, Sr. D.R

**ORDER / आदेश**

**Per Pradip Kumar Choubey, JM:**

This is the appeal preferred by the assessee against the order of Commissioner of Income Tax (Appeals)- Addl./JCIT(A)-Gurugram (hereinafter referred to as the Ld. CIT(A)] dated 27.05.2024 for AY 2020-21.

2. Brief facts of the case of the assessee is that the assessee being a private limited company filed its return of income for AY 2020-21 by opting concessional rate of tax u/s 115BAA of the Act, however, omitted to file form 10IC within stipulated time, as soon as, assessee realized the mistake, he (the assessee) filed Form 10IC but inadvertently mentioned the assessment year 2021-22 instead of AY 2020-21. The AO/CPC denied the benefit of the assessee on concessional rate of tax and raised an additional demand of Rs. 1,47,27,920/-.

3. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed on the ground that Form 10IC has belatedly been filed.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

4. The Ld. Counsel of the assessee challenges the very impugned order thereby submitting that the Ld. CIT(A) ought to have consider Form 10IC filed before him as sufficient compliance when option was exercised and claim was made u/s 139(1) of the Act. Further submission of the assessee is that CPC, Bengaluru has denied the assessee's benefit of the concessional rate of tax u/s 115BAA without realizing that this is nothing but merely a procedural lapse and not substantive one for which the assessee cannot be penalized. The Ld. A.R cited a decision of Hon'ble Calcutta High Court passed in the case of PCIT vs. Fastner Commodal Pvt. Ltd. in ITAT/267/2024 IA NO: GA/2/2024 Dated: - 10-1-2025.

5. The Ld. D.R supports the impugned order.

6. Upon hearing the submission of the counsel of the respective parties, we have gone through the order passed by the Ld. CIT(A) and operative portion of the Ld. CIT(A) by which he declined the claim of the assessee is as follows:

*"5.2. It is pertinent to mention here that if a domestic company chooses to pay tax at concessional rate of 22% under Section 115BAA, it is required to file Form 10IC on or before due date of furnishing return of income u/s 139(1). A perusal of the submissions made by the appellant reveals that admittedly it had not furnished the mandatory Form 10IC within stipulated time and hence the AO, CPC had rightly denied benefit of concessional rate of 22%*

*under Section 115BAA to the appellant as it failed to fulfill the mandatory conditions. Thus, I find no merit in the grounds of appeal taken by the appellant are hereby dismissed.”*

7. We have gone through the judgment of Hon’ble Calcutta High Court in the case of PCIT vs. Fastner Commoddeal pvt. Ltd. (supra) wherein it has been held as under:

*Denial of benefit u/s 115BAA - assessee did not file the Form 10IC along with the return within the extended period, as extended by the Circular issued by the Central Board of Direct Tax dated 17th March, 2022 - whether filing of such form would be mandatory or directory? - whether the assessee should be given an opportunity to file Form 10IC before the AO in order to claim the benefit? - HELD THAT:- It is not in dispute that the assessee company has opted for taxation u/s 115BAA and the option is available to the assessee by opting the option given in filing status in Part AGE of the form by return of income in ITR-6. This conduct of the assessee will undoubtedly go to show that the assessee intended to opt to pay tax under the simplified tax regime as also accepted in the Circular issued by the Central Board.*

*During the relevant period there was Covid pandemic which also led to certain other difficulties for the assessee to upload the form along with the return within the extended time thereof. That apart, the assessee has specifically stated that they had certain difficulties in uploading the form in the Income tax portal.*

*Also assessee pointed in case of a HUF opting under the new taxation scheme under Section 115BAC, the portal requires management number of 10IE while filing the income tax return as this being a mandatory column and the assessee continue process of filing ITR without filling the same and if there was non-compliance in filing Form 10IE, the assessee would be aware of that and will submit the same but such facilities is not provided when returns are filed by companies.*

*The peculiar facts and circumstances would show that the error was an inadvertent procedural error and the conduct of the assessee will clearly show that they had opted for taxation u/s 115BAA of the Act.*

*Appeal is disposed of and the matter stands restored back to the file of the Assessing Officer to permit the assessee to file the report in Form 10IC and the Assessing Officer shall consider as to what relief the assessee would be entitled to subject to the conditions that the assessee fulfils all other requisite conditions as per law.”*

8. Going over the facts of the case of the assessee, the order passed by the Ld. CIT(A) and considering the judgement of Hon’ble Calcutta High Court, matter is restored back to the file of AO with this direction to consider Form 10IC filed by the assessee and shall consider as to what relief the assessee would be entitled to subject to the condition that the assessee fulfills all other requisite condition as per law. The order passed by the AO confirmed by the Ld. CIT(A) are hereby set aside.

In the result, the appeal filed by the assessee allowed for statistical purposes.

Order is pronounced in the open court on 2<sup>nd</sup> April, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)

Accountant Member/लेखा सदस्य

Judicial Member/न्यायिक सदस्य

Dated: 2<sup>nd</sup> April, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Experion Capital Pvt. Ltd., 104, 64, A, Hemanta Basu Sarani, Behala, Kolkata-700001
2. Respondent – ADIT, CPC, Bengaluru
3. Ld. CIT(A)- Addl/JCIT(A)-1, Gurugram
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches, Kolkata