

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष
BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2768/Chny/2024
निर्धारण वर्ष /Assessment Year: 2023-24

ZF CV Control Systems The Dy. Commissioner of
Manufacturing India Pvt. Ltd., **Vs.** Income Tax,
Plot No.3 (SP), 3rd Main Road, Corporate Circle-3(1),
Ambattur Industrial Estate, Chennai.
Ambattur, Tiruvallur – 600 058.
[PAN: AABCZ 8814F]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Shri K. Prasanna, C.A
प्रत्यर्थी की ओर से /Respondent by : Ms. R. Anitha, Addl. CIT
सुनवाई की तारीख/Date of Hearing : 15.01.2025
घोषणा की तारीख /Date of Pronouncement : 08.04.2025

आदेश / ORDER

PER JAGADISH, A.M :

This appeal filed by the assessee is directed against the order of the Addl. Commissioner of Income Tax (Appeal) Addl/JCIT(A)-2, Vadodara dated 06.09.2024 relevant to the 143(1) order of CPC for assessment year 2023-24.

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2. The effective ground of appeal in this appeal of assessee is against confirming the denial of benefit of concessional rate of tax as per Section 115BAB of the Income-tax Act, 1961 (hereinafter "the Act") in the intimation notice u/s. 143(1) by CPC.

3. The assessee-company was incorporated on 05.01.2020 under the Companies Act, 2013 and started business manufacturing of parts and accessories of motor vehicles and engines from 03.01.2023. The assessee filed its return of income at Nil for A.Y 2022-23, but did not file Form-10ID. Upon the commencement of production, the assessee has filed its return of income and opted for concessional rate of tax by filing Form-10ID. However, the CPC, Bengaluru, in its intimation u/s. 143(1) of the Act, disallowed the benefit of concessional tax rate u/s. 115BAB of the Act as the assessee has not opted for concessional rate of tax by filing Form-10ID in its first return of income. On appeal, the Ld. CIT(A) has dismissed the appeal, holding that A.Y 2022-23 was the first year of the company and that the assessee should have filed Form-10ID to avail the concessional benefit.

4. The Ld. Authorized Representative (A.R) of the assessee has submitted that the company was incorporated on 05.01.2022 and there

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was no activity in the company and therefore, return was filed only for statutory compliance and therefore, Form-10D was not filed. The Ld. AR has submitted that on the commencement of production, the assessee has filed Form-10ID and claimed the benefit u/s. 115BAD of the Act. The Ld. AR has argued that the production started on 03.01.2023 and assessee has filled the Form-10ID and claimed concessional rate of tax as per section 115BAB of the Act in relevant A.Y 2023- 24 and therefore is eligible for the concessional rate of tax and relied on the order of ITAT, Hyderabad in the case of Granules CZRO Pvt. Ltd. vs. ITO in ITA No.706/Hyd/2024 dated 15.10.2024.

5. On the other hand, the Ld. Departmental Representative (DR), has relied on the orders of lower authorities.

6. We have heard the rival submissions, and perused the materials available on record. The CPC, Bengaluru has not allowed the concession rate of interest u/s. 115BAB of the Act on the ground that assessee has not claimed concessional rate of tax in the first year of return for A.Y 2022-23 and has not filed Form-10ID in that year. We find that the assessee as filled first return after incorporation for A.Y 2022-23, with all particulars at nil without opting for 115BAB but has

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claimed concessional year in the year relevant to first year of production in return filed for A.Y 2023-24 along with filing Form-10ID, for concessional rate tax. Similar issue has come before Hon'ble ITAT, Hyderabad bench in the case of Granules CZRO Pvt. Ltd. vs. ITO in ITA No.706/Hyd/2024 dated 15.10.2024, and the Hon'ble tribunal has held as under :

“From the perusal of Form 10ID, it is essential that the said Form 10ID is required to be filed along with the return of income for the first assessment year. In the present case, first assessment year is 2023-24, however, there will not be any fulfilment of the condition of Form 10ID as it is filed prior to commencement of the manufacturing activities and the assessee cannot be expected to file Form 10ID, showing the commencement or manufacturing activity when the date of commencement of manufacturing activity was upto 31/03/2024. It is highly improbable for an assessee to file Form 10ID after setting up of the manufacturing unit 18 ITA No.706/Hyd/2024 immediately before the commencement of production for the first assessment year. If we ask the assessee to file Form 10ID for certifying that the manufacturing activity has commenced, before its actual commencement, in our view that would amount to asking the assessee to do the impossible. Hence, in our view, if the assessee is able to prove that the assessee has commenced activities before 31/03/2024, that would be sufficient compliance of the Act and a subsequent commencement of activity after filing the return of income and Form 10ID should factor in and take into account the subsequent commencement of the manufacturing activity albeit prior to 31/03/2024. Further FAQs on Form 10ID, which are available in the website of the Income Tax authority clearly provide that the assessee is not required to file fresh Form 10ID after filing it along with the first return of income for the first assessment year. The contradiction is clear that even if the assessee has not commenced its activities, the assessee was required to file the certificate showing the commencement of business activities and manufacturing activities, however, the assessee is prohibited to file the Form 10ID in the subsequent year, when it has actually started manufacturing its article or 19 ITA No.706/Hyd/2024 thing. In view of the above harmonious interpretation, reconciliation is required and in our view, though

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the manufacturing activity has not been commenced for the assessment year in question, however as and when the assessee started its manufacturing activity, this should be factored in and taken into account by the Revenue for the purpose of giving benefit of section 115BAB of the Act. In view of the above, though, we are of the opinion that the assessee has failed to fulfil the condition as laid down u/s 115BAB of the Act for the present assessment year, therefore, assessee's appeal is required to be dismissed, however the fact remains that the Revenue is under obligation to take into account the commencement of the manufacturing activity for the subsequent assessment year and should not act upon the earlier Form 10ID. In view of the above, we deem it appropriate to consider the commencement of the manufacturing activities for the subsequent year and grant relief as the assessee may be entitled to. We are conscious of the fact that the issue before us is for the assessment year 2023-24, however, the said observations of ours are essential as the assessment is a continuous process and the denial of the benefit in the present year will definitely 20 ITA No.706/Hyd/2024 effect the subsequent year as no fresh Form 10ID can be filed by the assessee. In view of the above, we are of the opinion that if the assessee is able to prove the commencement of manufacturing for the subsequent assessment year, the insistence of the fulfilment solely on the basis of the Form filed for the present assessment year should not be insisted upon and in a holistic and pragmatic view, the Assessing Officer to consider and grant the applicability of lower tax regime for the assessee for the subsequent assessment years."

7. In the present case, the assessee has commenced production only on 03.01.2023, and has claimed concessional rate of tax u/s. 115BAB in the return of income for A.Y 2023-24 and has also filled form 10ID within the due date, therefore A.Y 2023-24 may be treated as first year of return and the claim u/s 115BAB of the Act should be allowed accordingly. We, therefore, direct the A.O to allow the

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concessional tax rate as per section 115BAB of the Act for A.Y 2023-

24. In view of the above, the appeal filed by the assessee is allowed.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 08th April, 2025.

Sd/-

(एबी टी. वर्की)

(ABY. T. Varkey)

न्यायिक सदस्य / Judicial Member

Sd/-

(जगदीश)

(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 08th April, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF