

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.129/RPR/2025

निर्धारण वर्ष / Assessment Year : 2023-24

Aadharshila Builders Private Limited
Opp. C.G. Bhawan, Tilak Nagar,
Bilaspur (C.G.)-495 001
PAN: AABCA4675P

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Circle-1(1), Bilaspur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Rajesh Kumar Chawda, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 09.06.2025

घोषणा की तारीख / Date of Pronouncement : 18.06.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 22.01.2025 for the assessment year 2023-24 as per the following grounds of appeal:

“1. The learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in upholding the disallowance of deduction of Rs.1,58,83,864/- claimed under Section 80-IBA of the Income Tax Act, 1961, on the ground that the return of income was filed beyond the due date specified under Section 139(1) of the Act. The appellant submits that the delay in filing the return was due to unforeseen circumstances, specifically the sudden illness of the counsel responsible for filing the return on the last day, i.e., 31/10/2023. The delay was merely one day and liable to be condoned.

2. The learned CIT(A) erred in applying Section 80AC of the Income Tax Act, 1961, which mandates that deductions under Chapter VI-A are admissible only if the return is filed within the due date specified under Section 139(1). The appellant submits that the delay in filing the return was due to reasons beyond its control, and the disallowance of the deduction is unjustified.

3. The learned CIT(A) failed to consider the genuine hardship faced by the appellant due to the delay in filing the return. The appellant is a private limited company engaged in housing development projects and has been regular in filing its returns in previous years. The delay of one day should not result in the denial of a substantial deduction, which would cause undue financial hardship to the appellant.

4. The appellant craves leave to add, urge, alter, modify or withdraw any ground/s of appeal on or before hearing of the case.”

2. The relevant facts in this case are that the assessee company had filed its return of income for A.Y.2023-24 on 01.11.2023 by declaring total

income of Rs.37,94,200/-. Thereafter, the assessee company received intimation u/s. 143(1) of the Income Tax Act, 1961 (for short ‘the Act’) dated 30.04.2024, in which, deduction of Rs.1,58,83,864/- claimed u/s.80IBA of the Act was disallowed on account of delay in filing income tax return within the time specified u/s.139(1) of the Act. That the reasons for delay in filing income tax return as explained by the assessee was due to unanticipated worsening of health of the counsel responsible to file income tax return for the assessee company and that the delay was beyond the control of the assessee.

3. In this regard, the appeal was preferred by the assessee before the first appellate authority and Ld. CIT(Appeals)/NFAC after considering the detailed submissions of the assessee and intimation issued u/s. 143(1) of the Act by CPC observed and held as follows:

“5.1 On perusal of intimation CPC has disallowed deduction claimed under Part-C of Chapter VI-A of the IT Act, 1961 amounting to Rs.1,58,83,864/-. From the ITR of the appellant for the relevant Assessment Year, it is noted that it has claimed Rs.1,58,83,864/- as deduction u/s.80-IBA of the Act. The CPC has disallowed the deduction stating that the return of income is furnished beyond the due date specified under sub-section (1) of section 139 of the IT Act, 1961. Aggrieved with the said intimation the appellant filed the present appeal. The appellant submitted that the delay in filing of income tax return owing to unforeseen deterioration in the health of the counsel responsible for filing income tax return on the last day i.e. 31.10.2023. Further, the appellant submitted that it had filed an application u/s.119(2)(b) before the Chief Commissioner of Income Tax, Raipur for condoning the delay in filing of return of income and requested to keep the appellate proceedings in abeyance till the disposal of application u/s.119(2)(b). In this regard, kind attention is

drawn to the provisions of section 80AC of the IT Act, 1961 which are as under:

"Deduction not to be allowed unless return furnished.

80AC. Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;

(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes",

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139."

5.1.1 From the provisions of section 80AC of the IT Act, 1961 it is crystal clear that the deduction mentioned in said section is admissible only when the assessee files return of his income on or before the due date specified under sub-section(1) of section 139 of the Act. However, in the present case the appellant filed its return of income for the assessment year 2023-24 on 01.11.2023 whereas the due date for filing of return as per section 139(1) is 31.10.2023. Thus, the deduction claimed by the appellant is not allowable and there is no error in the action of CPC. Further, the request of appellant to keep the appellate proceedings in abeyance till disposal of application filed u/s.119(2)(b) before the jurisdictional CCIT is not considered as the appellate proceedings and the proceedings before the CCIT are independent. In the result, the grounds raised by the appellant on this issue are 'Dismissed'.

6.0 Hence, subject to the above discussion, the grounds of appeal raised by the appellant M/s. Aadharshila Builders Private Limited against the intimation/order passed u/s 143(1) for the AY 2023-24 is 'Dismissed'."

4. It is crystal clear that the deduction which has been claimed by the assessee pertains to the deduction in respect of certain income wherein it is mandated by the relevant provision of the Act that “no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub section (1) of Section 139 of the Act. However, in the present case the assessee had filed its return of income for the A.Y.2023-24 on 01.11.2023 whereas the due date for filing of return as per Section 139(1) of the Act was 31.10.2023, thus, the deduction claimed by the assessee was not allowed and as correctly observed and held by the Ld. CIT(Appeals)/NFAC, there is no error in the action of the CPC.

5. At the time of hearing, the Ld. Counsel for the assessee has referred to certain decisions of the Hon’ble High Courts wherein such delay has been condoned. It is humble observation of the Bench with due respect to the decision of the Hon’ble High Court placed before this Bench that since the Tribunal is a statutory body, it has to interpret the provisions of the Act in the strictest sense and literally as appearing word to word. That as Constitutional Authority the Hon’ble High Court does have the power to determine and decide the issue of delay in complying with the particular provision of the Act. That so far the Tribunal is concerned, the fiscal statutes have to be interpreted in the strictest form and as very

unambiguously held by the Ld. CIT(Appeals)/NFAC that since the conditions of the statute have not been complied with by the assessee therefore, the CPC had rightly denied the said deduction to the assessee. Accordingly, we do not find any infirmity in the view taken by the Ld. CIT(Appeals)/NFAC and the same is upheld.

6. As per the above terms grounds of appeal of the assessee are dismissed.

7. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 18th day of June, 2025.

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 18th June, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.