

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

ITA No. 1544/Mum/2025
(Assessment Year: 2023-24)

Mr. Madan Lachhmandas Asrani 601-B, Neelkanth Bldg, 98 Marine Drive, Mumbai 400002.	Vs.	ITO, Ward – 23(1)(6) Piramal Chambers Lalbaug, Mumbai – 400012.
PAN/GIR No. AAAPA7892A		
(Applicant)		(Respondent)

Assessee by	Shri H.S. Raheja
Revenue by	Shri Avinash Karpe, Sr. DR

Date of Hearing	30.04.2025
Date of Pronouncement	27.05.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 18.02.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2023-24.

2. All the grounds raised in the present appeal are inter related and interconnected and relates to challenging the order of Ld. CIT(A) in disallowing / denial of the claim of the assessee regarding option u/s 115BAC of the Act,

therefore I have decided to adjudicate the above grounds through the present consolidated order.

3. I have heard the counsels for both the parties, perused the material placed on record, judgements cited before for me and also the orders passed by the revenue authorities. From the records, I noticed that as per the facts of the case, the assessee being an individual and senior citizen was being assessed to tax for the last many years. Assessee opted to avail of the lower regime of tax as per section 115BAC of the Act and did not claim deduction under chapter VIA. However, the said claim was rejected on the ground that the assessee himself had withdrawn the option referred in subsection (5) of section 115BAC of the Act for the previous assessment year i.e 2022-23 and subsequent years.

4. After having heard the parties at length and after the evaluating the entire facts and circumstances of the present case, I found that even during the previous A.Y 2022-23, the assessee had opted for the lower regime of tax by filing form 101E. Since the said return was filed beyond the time mentioned u/s 139(1) of the Act. Hence, CPC rejected the option and taxed the assessee on the declared income without granting any deduction under chapter VIA under intimation u/s 143(1) of the Act dated 23.032023. Although assessee applied for rectification, but the same

was also rejected. Therefore, finding no other remedy, assessee then filed updated return and opted out for taxation u/s 115BAC of the Act and claimed deduction under chapter VIA of the Act.

5. Since before exercising the option for opting out the return of income for the year under consideration was to be filed by 31.03.2023, therefore, assessee opted for taxation u/s 115BAC of the Act as by that time the result of the previous assessment year was uncertain. Hence it will be seen that there is a lot of confusion in the facts of the case since as per the provisions of 115BAC, as applicable to assessment years, 2021-22 to 2023-24, in the case of a person having income from business and profession, this option can be exercised for any previous year relevant to the assessment year 2021-22 or 2022-23 or 2023-24 by uploading form 101E on or before the due date of submission of the return of income u/s 139(1).

6. As per the peculiar facts and circumstances of the present case, the option exercised by the assessee of lower new tax regime was rejected, taking into consideration the previous assessment year option of assessee in opting out, lower new tax regime. But considering the overall facts, I am of the view that each assessment year is separate and the intention to opt for the lower new tax regime as per

section 115BAC of the assessee is from day one as even during the previous assessment year, the assessee had opted for lower new text regime, however, the said claim of the assessee was rejected on technical consideration, holding that the return was not filed within time, which was also challenged by filing rectification application.

7. Now so far as the facts of the present assessment year is concerned, the assessee was always ready and willing to opt for the lower new tax regime and is still ready and willing to opt for lower new tax regime as per section 115BAC of the Act and in my view, since the assessee has not challenged the decision of the previous assessment year that *alone* should not deprive the assessee of the benefit of the scheme, as at the time of filing return for the assessment year 2023-24, no option for any scheme had attained any finality.

8. Even from the computation to the return of income filed by the appellant for the year under appeal at pg 14 of the compilation it is clear that the appellant did not claim any deduction under chapter VIA and has opted for the option by saying YES in view of the fact that the appellant had not been given the benefit of the option in the previous assessment year and this was the first assessment, year for the purpose of S. 115BAC.

9. In my view, the lower new tax regime u/s 115BAC of the Act is a beneficial legislation and generally such provisions aims to benefit all members of the society and are designed to provide assistance and protect individuals from heavy burden of taxes. Therefore principle of '*beneficial construction*' suggest that courts should interpret these provisions liberally, giving them the widest possible meaning to ensure their objectives are met.

10. Thus, in this way, if the claim of the assessee for the previous assessment year was rejected on account of delay, then in that eventuality the same should not affect the claim for the current assessment year, when the assessee has not only made the claim and also filed return of income in time. Hence I allow the grounds raised by the assessee by quashing the order of Ld. CIT(A). AO is therefore directed to pass afresh orders considering the return filed by the assessee u/s 115BAC of the Act and act accordingly.

11. This present decision has been rendered in peculiar circumstances considering the facts of the present case and the age of the assessee. Therefore, this decision may not be referred as precedence in any other cases

12. In the result, the appeal filed by the assessee stands allowed in terms indicated above.

Order pronounced in the open court on 27.05.2025.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 27/05/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai