

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA Nos. 380 & 381/RPR/2025
निर्धारण वर्ष / Assessment Years : 2023-24 & 2024-25**

Jai Barbareek Dev Snacks Private Limited
Plot No.644, Kumhari, Kumhari S.O,
Kandarka, Durg-490 042 (C.G.)
PAN: AAFCJ6128E

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(1),
Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Abhishek Mahawar, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 23.07.2025
घोषणा की तारीख / Date of Pronouncement : 23.07.2025

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

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, dated 18.03.2025 and 21.03.2025 for the assessment years 2023-24 & 2024-25 as per the grounds of appeal on record.

2. Both the parties herein conceded that since the facts and issues involved in both these appeals are absolutely similar and identical, therefore, the cases may be taken up together and dispose of vide this consolidated order.

3. In these appeals the limited point for adjudication is whether CPC/A.O was correct in making disallowance of concessional tax rate @15% u/s. 115BAB of the Income Tax Act, 1961 (for short 'the Act') which was upheld by the Ld. CIT(Appeals)/NFAC. In this regard, the findings of the Ld. CIT(Appeals)/NFAC are extracted as follows:

"5.4 I have carefully considered the appellant's submission. Here it is pertinent to mention that to claim the benefit of concessional tax rate @15% as per provisions of Section 115BAB of the I.T.Act; Form No.10ID have to file on or before the due date specified under sub-section (1) of Section 139 for furnishing the returns of income for the first assessment year commencing on or after 1st day of April, 2020 to avail the benefit. Such option once exercised shall apply to subsequent assessment years and cannot be withdrawn.

On perusal of income tax return filed by the appellant electronically for A.Y.2023-24 on 31/10/2023, it is seen that the appellant has filed in "Column No. (e) under filing status of ITR as under:

Under filing status (e)	Have you opted for taxation under section 115BA/115BAA/115BAB? (applicable on Domestic Company)	"None of above"
	If Yes, please furnish the AY in which said option is exercised for the first time along with date of filing of relevant form (10-IB/ 10-IC/ 10-ID) & acknowledgement number.	
	Assessment Year	
	Date of filing	

The relevant portion of the ITR for A.Y. 2023-24 is as under:

Jai Barbareek Dev Snacks Private Limited Vs. ITO-1(1), Bhilai
ITA Nos. 380 & 381/RPR/2025

Acknowledgement Number : 490673111311023

Date of Filing : 31-Oct-2023

FORM	INDIAN INCOME TAX RETURN [For Companies other than companies claiming exemption under section 11] (Please see Rule 12 of the Income-tax Rules, 1962) (Please refer instructions)	Assessment Year 2023-24
PART A GENERAL - PERSONAL INFORMATION AND RESIDENTIAL ADDRESS		
Name JA BARBAREEK DEV SNACKS PRIVATE LIMITED	Is there any change in the company's name?	
PAN AAFC6128E	Date of Incorporation (DD/MM/YYYY) 20/05/2022	
Corporate Identity Number (CIN) issued by MCA 114450CT2022PTC013217	Date of commencement of business(DD/MM/YYYY)	
Type of company (Tick any one) 1-Public company 2-Private company	If a public company write 6, and if private company write 7 (as defined in section 3 of The Companies Act) 7-Private company	
Tax Deductible Block No. 7-14 No. 644	Name of Premises / Building / Village	Road / Street / Post office
Area / Locality Village Handaika	Town / City / District Durg	State 33-Chhattisgarh
Country Code 91-INDIA	PIN Code 491001	ZIP Code
Office Phone Number with STD code	Mobile No. 1 91 8454087778	
Mail ID-1	Email Address-1 ujwalagarwal402@gmail.com	Email Address-2
FILING STATUS		
1. Filing Section		139(1)-On or before due date
2. If revised/in response to defective/ Modified, then enter Receipt no.(Enter receipt Number of original return for w/reframes)		
3. Date of filing of original return (DD/MM/YYYY)		
4. If filed, in response to a notice u/s 139(9)/142(1)/148/153C or order under section 119(2)(b) or order referred to in section 170A, enter unique number /Document Identification Number (DIN) and date of such notice/Order, or if filed u/s 92CD enter date of advance pricing agreement		
5. Residential Status		RES-Resident
6. Have you opted for taxation under section 115BA/115BAA/115BAB? (applicable on Domestic Company)		None of above
7. If Yes, please furnish the AY in which said option is exercised for the first time along with date of filing of relevant form (10-IB/ 10-IC/ 10-ID) & acknowledgement number.		
8. Assessment Year		
9. Acknowledgement number		
10. Filing Status		
11. If No, whether you are choosing to opt for taxation under section 115BA/ 115BAA/ 115BAB this year?		Yes
12. If yes, please provide the date of filing of relevant form (10-IB/ 10-IC/ 10-ID) & acknowledgement number		Section 115BAB
13. Acknowledgement number		484438780311023
14. Date of filing		31/10/2023
15. Whether total turnover/ gross receipts in the previous year 2020-21 exceeds 400 crore rupees? (applicable for Domestic Company)		
16. Whether assessee is a resident of a country or specified territory with which India has an agreement referred to in sec 90 (1) or Central Government has adopted any agreement under sec 90A(1)?		No
17. In the case of non-resident, is there a permanent establishment (PE) in India		No
18. In the case of non-resident, is there a Significant Economic Presence (SEP) in India		

Thus, the appellant has not opted for taxation under section 115BAB of the I.T. Act (applicable on Domestic Company) and not reported in the column "(e) under filing status" instead the appellant has opted for "none of the above" in the first ITR filed for A.Y. 2023-24. Therefore, the claim of the appellant is not allowable.

Keeping in view of the above, I am of the opinion that the CPC (AO) has rightly made disallowance of concessional lower tax rate @ 15% u/s 115BAB of the I.T. Act, 1961.

Therefore, these grounds of appeal are dismissed.

6. In the result, the appeal is dismissed.”

4. Since in the first year i.e. A.Y.2023-24, the benefit of Section 115BAB of the Act denied to the assessee following the “4th proviso” to Section 115BAB of the Act. The department had also denied the same for A.Y.2024-25. The same is only referred to and not being extracted for the sake of brevity.

5. At the time of hearing referring to the finding part of the Ld. CIT(Appeals) for A.Y.2023-24, the Ld. Counsel pointed out that in the income tax return, they had mentioned in the Column “ Have you opted for taxation under section 115BA/115BAA/115BAB (applicable on Domestic company) and therein the assessee had mentioned “none of the above” mentioning that for the earlier year, they had not made such option. However, in the “column” appearing thereafter, it is written “whether you are choosing to opt for taxation under section 115BA /115BAA/115BAB in this year?” and for that, the assessee had given

option as “Yes”, therefore, there has been wrong interpretation of the income tax return by the revenue authorities.

6. I have carefully considered the facts on record and the income tax returns as emanating from the order of the Ld. CIT(Appeals)/NFAC and therein the contention raised by the Ld. Counsel requires through verification of facts and correct interpretation by the first appellate authority. If it is found that the contention of the Ld. Counsel is correct and indeed they have opted for taxation u/s. 115BAB of the Act for the relevant assessment year, in such case, the revenue needs to determine on facts regarding applicability of concessional taxation rate regarding the assessee.

7. Be that as it may, it is the onus on the part of the Ld. CIT(Appeals)/NFAC to interpret correctly the return of income and since the department is having adequate machinery, it has to be carefully done so that rights of the bonafide assessee should not be hampered. In view thereof, I set aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication as per law specifically responding to the aforesaid direction.

8. As per the above terms grounds of appeal raised by the assessee is allowed for statistical purposes.

9. In the result, appeal of the assessee in ITA No.380/RPR/2025 for A.Y.2023-24 is allowed for statistical purposes.

ITA No.381/RPR/2025
A.Y.2024-25

10. As the facts and issues involved in the captioned appeal remains the same as were there before me in ITA No.380/RPR/2025 for A.Y.2023-24, therefore, the decision rendered in ITA No.380/RPR/2025 for A.Y.2023-24 shall *mutatis-mutandis* apply for ITA No.381/RPR/2025 for A.Y.2024-25.

11. In the result, appeal of the assessee in ITA No.381/RPR/2025 for A.Y.2024-25 is allowed for statistical purposes.

12. In the combined result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 23rd day of July, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 23rd July, 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, “एक-सदस्य” बेंच, रायपुर / DR, ITAT, “SMC” Bench, Raipur.

5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True copy //

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