

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(HYBRID COURT)**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 627/Asr/2024**  
Assessment Year: 2023-24

Ajay Aggarwal,  
H. No. 890/4 Circular Road,  
Beauty Avenue, Amritsar 143001

Vs.

Income Tax Officer,  
Ward 2(1), Amritsar

[PAN: AAMPA 3233B]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. J. P. Bhatia, Adv.  
Respondent by : Sh. Charan Dass, Sr. D. R.  
Date of Hearing : 07.08.2025  
Date of Pronouncement : 28.08.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the Id. Addl./JCIT(A)-6, Mumbai dated 29.09.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the CPC, Bangalore passed u/s 143(1) of the Act, dated 15.12.2023.

2. The brief facts of the case are that the assessee has filed his return on 28.09.2023 disclosing a returned income of Rs.13,39,240/- which was processed u/s 143(1) on 15.12.2023 on the same income without any variation. However, the benefit of calculation of tax u/s 115BAC (*under the new regime as opted by the assessee*) has not been allowed, and demand of tax amounting to Rs.75090/- has been raised in the intimation, even though the assessee has filed *Form No. 10-IE on 3<sup>rd</sup> Jan., 2022* for the assessment year 2021-22 for the first time.

3. The matter was carried in appeal and the ld. first appellate authority has dismissed the same by observing as follows:

*“It is seen from return of income filed for A.Y. 2021-22 on 25.08.2021 that the appellant had not opted for New Tax Regime u/s 115BAC of the Act. Therefore the Form 101E filed on 03.01.2022 was not a valid form for A.Y. 2021-22. As this form filed on 03.01.2022 was non-est/ Invalid for A.Y. 2021-22, the same is also invalid for subsequent years i.e. for A.Y. 2022-23 and A.Y. 2023-24. Without prejudice to the above, the Form 101E, filed by the appellant for AY 2021-22 was beyond the due date specified by Section 139(1). Thus, there was violation of the provisions of Section 115BAC(5) (i) of the Act.*

*It may be mentioned that the appellant had offered income under the head Business or Profession in the return filed for A.Y. 2022-23 and hence, he was required to file Form-101E for the AY 2022-23 for making the claim of New Tax Regime u/s 115BAC of the Act. No such form was filed by the appellant for A.Y. 2022-23. Therefore, the claim made in the return of Income of A.Y. 2022-23 was denied by the AO CPC, For the same reason that there was no valid claim for A.Y. 2022-23, the AO CPC had also rejected the claim of the appellant for A.Y. 2023-24 wherein it is mentioned in the return that the appellant is continuing to opt the claim u/s 115BAC of the Act.*

*At this point of time, it is pertinent to refer to the decision of the Hon'ble Apex Court in the case Principal Commissioner of Income Tax-III, Bangalore and another Vs. M/s Wipro Limited (Judgment dated 11.07.2022 in the Civil Appeal No. 1449 OF 2022) wherein it has reiterated the age-old principle that a taxing statute should be read as it is and held that the beneficial provisions should be "strictly" and "literally" complied with and, therefore, a strict interpretation should be adopted. It is a trite law that if a thing is said to be done in a particular manner, then it shall be done in that manner and its performance in any other mode or fashion shall be of no consequence. As the appellant had violated the provisions of section 115BAC, therefore, there is no merit in the claim of the appellant for allowance of claim made u/s 115BAC of the Act."*

4. In course of hearing before the Tribunal, the Id. AR of the assessee submitted that since the assessee has already exercised his option as required u/s 115BAC (5) by filing Form No. 10IE on 3<sup>rd</sup> Jan., 2022 for the assessment year 2021-22, the said option once exercised shall apply to all subsequent years, because the same cannot be subsequently withdrawn, as per the proviso to sub-section (5) of section 115BAC.

5. As such, he prayed that the option of the assessee already exercised in Form 10-IE which is available on the record of the Assessing Officer on 03.01.2022 should be considered by the AO for all subsequent years and there is absolutely no reason as to why, the said claim will be not be allowed in the year under appeal.

6. The Id. DR relied on the order of the Id. first appellate authority but he could not controvert that as per provisions of section 115BAC (5), the option once

exercised by the assessee cannot be withdrawn and it will apply to all subsequent years.

7. We have considered the rival submissions and materials on record and we find that the assessee has submitted his claim and exercised his option by filing Form 10IE on 03.01.2022 and the said option is already available in the records of the Assessing Officer on the date of assessment and as such, there is no reason as to why the claim of the assessee should be denied.

8. As such, we hold that it is sufficient compliance if the said Form is before the Assessing Officer at the time of assessment and there is no doubt that the option exercised by the assessee u/s 115BAC (5) are available on record and the same will apply to the year under appeal. As such, we direct the AO to take into consideration the Form 10-IE filed by the assessee on 3<sup>rd</sup> January, 2022, and consider the same for the purpose of assessment for the year under appeal.

9. In the result, the appeal filed by the assessee is allowed as indicated above.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 28.08.2025.

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order