

IN THE INCOME TAX APPELLATE TRIBUNAL
JAIPUR BENCH "A", JAIPUR
BEFORE Dr. S. SEETHALAKSHMI, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
ITA No. 835/JPR/2025(A. Y. 2023-24)

Shri Poornima Entertainments LLP,

Flat No. A-304, SDC Gateway,

Plot No. B-1-2, Ghiya Marg

Bani Park, Jaipur 302 016

PAN No.: AEAFS 8967C

..... Appellant

Vs.

ITO, Ward 1(1),

Jaipur

.....Respondent

Appellant by : Mr. Rajeev Sogani, CA
Mr. Rohan Sogani, CA, Ld. ARs
Respondent by : Mr. Rajesh Ojha, CIT, Ld. DR
Date of hearing : 19/08/2025
Date of pronouncement : 19/08/2025

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of Addl./JCIT (A)-06, Kolkata dated 25.03.2025 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act'). The assessee has raised the following grounds of appeal: -

1. In the facts and circumstances of the case and in law, Ld. Addl./JCIT(A)-6, Kolkata has erred in confirming the adjustment made in the intimation issued under Section 143(1) of the Income Tax Act, 1961 ("ITA"), which is outside the purview of Section 143(1). The action of the Ld. Addl. /JCIT (A)-6, Kolkata is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the entire addition of Rs. 3,80,71,814/- made to the returned income of the assessee firm.

2. In the facts and circumstances of the case and in law, Ld. Addl./JCIT(A)-6, Kolkata has erred in confirming the rejection of the claim made by the assessee firm under Section 80-IAC of ITA of Rs. 3,80,26,814/- for the year under consideration. The action of the Ld. Addl. /JCIT (A)-6, Kolkata is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by allowing such claim, under Section 80-IAC, as originally made by the assessee firm in its return of income.

3. The assessee firm craves its rights to add, amend or alter any of the grounds on or before the hearing.

2. The brief background is that the Assessee Appellant M/s. Shri Poornima Entertainments LLP is engaged in Sports Industry, Sports Promotion and Networking Sector. Assessee Appellant was recognized as a "Start-up" by the Department of Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, bearing Registration No. DIP73097, vide certificate dated 08.01.2021. Subsequently, Assessee Appellant filed an application, with DPIIT, for being considered as an "Eligible Startup" for the purpose of claiming benefit under section 80IAC of the Act. The said certificate was granted to the Assessee Appellant on 31.03.2022.

3. Assessee Appellant, for the year under consideration, filed its Return of Income under section 139(1) of the Act, on 31.10.2023, at a total income of Rs. Nil, claiming deduction under section 80IAC of the Act of Rs. 3,80,26,814/-. However, Form No. 10CCB could not be filed within the due date as per section

80IA (7) of the Act for claiming such deduction. On receipt of intimation on 11.12.2023 for proposed adjustments u/s. 143(1)(a) of the Act, Form No. 10CCB was filed by the Assessee Appellant on 25.12.2023 for claiming deduction of Rs. 3,80,26,814/-. Thereafter, Assessee Appellant filed revised Audit Report [Form 3CA-3CD] on 26.12.2023 for reporting its claim of deduction u/s. 80IAC of the Act. Return of Income was revised under section 139(5) of the Act on 27.12.2023 wherein claim under section 80IAC of the Act was duly supported by Form No. 10CCB. Assessee Appellant filed its response against the proposed adjustments under section 143(1) (a) of the Act on 09.01.2024 stating the aforementioned facts and requesting for allowing the claim of the Assessee Appellant. However, Return of Income filed by the Assessee Appellant was processed under section 143(1) of the Act on 25.03.2024, rejecting the claim made under section 80IAC of the Act of Rs.3,80,26,814/-, thereby, creating demand against the Assessee Appellant.

4. Ld. AR of the Assessee Appellant submitted that intimation for proposed adjustment was received on 11.12.2023. Due date for response was 10.01.2024. After receiving the intimation for proposed adjustment the Assessee Appellant filed Form No. 10CCB on 25.12.2023. It also filed Revised Tax Audit Report for reporting its claim of deduction on 26.12.2023. The revised Return of Income giving effect of filing Form No. 10CCB and Revised Tax Audit Report was filed on 27.12.2023. The revision of Return was well within the time prescribed under section 139(5). The reply to the proposed adjustment was also filed on 09.01.2024.

5. On the basis of above factual matrix Id. AR submitted that when the Return of Income was processed under section 143(1) of the Act on 25.03.2024, Form No. 10CCB was available with the AO/ CPC. Return of Income as well as Tax Audit Report was also revised. Thus, Id. AR emphasized that there is no justification to deny the deduction under section 80IAC of the Act amounting to Rs. 3, 80, 26,814/-, just because Form No. 10CCB could not be filed along with the original Return of Income.

6. Ld. AR further submitted that it is undisputed that the Assessee Appellant is eligible for claim of deduction under section 80IAC of the Act. It is not the case of Lower Authorities that any of the substantive conditions for claim of 80IAC of the Act deduction is not complied with by the Assessee Appellant. It was submitted before the Lower Authorities that filing of Form No. 10CCB, within the prescribed time, was only a procedural requirement and not a substantive condition. It was also submitted that the lapse of not filing the Form No. 10CCB, within the prescribed time, could not be fatal leading to complete denial of deduction under section 80IAC of the Act.

7. Ld. AR further submitted that the above proposition of law was supported by various judicial pronouncements including the decision of the Hon'ble Supreme Court as well as the Jurisdictional High Court. It was submitted before the Lower Authorities that the issue is no more *res integra* because similar requirements existed in sections such as 80IA, 80IB and 80J of the Act etc. The said sections, in respect of filing of Form No. 10CCB are *pari-materia* to section 80IAC of the Act. The issue of delay in filing Form No. 10CCB, under these sections, has been adjudicated by various judicial forums which have held that

such lapse in compliance of procedural requirement can in no way lead to denial of deduction under respective sections. The following judicial pronouncements were brought to the notice of Id. Lower Authorities:

S No.	Title of the case	Forum
1.	G.M. Knitting Industries (P.) Ltd, Civil Appeal Nos. 10782 of 2013 and 4048 of 2014	Supreme Court
2.	Novelty Garments [2002] 256 ITR 688 (Raj)	Rajasthan High Court
3.	Fortuna Foundation Engineers & Consultants (P.) Ltd. [2017] 81 taxmann.com 189 (Allahabad)	Allahabad High Court
4.	AKS Alloys (P.) Ltd. [2012] 18 taxmann.com 25 (Mad.)	Madras High Court
5.	Zenith Processing Mills V. CIT [1996] 219 ITR 721 (Gujarat)	Gujarat High Court
6.	Shivanand Electronics [1994] 75 Taxman 93 (Bom.)	Bombay High Court
7.	Ambience Holiday Resorts Ltd., ITA No. 1820/Del/2020	ITAT Delhi
8.	Nitesh Kumar J. Shah ITA No. 430/Ahd/2022	ITAT Ahmedabad
9.	Surendra Steels Private Limited ITA No. 78/Kol/2022	ITAT Kolkata
10.	Dunichand Khitri Raja ITA No. 315/Bang/2023	ITAT Bangalore
11.	RSM Sapthagiri Finance Ltd ITA Nos. 96/CHNY/2021 and 269/CHNY/2021	ITAT Chennai
12.	Hi-Tech Sweet Water Technologies (P.) Ltd ITA No. 230/SRT/2022	ITAT Surat

8. Ld. AR placed further reliance on certain recent judicial pronouncements wherein also the proposition that delay in filing Form No. 10CCB is only a procedural requirement and such delay cannot lead to denial of deduction under respective sections was held:

i. Desai Infra Projects (I) Private Limited v. CIT(A) in ITA No. 1852/PUN/2024

“6.4. Since the assessee in the instant case has admittedly filed the audit report in Form-10CCB prior to the processing of the return, therefore, respectfully following the decisions cited (supra), we are of the considered opinion that assessee cannot be denied deduction u/sec.80IA(4) of the Act. Accordingly, the order of the Ld. CIT (A) is reversed and the grounds raised by the assessee are allowed.”

ii. Roxiler Systems Pvt. Ltd. v. ITO in ITA No. 2078/PUN/2024

“The Audit Report was uploaded before filling of return of Income. Thus at the time of Order u/s 143(1) the Audit report was before the Assessing Officer. In these facts and circumstances, as Hon’ble Supreme Court in the case of G.M Knitting (supra) and Hon’ble Jurisdictional High Court in the case of Shivanand Electronics (supra) had held that once the Audit report was available to the Assessing officer at the time of passing Assessment Order the AO should have considered it.”

iii. Nitesh kumar J. Shah v. DCIT in ITA No. 430/Ahd/2022

“7.1 Accordingly, in the light of the above discussion, in our considered view, Id. CIT(A) has erred in facts and in law in not allowing the claim of the assessee on the ground that benefit of section 80-IA of the Act is not available to the assessee if the assessee does not e-file Form 10CCB along with return of income when the assessee admittedly furnished Form 10CCB, prior the return of income filed by the assessee being processed by the Department u/s. 143(1) of the Act.”

Ganpati Gems & Jewellers v. ACIT (2025) 236 TTJ (Jp) 100

Exemption under s. 10AA—Allowability—Non-submission of audit report along with return—Assessee failed to file audit report in Form No. 56F electronically along with the return of income and filed it during the assessment proceedings—Even if the requirement of filing of the audit report was mandatory, the time of its filing was directory and the same could be filed at any time before the completion of the assessment—Therefore, benefit of exemption under s. 10AA cannot be denied merely on account of delay in furnishing the audit report—CIT vs. Gujarat Oil & Allied Industries Ltd. (1993) 109 CTR (Guj) 272 : (1993) 201 ITR 325 (Guj), CIT vs. G.M. Knitting Industries (P) Ltd. (2015) 279 CTR (SC) 534 : (2015) 125 DTR (SC) 38 : (2015) 376 ITR 456 (SC), CIT vs. Godha Chemicals (P) Ltd. (2013) 257 CTR (Raj) 10 : (2013) 83 DTR (Raj) 190 and Dy. CIT vs. Croygas Equipments (P) Ltd. (2023) 224 TTJ (Ahd) 597 : (2023) 228 DTR (Ahd)(Trib) 153 followed

9. Per Contra the Id. DR submitted that filing of Form No. 10CCB within specified date is a mandatory requirement for claiming deduction under section 80IAC of the Act. He, therefore, supported the Order of Id. CIT (A). We have gone through the Orders of the Id. Lower Authorities, heard the rival submissions and appreciated the various judicial pronouncements cited before us. It is undisputed that the Assessee Appellant did not file Form No. 10CCB along with the original Return of Income. However, it is also undisputed that after receiving the intimation for proposed adjustment, Assessee Appellant filed the Form No. 10CCB, revised the Tax Audit Report as well as the Return of Income. Thus, Form No. 10CCB along with Revised Tax Audit Report as well Revised Return of Income was on record well before the date of processing the Return under section 143(1) of the Act.

10. The various Courts have held that filing of Form is only a procedural requirement. The substantive compliance in respect of eligibility of the claim has been made by the Assessee Appellant. The basic eligibility criteria of Eligible Start Up are not in dispute. Lapse of procedural requirement that too made good before the processing of Return cannot be fatal to deny the claim of deduction under section 80IAC of the Act.

11. In view of the settled judicial view that such procedural lapse should not lead to denial of claim, we hold that the Assessee Appellant is eligible for deduction and, therefore, the Lower Authorities were not justified in denying the claim for mere procedural lapse. Accordingly, the Grounds as taken by the Assessee Appellant stand allowed.

12. In the result, the appeal of the assessee is allowed.

The Order is pronounced in the open court on the 19th day of August 2025.

Sd/-

(Dr. S. SEETHALAKSHMI)
JUDICIAL MEMBER

Jaipur, दिनांक/Dated: 19/08/2025

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., Sr.DR., ITAT,
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)
ITAT, Jaipur

	Details	Date	Initials	Designation
1	Draft dictated on PC on	19.08.2025		Sr.PS/PS
2	Draft Placed before author	19.08.2025		Sr.PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			JM/AM

5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			
9	Date of Dispatch of order			