

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (VIRTUAL), JODHPUR.**

BEFORE: Dr. MITHA LAL. MEENA, ACCOUNTANT MEMBER
AND SHRI NARINDER KUMAR, JUDICIAL MEMBER

ITA No. 898 & 899/Jodh/2024
Assessment Year: 2022-23 & 2023-24

Sanju Soni 6-B, Vijay Nagar, New Pali Road Bhagat Ki Kothi, Jodhpur. [PAN: BYIPS4342A] (Appellant)	Vs.	The ITO, Ward-1(1), Jodhpur. (Respondent)
Appellant by : Shri Mohit Soni, Advocate Respondent by: Smt. Ayushi Sharma, JCIT-DR		

Date of Hearing: 08/09/2025
Date of Pronouncement: 29/09/2025

ORDER

Per Bench:

This common order is to dispose of, the above captioned two appeals, filed by the assessee, as the same involve common issue.

By way of first mentioned appeal, **ITA No. 898/Jodh/2024**, the assessee has challenged order dated 18.10.2024, passed by learned CIT(A) u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), relating to the assessment year 2022-23, whereby his appeal challenging intimation u/s 143(1) of the Act issued by Centralized Processing Centre (CPC), has been dismissed, on the following grounds:-

“On perusal of the documents attached by the appellant, the contention of appellant is not found to be correct. The appellant has filed Form 10IE on 10.03.2022 for the A.Y. 2021-22 and subsequent years. However, on perusal of the income tax return for A.Y. 2021-22 it is seen that ITR was filed on 22.03.2022 u/s 139(4) of the Act i.e. it was filed after due date along with appellant not opting for 115BAC scheme for A.Y. 2021-22. Therefore because of non-validation of Form 10IE for A.Y. 2021-22, the claim of appellant that form 10IE has duly filed for A.Y. 2022-23 is not acceptable and THUS not applicable for impugned assessment year i.e. 2022-23.

Therefore, I find no infirmity in the tax computation made by the CPC. In this view of the matter, tax computation in old tax regime made by the CPC is confirmed. Consequently, this ground of the appellant is dismissed. Remaining grounds of appeal are general in nature and do not require any adjudication. Consequently, the same are rejected/dismissed.”

2. **ITA No. 899/Jodh/2024** challenges the impugned order dated 18.10.2024, relating to the assessment year 2023-24, whereby the appeal filed by the assessee challenging intimation order u/s 143(1) of the Act issued by CPC, has been dismissed for the above said reasons.
3. Arguments have been advanced for both the appeals simultaneously, as common issue is involved therein.

Contentions

4. Ld. AR for the appellant has referred to Form 10 IE i.e. copy of application to exercise option under clause (i) of sub- section (5) of Section 115BAC of the Act, to point out that said form was submitted on 10.03.2022 to exercise the said option for the previous year 2020-21 and subsequent years.

He has also pointed out that ITR for the assessment year 2022-23 was furnished on 30.07.2022.

As per ITR for the assessment year 2022-23, under column A23, the assessee opted for new tax regime u/s 115BAC, by tick- marking that in the previous year 2021-22, the assessee had **not opted** for new tax regime, and also not filed Form 10 IE for the said assessment year.

5. The contention raised by Ld. AR for the appellant is that even if the assessee had not opted for benefit of new tax regime for the assessment year 2021-22, he was entitled to opt for benefit of new tax regime for the subsequent year i.e. assessment years 2022-23 and 2023-24, and as such, the impugned order deserves to be set aside.

6. As noticed above, Learned CIT(A), dismissed the both appeals filed by the assessee due to the reason that the assessee had submitted income tax return u/s 139(4) of the Act on 22.03.2022 i.e. beyond the due date, and Form 10 IE was submitted on 10.03.2022, for the said assessment year 2021-22 and subsequent years.

Learned CIT(A) was of the view that due to invalidation of Form 10 IE for the assessment year 2021-22 the claim of the appellant to opt for new tax regime for the assessment year 2022-23 was rightly not accepted by the CPC.

7. Learned AR for the appellant has submitted that proviso to sub section(1) of section 115BAC provides that only in the event of failure to satisfy the terms and

conditions contained in sub section (2) the option exercised under clause (1) of sub section (5) shall be invalid for subsequent years also and other provisions of this Act shall apply for those years accordingly.

The contention is that in view of the above reason, this is not a case of invalidation due to failure to satisfy any condition contained in sub section (2) of section 115BAC.

8. On other hand, Ld. DR for the department has referred to proviso to sub section (1) of section 115BAC of the Act which provides that on failure of the person to satisfy the condition contained in sub section (2) of section 115BAC of the Act in any previous year, the option shall be become invalid in respect of assessment year relevant to that previous year and other provisions of this Act shall apply as if option had not been exercised for the assessment year relevant to that previous year.

9. Section 115BAC reads as under:-

“115BAC. (1) *Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being an individual or a Hindu undivided family, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the option of such person, be computed at the rate of tax given in the following Table, if the conditions contained in sub-section (2) are satisfied, namely:—*

TABLE

Sl. No.	Total income	Rate of tax
(1)	(2)	(3)
1.	<i>Upto Rs. 2,50,000</i>	<i>Nil</i>

2.	From Rs. 2,50,001 to Rs. 5,00,000	5 per cent
3.	From Rs. 5,00,001 to Rs. 7,50,000	10 per cent
4.	From Rs. 7,50,001 to Rs. 10,00,000	15 per cent
5.	From Rs. 10,00,001 to Rs. 12,50,000	20 per cent
6.	From Rs. 12,50,001 to Rs. 15,00,000	25 per cent
7.	Above Rs. 15,00,000	30 per cent:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of this Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year:

Provided further that where the option is exercised under clause (i) of sub-section (5), in the event of failure to satisfy the conditions contained in sub-section (2), it shall become invalid for subsequent assessment years also and other provisions of this Act shall apply for those years accordingly.

(2) For the purposes of sub-section (1), the total income of the individual or Hindu undivided family shall be computed,—

- (i) without any exemption or deduction under the provisions of clause (5) or clause (13A) or prescribed under clause (14) (other than those as may be prescribed for this purpose) or clause (17) or clause (32), of [section 10](#) or [section 10AA](#) or [section 16](#) or clause (b) of [section 24](#) (in respect of the property referred to in sub-section (2) of [section 23](#)) or clause (ia) of sub-section (1) of [section 32](#) or [section 32AD](#) or [section 33AB](#) or [section 33ABA](#) or sub-clause (ii) or sub-clause (ia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of [section 35](#) or [section 35AD](#) or [section 35CCC](#) or clause (ia) of [section 57](#) or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of [section 80CCD](#) or [section 80JJAA](#);
- (ii) without set off of any loss,—
 - (a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);
 - (b) under the head "Income from house property" with any other head of income;
- (iii) by claiming the depreciation, if any, under any provision of [section 32](#), except clause (ia) of sub-section (1) of the said section, determined in such manner as may be prescribed; and
- (iv) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

(3) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in the prescribed manner, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of [section 80LA](#), which has exercised option under sub-section (5), the conditions contained in sub-section (2) shall be modified to the extent that the deduction under [section 80LA](#) shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the meaning assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

(5) Nothing contained in this section shall apply unless option is exercised in the prescribed manner by the person,—

- (i) having income from business or profession, on or before the due date specified under sub-section (1) of [section 139](#) for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, and such option once exercised shall apply to subsequent assessment years;
- (ii) having income other than the income referred to in clause (i), alongwith the return of income to be furnished under sub-section (1) of [section 139](#) for a previous year relevant to the assessment year:

Provided that the option under clause (i), once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section, except where such person ceases to have any income from business or profession in which case, option under clause (ii) shall be available.

10. In *Arun Gopilal Samnani v. Income-tax Officer* ^{*}[2025] 174 [taxmann.com](#) 33

(Ahmedabad - Trib.) , applicability of section 115BAC of the Act was involved.

The question was as to whether the assessee despite having opted to pay taxes under the new regime as prescribed under section 115BAC of the Act in its income tax return, was rightfully denied its benefit by the CPC, Bangalore ?

11. Therein, as per facts, form no.10-IE was not filed by the assessee in the impugned year. The same was filed by the assessee in the preceding year along with

his return of income, but the said form having not been filed within the prescribed time, the assessee had not been granted the benefit of paying taxes in the new regime in the preceding year.

So, the issue there was as to whether in the impugned year also, the assessee was required to file Form No.10-IE to opt for paying taxes under new regime as per section 115BAC of the Act.

As is evident from the bare perusal of the above, individuals and HUF have been given option for paying taxes at the rates prescribed in section 115BAC of the Act w.e.f. 1st April, 2021 subject to the condition that their income is computed as prescribed under sub-section (2). Sub-section (2) provides that the income is to be computed without claiming any exemption or deductions, loss or depreciation as specified in the said sub-section.

The first proviso to section 115BAC states that the option exercised by the assessee shall be invalid, if the assessee fails to satisfy the conditions mentioned in sub-section (2). In this way, said failure is the only prescription in law for treating the option to have been invalidly exercised.

Sub-section (5) prescribes that for claiming the benefit of option, the assessee having income from business or profession needs to file prescribed form by the due

date prescribed in the said section initially and such option exercised would thereafter be applicable for subsequent years.

In other words, the failure to file Form No.10-IE within the prescribed due date as per sub-section (5) does not invalidate the assessee's claim of the option.

12. In **Arun Gopilal Samnani** 's case, it has been observed that the mandate of filing the Form No.10-IE is only directory. Therein, in the preceding year when the assessee had filed Form No.10-IE while exercising its option of paying taxes as per the new regime, the option was not invalidated as per sub section (2) to section 115BAC of the Act. The option was denied to the assessee for the reason that the Form No.10-IE was not filed within the prescribed time. The assessee's exercise of option in the preceding year was not invalid. It was observed that when the assessee again opted paying taxes under the new regime in the impugned year, there was no requirement for the assessee to file a fresh Form No.10-IE at all, as per sub section (5) to section 115BAC of the Act. As further observed therein, it is only if the earlier option is treated as invalid due to specified violation or failure that the assessee has to go about exercising the option afresh in the succeeding years.

In the given facts and circumstances, when the assessee therein had filed Form No.10-IE in the preceding year, exercising its option of paying taxes under the new

regime for the first time, the denial of exercise of this option in the impugned year, on failure to file Form No.10-IE, was held to be against the provisions of law.

13. Applying the above said decision to the given facts and circumstances of this case, we are of the view that the Assessing Officer should have allowed the assessee to exercise option under the new regime instead of denial of exercise of said option in the impugned years, simply because the ITR for the previous year and Form 10 IE for the previous year, were filed after the due date.

Result

14. In view of the above findings, both the appeals deserve to be allowed. Same are allowed. Assessing Officer to do the needful.

Order to be pronounced under Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 by placing the details on the notice board.

Sd/-

Sd/-

(Dr. Mitha Lal Meena)
Accountant Member

(Narinder Kumar)
Judicial Member

Date: 29/09/2025

**Santosh*

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned

(5) The Sr. DR, I.T.A.T

By Order

Asstt. Registrar