

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3484/Del/2025  
Assessment Year: 2023-24

Osttra India Services Private Limited LGF.A-16/9 Vasant Vihar, South-west Delhi, New Delhi 110057 Pan No. AAOCM6253C	<b>Vs</b>	Assistant Commissioner Of Income Tax, Circle 1991) CR Building, Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellants by	Sh.Vishal Kalra, Advocate Sh. S.S. Tomer, Advocate
Respondent by	Sh. Dheeraj Kumar Jaiswal, Sr, DR.

Date of hearing:	01/10/2025
Date of Pronouncement:	12/11/2025

**ORDER**

**PER SUDHIR KUMAR, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax Appeal Addl. /JCIT(A)-2 Noida [hereinafter referred to as "Ld. CIT(A)"], vide order dated 30.03.2025 pertaining to A.Y. 2023-24 and arises out of the intimation order dated 27-05-2024 passed by the CPC

Bengaluru under Section 143(1) of the Income Tax Act, 1961 [hereinafter referred as 'the Act'] for the A.Y.2023-24.

2. *The assessee has raised the following grounds of appeal:*

1. *That the facts and circumstances of the case in law, the order passed by ld. JCIT(A) is bad in law and void ab-initio as it has been passed in violation of the principles of natural justice and without giving a reasonable opportunity of being heard.*

2. *That the facts and circumstances of the case in law, the ld. JCIT(A) has grossly erred in confirming the tax liability computed by the Ld. AO of applying Income Tax rate of 30% plus applicable surcharge and cess instead of Income –tax rate as per alternative tax regime under section 115BAA of the Act opted by the Appellant i.e.22% plus applicable surcharge and cess.*

3. *That the facts and circumstances of the case in law, the ld. JCIT(A) has erred in confirming the tax liability computed by the Ld. AO irrespective of the facts that, the appellant has opted for a new tax regime under section 115BAA of Act by filing Form 10IC on 28 November 2022 before filing the return of income under section 138(1) of the Act for A.Y.2022-23.*

4. *That the facts and circumstances of the case in law, the ld. JCIT(A) has erred in considering the due of filing return of income in case of the appellant as 7 November 2022 without appreciating the*

*fact the actual due date of 30 November 2022 as the explanation 2 to section 139 of the Act.*

*5. That the facts and circumstances of the case in law, the ld. JCIT(A) has erred in upholding the impugned demand of INR 3,28,19,480/- raised by the Ld. AO which is bad in law and hence liable to be deleted.*

*6. That the facts and circumstances of the case in law, the ld. JCIT(A) has erred in upholding the levy of interest liability under section 234B & 234C of the Act.*

*Each of the above grounds are independent and without prejudice to the other grounds of appeal preferred by the appellant.*

*The appellant prays for leave to add, alter vary omit substitute, or amend the above grounds of appeal, at any time, before or at, the time of hearing of the appeal.*

3. The brief facts of the case are that the assessee filed its return of income under section 139(1) of the Act on 23-11-2023 declaring a total income of Rs.34,17,46,770/- under the normal provisions and computing its tax liability as per the concessional tax regime provided under section 115BAA of the Act. The return of income was processed by CPC and intimation was issued to the assessee determining a demand of Rs.3,28,19,480/-. In the intimation the CPC contended that Form 10-IC, which is a mandatory requirement to opt

concessional regime, was filed after the due date. Aggrieved the order from the CPC the assessee preferred the appeal before the Ld. CIT(A), who vide his order dated 30-03-2025 dismissed the appeal, against which the assessee is in appeal before the tribunal.

4. Ld. AR of the assessee submitted that the assessee was filed the FORM 10-IC before the due date, which was wrongly considered after the due date. He further submitted that the requirement to file the Form 10-IC is only once and such option shall apply to the subsequent year, He also submitted that Ld. CIT(A) has considered the Form 10-IC for the A.Y. 2022-23, while the return was filed for the A.Y. 2023-24 and the last date for filing the ITR was 30-11-2023.

5. Ld. Departmental Representative has relied the order of the learned lower authorities.

6. We have heard the parties and perused the material available on record. Ld. CIT(A) has observed in his order as under

*5.2.2 Upon perusal of records, it is observed that the due date for filing Form 10-IC for A.Y.2022-23 was 07-11-2022. The appellant filed Form 10-IC on 28-11-2022, i.e.after the due date. The provision mandates that the option under section 115BAA must be exercised in the prescribed form and manner before the due date specified under section 139(1). Since the*

*appellant failed to comply with this mandatory requirement, the eligibility to be taxed at concessional rates under section 115BAA did not arise in law. Since the same is applicable for the current year as well, therefore the appliance is not eligible for the claim.*

*5.2.3 Therefore, CPC correctly applied the standard rate and raised the demand accordingly. Consequently, this ground is also rejected.*

7. The section 115BAA (5) of the Act as under:

*115BAA. (1) Notwithstanding anything contained in this Act but subject to the 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1<sup>st</sup> day of April 2020, shall at the option of such person, be computed at the rate of twenty- two per cent, if the conditions contained in sub-section (2) are satisfied :*

*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 assessment year relevant to that previous year and subsequent assessment years.*

*(2) For the purpose of sub-section (1), the total income of the company shall be computed, -*

*(i) without any deduction under the provisions of section 10 AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section*

*(2AA) or sub-section (2AB) of under any provisions of [Chapter VI-A other than the provisions of section 80 JJAA or section 80M]*

*(ii) without set off of any loss 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);*

*(iii) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i) ; and*

*(iv) by claiming the depreciation, if any, under any provision of section 32 except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.*

*(3) The loss and depreciation referred to in clause (ii) and clause (ii) of sub-deduction for such loss or depreciation shall be allowed for any subsequent year. section (2) shall be deemed to have been given full effect to and no further Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made in the prescribed manner, if the option under sub-section (5) is exercised for a to the written down value of such block of assets as on the 1st day of April, 2019 previous year relevant to the assessment year beginning on the 1st day of April, Centre, as referred to in sub-section (1A) of section 80LA, which has exercised (4) In case of a person, having a Unit in the International Financial Services 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 2020 of the conditions contained in the said section. Explanation - For the purposes of this sub-section, the term "Unit" shall have the same meaning as 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 the option is exercised by the person in the prescribed manner<sup>87</sup> 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, 2020 and such option once exercised shall apply to subsequent assessment years:*

*Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (ii) or sub-clause (iii) of clause (a), or clause (b) of sub-section (2) of said section, such person may exercise option under this section:*

*Provided further that once the option has been exercised for any previous year.*

8. In the present case the Form No. 10-IC was filed on 07-11-2022 for the A.Y.2022-23 as per the Ld. CIT(A), which was filed after the due date. The assessee filed the return of income for

the A.Y. 2023-24 before the due date, because the last dated for filing the return of income was 30-11-2023 as per the section explanation 2 of the section 139 of the Act. The Form No 10-IC is required to be filed before the due date specified manner and such option once exercised shall apply to subsequent assessment year. The assessee filed the Form10-IC before the due date, therefore, the assessee is eligible for concessional tax regime. The AO is directed to delete the demand raised by the CPC. The, grounds raised by the assessee is allowed.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 12.11.2025.

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Neha, Sr. PS  
Date:-12.11.2025  
Copy forwarded to:  
1.Appellant  
2.Respondent  
3.CIT  
4.CIT(Appeals)  
5.DR: ITAT

Sd/-

**(SUDHIR KUMAR)**  
**JUDICIAL MEMBER**

ASSISTANT REGISTRAR  
ITAT NEW DELHI