

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एफ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री एस रिफौर रहमान, लेखाकार सदस्यके समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
आअसं.3877/दिल्ली/2025 (नि.व. 2023-24)
ITA No.3877/Del/2025 (A.Y.2023-24)

FIVD India Consulting P.Ltd.,
1022-1027, 10th Floor, Emaar Digital Green,
Sector-21, Golf Course Ext Road, Near Golf Ext.,
Gurgaon, Haryana 122002

PAN: AAECF-3663-P

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,
Circle 1(1), Gurgaon, Haryana 122002

.....प्रतिवादी/Respondent

Assessee by : Shri Y K Sud, Chartered Accountant
Department by: Ms. Monika Singh, CIT(DR)

सुनवाई की तिथि/ Date of hearing : 18/11/2025

घोषणा की तिथि/ Date of pronouncement: : 28/11/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)/Additional/Joint Commissioner of Income Tax(Appeals), Bhubaneswar (hereinafter referred to as 'the CIT(A)') dated 04.04.2025, for Assessment Year 2023-24.

2. Shri Y K Sud, appearing on behalf of the assessee submits that the short issue in present appeal is disallowance of assessee's claim of deduction u/s.80IAC of the Income Tax Act,1961(hereinafter referred to as 'the Act'). He submitted that the assessee is engaged in the business of Interior design, architectural advisory services,

management consulting, etc. For assessment year 2023-24, the assessee filed its return of income on 30.11.2023 claiming deduction u/s.80IAC amounting to Rs.18,57,30,737/-. The assessee calculated its book profits u/s. 115JB and offered Rs.18,43,88,071/- to tax. The return of the assessee was processed u/s.143(1) of the Act. While processing return of income, the CPC pointed out deficiency vide communication dated 05.12.2023 that Audit Report in the prescribed Form 10CCB is not filed within due date. The assessee uploaded the Audit Report in the prescribed form 10CCB on 13.12.2023 that is before the date of completion of assessment/processing of return of income. Intimation us. 143(1) of the Act dated 03.05.2024 was received by the assessee without granting the benefit of deduction claimed by the assessee u/s.80IAC of the Act. The deduction was denied solely for the reason that Form 10CCB is not filed within the due date.

2.1 The Id. AR submits that AY 2023-24 is the first year of assessee's claim of deduction. The accounts of the assessee were duly audited and the Auditors Report in Form 10CCB was ready on 31.10.2023. However, due to technical snag in filing of Audit Report, the same could not be uploaded within the specified date. Nevertheless, the assessee complied with the mandatory requirement of furnishing Auditor Report in Form 10CCB before completion of the assessment. Thus, the assessee complied with the provisions of section 80IAC of the Act for claiming requisite deduction. The Id. AR placed on record Form No. 10CCB to substantiate that Audit Report was ready on the due date for filing. The Id. AR also placed on record acknowledgement dated 13.12.2023 vide which Auditors Report in Form 10CCB was uploaded.

2.3. The Id. AR asserted that furnishing of Form 10CCB is a procedural requirement. Even if Form 10CCB has been filed subsequent to the filing of return of income, it

suffices the legal requirement. In support of his submissions, he placed reliance on various decisions some of them are as under:-

CIT vs. Gupta Fabs, 274 ITR 620 (P&H);

CIT vs. Contimeters Electrical P Ltd., 317 ITR 249 (Delhi.);

Sanjay Kukreja vs. ACIT, in ITA No. 652/Del/2023 for AY 2019-20 decided on 30.01.2024;

Kumaon Exports P Ltd., vs. DCIT in ITA No. 39/Del/2024 for AY 2018-19 decided on 05.12.2024; &

Desai Infra Projects (I) P. Ltd. vs. CIT, 234 TTJ (Pune) 879.

3. Per contra, Ms. Monika Singh representing the department vehemently defended the impugned order. The Id. DR submits that provisions of section 80IA(7) of the Act have been amended by the Finance Act, 2020. Prior to the amendment, the Audited Report was required to be furnished in prescribed form along with the return of income. Post amendment w.e.f. 01.04.2020 it is mandatory on the part of the assessee claiming deduction u/s.80IA of the Act to furnish Audit Report in prescribed form before the specified date referred to in section 44AB of the Act. The specified date defined u/s. 44AB of the Act is date one month prior to the due date for furnishing the return of income under sub section (1) of section 139 of the Act. For the impugned assessment year, the last date for filing return of income was 30.11.2023. Accordingly, Audit Report in Form 10CCB was required to be filed on or before 31.10.2023. The filing of Audit Report, in prescribed Form within the due date is substantive requirement for claiming deduction u/s.80IA of the Act. The prior filing of Audit Report is not merely procedural requirement but a substantive requirement mandated by the law. To support her submissions, the Id. DR placed reliance on following decision.

CIT vs. Alom Extrusion Ltd., 312 ITR 306 (SC);

Kollam District Co-operative Bank vs. CIT, 347 ITR 480 (SC); &

CIT vs. Vatika Township P Ltd., 367 ITR 466 (SC).

The Id. DR furnished written submissions reiterating her oral submissions and prayed for dismissing appeal of the assessee.

4. Both sides heard, orders of the authorities below examined and case laws on which rival sides have placed reliance considered. The short issue for our consideration in the present appeal is; Whether the assessee is eligible to claim deduction u/s.80IAC of the Act, where the Audit Report in the prescribed form has been filed beyond the specified date but before the completion of assessment?

5. Assessment Year 2023-24 is the first year of assessee's claim of deduction u/s.80IAC of the Act. Apart from fulfilling the conditions set out in sub section (1), sub section (3) and sub section (4) of section 80IAC of the Act, the assessee is also required to comply with the provisions of section 80IA(7) of the Act to be eligible to claim deduction. Section 80IA(7) of the Act mandates that deduction under sub section (1) from profits and gains derived from undertaking shall not be admissible unless accounts of undertaking for the previous year relevant to assessment year for which the deduction is claimed have been audited by the accountant before the specified date referred in section 44AB of the Act and the assessee furnishes by that date the report of such audit in the prescribed form duly signed by such accountant. In the instant case, we find that the accounts of the assessee have been duly audited and Audit Report in form 10CCB is duly signed and verified by the accountant by the specified date as defined u/s. 44AB of the Act. The only short coming for which assessee's claim u/s. 80IAC of the Act has been denied is non furnishing of such Audit Report before the specified date in accordance with the provision of sub section (7) of section 80IA of the Act. We are of considered view that furnishing of Audit Report before the specified date defined u/s. 44AB of the Act is the procedural requirement. If, the statutory report has been furnished after the specified date but before the

completion of assessment it shall not be an impediment in considering assessee's claim of deduction u/s. 80IAC of the Act. The claim of the assessee should be allowed if, otherwise assessee satisfies the conditions strictly set out u/s.80IAC of the Act.

6. The Hon'ble Apex Court in the case of CIT vs. GM Knitting Industries P Ltd., reported as 71 taxmann.com 35 (SC) has held that, even though it is necessary to file Audit Report in Form 10CCB along with return of income, but even if, the same has not been filed with return of income but was filed before the final order of assessment was made, the assessee was entitled to claim deduction u/s. 80IB of the Act.

We find that similar view has been taken by the Hon'ble Jurisdictional High Court in the case of CIT vs. Contimeters Electrical P Ltd. (supra) and the Co-ordinate Bench of the Tribunal in the case of Sanjay Kukreja vs. ACIT (supra), Kumaon Exports P Ltd., vs. DCIT (supra) and in various other decisions by the Tribunal.

7. The Id. DR has emphasized that the provision of section 80IA(7) have been amended by the Finance Act, 2020 and post amendment the provisions regarding furnishing of Audit Report has changed. Her contention is that post amendment the leverage of filing Audit Report in prescribed form after the specified date u/s.44AB of the Act is not available to the assessee. We are not in agreement with the argument of the Id. DR. The amendment brought in by the Finance Act, 2020 to section 80IA(7) of the Act has changed the timeline for furnishing of the Audit Report in the prescribed form. Prior to the amendment, the assessee was required to furnish Audit Report in the prescribed form alongwith the return of income. Post amendment, the assessee is required to furnish Audit Report in the prescribed form before the specified date referred to in section 44AB of the Act. Filing of Audit Report in the prescribed form is mandatory to claim deduction u/s.80IAC of the Act, however, the timeline for filing

such Audit Report is procedural. The Hon'ble Apex Court has held that even if the Audit Report in the prescribe form is filed before completion of assessment, the provisions of section 80IA(7) of the Act are sufficiently complied.

8. Thus, in light of the facts of the case and the aforesaid decision of the Hon'ble Supreme Court of India, we are of considered view that the assessee's claim of deduction u/s. 80IAC of the Act cannot be denied at the threshold on account of delay in filing of Form 10CCB. Thus, the question is answered in favour of assessee.

9. It is pertinent to note that this is first year of assessee's claim of deduction u/s.80IAC of the Act. The AO has not examined assessee's eligibility and the veracity of quantum of deduction claimed. Therefore, we deem it appropriate to restore this issue back to the file of AO to examine assessee's eligibility as well as quantum of deduction u/s.80IAC of the Act. The AO shall allow assessee's claim of deduction u/s. 80IAC of the Act, if otherwise assessee is found to eligible in terms of provisions of section 80IAC of the Act. The AO shall grant reasonable opportunity of making submissions to the assessee before passing the order, in accordance with law.

10. In the result, appeal of the assessee is allowed for statistical purpose in the terms aforesaid.

Order pronounced in the open court on Friday the 28th day of November, 2025.

Sd/-

(S RIFAUR RAHMAN)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 28/11/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली/DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt.Registrar)ITAT, DELHI