

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI  
BEFORE SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No 3077/Del/2025  
(Assessment Year: 2022-23)

DCIT, Central Circle-14, New Delhi	Vs.	A. P. Securitas Pvt. Ltd, 10-DDA, Commercial Complex, New Delhi
(Appellant)		(Respondent)
		<b>PAN: AAACA1315R</b>

Assessee by :	Shri Gaurav Jain, Adv Shri Tarun Chanana, Adv
Revenue by:	Shri Dayainder Singh Sidhu, CIT DR
Date of Hearing	04/11/2025
Date of pronouncement	21/01/2026

**ORDER**

**PER VIMAL KUMAR, J.M.**

1. The application for condonation of delay of 38 days in filing of appeal and appeal are against the order dated 30.12.2024 by the Id. Commissioner of Income Tax (Appeals)-26, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of assessment order dated 26.07.2023 by the Id AO/ Deputy Director of Income Tax, CPC, Bangalore u/s 143(1) of the Act for AY 2022-23.

2. The Id Departmental Representative submitted that there is delay of 38 days in filing of appeal due to departmental proceedings. The explanation for condonation of delay of 38 days in filing does not smack of malafide as appellant has not gain anything

by not filing of appeal within period of limitation. Therefore, delay of 38 days in filing of appeal is condoned.

3. Brief facts of the case are that the assessee company is engaged in business of providing security services, facility management services, HR outsourcing etc. The assessee filed its return of income on 29.12.2022 declaring income of Rs. 1,06,68,311/-. The return was processed u/s 143(1) of the Act with an adjustment of income to the tune of Rs. 18,13,01,752/-. The only ground being disallowance was on account of claim of deduction u/s 80JJAA of the Act by Id AO vide order dated 26.07.2023. Against the order dated 26.07.2023 of Id AO, the assessee filed appeal before the Id CIT(A) which was partly allowed vide order dated 30.12.2024.

4. Being aggrieved the Department of Revenue preferred present appeal by raised following grounds:-

*"1. Whether Ld. CTT(A) is correct in allowing deduction u/s 80JJA when the ITR was not filed within the time limit prescribed u/s 80AC(ii) r.w.s. 139(1) of the Act?*

*2. Whether ITR filed w/s 139(4) can be considered as ITR filed u/s 139(1) of the Act.*

*3. Whether the use of word "shall" in Section 80AC(ii) merely directory or it should be read as mandatory.*

*4. Whether allowing a deduction of certain income, falling in bending "C-Deductions in respect of certain incomes" in chapter VIA, for an ITR filed beyond the time limit prescribed/s will not tantamount to going beyond the scope of what the Parliament has provided.*

*5.(a) The order of the Ld. CIT (A) is erroneous and not tenable in law and on facts."*

5. The Id Departmental Representative submitted

### **1. Statutory Mandate of Section 80AC(ii)**

- Section 80AC(ii), as substituted by the Finance Act, 2018 w.e.f. A.Y. 2018-19, provides in unequivocal terms that "no deduction under any provision of this Chapter shall be allowed unless the return of income is furnished by the assessee on or before the due date specified under sub-section (1) of Section 139."
- The statutory language is clear, mandatory, and admits of no dilution. The Legislature, in its wisdom, consciously replaced the earlier provision (restricting its scope to limited sections) and made the condition applicable to all deductions under Chapter VIA, including Section 80JJAA.
- Therefore, compliance with the due date prescribed under Section 139(1) is a condition precedent for claiming deduction. Filing the return within the extended time permitted u/s 139(4) cannot cure this statutory default.

### **2. Binding Precedent - Pr. CIT v. Wipro Ltd. (SC)**

- The Hon'ble Supreme Court in Pr. CIT v. Wipro Ltd. [2022] 446 ITR 1 (SC) has unequivocally held that when the statute requires return to be filed within the due date u/s 139(1) as a condition for claiming deduction, such requirement is mandatory.
- Filing return belatedly u/s 139(4) cannot cure this statutory default.
- This binding precedent governs the present case squarely and leaves no scope for liberal interpretation against the clear legislative mandate.

### **3. Reliance is placed on AA520 Veerappampalayam PACCS Ltd. v. DCIT [2022] 138 taxmann.com 571 (Madras)**

- The Hon'ble Madras High Court, while interpreting Section 80AC(ii), has categorically held that no claim under any provision of Part C of Chapter VIA would be admissible in case of a belated return.
- The Hon'ble Court further clarified that the scope of adjustment u/s 143(1)(a) includes denial of deduction where the return itself is belated, since such defect is apparent from record.
- This ruling directly supports the CPC's action and negates the relief granted by CIT(A).

#### **4. Distinction from G.M. Knitting Industries (SC)**

- The assessee's reliance on CIT v. G.M. Knitting Industries Pvt. Ltd. [2016] 71 taxmann.com 35 (SC) is misplaced.
- In that case, the default was purely procedural - non-filing of audit forms (Form 3AA/10CCB) with the return. The return itself was filed within time, and the forms were subsequently filed during assessment proceedings.
- In the present case, the defect is substantive belated filing of return itself, which strikes at the eligibility under Section 80AC(ii).
- Moreover, the law at that time did not contain the wide mandate inserted by Finance Act, 2018. The later ruling in Wipro Ltd. (SC) now governs the issue, making timely filing u/s 139(1) a mandatory condition.

#### **5. Doctrine of Strict Compliance for Incentive Provisions**

- While incentive provisions are to be construed liberally in respect of eligibility and quantum, the conditions prescribed by the statute for availing such benefits are to be strictly complied with.
- The Hon'ble Supreme Court in *Novopan India Ltd. v. CCE 1994 (73) ELT 769 (SC)* and reiterated in *Commissioner of Customs v. Dilip Kumar & Co. (2018) 9 SCC 1 (Constitution Bench)* has held that in matters of exemption and incentive provisions, the conditions prescribed therein are to be strictly construed and the burden lies upon the assessee to establish compliance.
- In the present case, the condition u/s 80AC(ii) is explicit, substantive and mandatory. Failure to file return within Section 139(1) extinguishes the assessee's right to deduction u/s 80JJAA.

## **6. No Equity Against Statute**

- The Ld. CIT(A)'s reliance upon "bona fide hardship" and "reasonable delay" is contrary to settled law. When the statute itself prescribes a mandatory condition, neither equity nor hardship can override express statutory mandate.
- The Hon'ble Supreme Court in *CIT v. Anjum M.H. Ghaswala (2001) 252 ITR 1 (SC) - (Para 17)* held that equitable considerations cannot prevail over statutory provisions in tax law.
- Thus, the plea of marginal delay of 52 days or bona fide circumstances cannot vest the assessee with a right which the statute expressly denies.

## **7. CPC's Action Valid and Justified**

- CPC rightly invoked adjustment u/s 143(1)(a) to disallow deduction u/s 80JJAA, as the return was admittedly not filed within due date u/s 139(1).
- The adjustment was in conformity with law and aligned with the mandate of Section 80AC(ii). The CIT(A) erred in interfering with such lawful adjustment on grounds which are legally untenable.

### **DR's Contentions for Ground No. 2:**

1. Error in Treating Section 139(4) as Extension of Section 139(1)
  - The Ld. CIT(A) erred in holding that Section 139(4) is an "extension" of Section 139(1). The two provisions operate in different spheres.
    - Section 139(1) prescribes the due date for filing return.
    - Section 139(4) provides a separate facility for furnishing a belated return, which is valid for assessment purposes but does not override specific statutory conditions that hinge upon compliance with Section 139(1).
  - This distinction has been recognized by the Hon'ble Supreme Court in Pr. CIT v. Wipro Ltd. [2022] 446 ITR 1 (SC), where it was held that the statute requiring filing of return within due date u/s 139(1) as a condition precedent must be strictly complied with and that filing u/s 139(4) cannot be treated as compliance.

## **2. Binding Judicial Precedents**

- Pr. CIT v. Wipro Ltd. (SC) (supra): The Apex Court has categorically held that if the statute links deduction to filing within due date u/s 139(1), such requirement is mandatory. Non-compliance disentitles the assessee. This ratio squarely applies post-Finance Act, 2018.
- AA520 Veerappampalayam PACCS Ltd. v. DCIT [2022] 138 taxmann.com 571 (Madras HC): The Hon'ble Madras High Court held that in view of Section 80AC(ii), no claim under Part C of Chapter VIA is admissible in case of a belated return. It further upheld CPC's power u/s 143(1)(a) to make such adjustment an error apparent from record.
- These binding rulings override contrary decisions relied upon by the assessee and the CIT(A), which pertain either to pre-amendment law or to procedural defaults (such as belated filing of audit forms), not to the substantive requirement of filing within due date.

## **3. Distinguishing Case Law Relied Upon by CIT(A)**

- CIT v. G.M. Knitting Industries Pvt. Ltd. (SC) concerned late filing of audit reports while return itself was timely. It was a case of procedural lapse, not substantive non-compliance with Section 139(1). Hence inapplicable.
- Bajaj Tempo Ltd. v. CIT (SC) lays down the principle of liberal interpretation of incentive provisions. However, even liberal interpretation cannot dispense with a statutory condition expressly made mandatory by Parliament.

- Various High Court and ITAT decisions such as Chikkaral Services Co-operative Bank Ltd. v. CIT (2016) 95 CCH 0197 pertain to periods prior to the Finance Act, 2018 or to issues of audit report filing. These cannot override the later binding judgments of the Supreme Court and Madras High Court under the amended law.

#### **4. Substantive vs. Procedural Requirement**

- The requirement under Section 80AC(ii) to file return within due date u/s 139(1) is a substantive statutory condition.
- Unlike procedural conditions (such as furnishing audit report), substantive conditions go to the root of eligibility and cannot be relaxed by Courts or by interpretation.
- Treating Section 139(4) as equivalent to Section 139(1) renders the phrase "on or before the due date specified under Section 139(1)" in Section 80AC(ii) otiose, contrary to settled principles of statutory interpretation.

#### **5. No Equity in Taxation**

- The Ld. CIT(A)'s reliance on "bona fide reasons" and "reasonable delay" is contrary to settled law.
- In CIT v. Anjum M.H. Ghaswala (2001) 252 ITR 1 (SC), the Supreme Court held that equity has no place in interpretation of taxing statutes.
- Hence, neither hardship nor bona fide reasons can dilute the mandatory requirement of Section 80AC(ii).

#### **6. CPC's Adjustment was Valid**

- CPC's adjustment u/s 143(1)(a) disallowing deduction was based on a patent defect apparent from return itself, i.e., belated filing beyond due date u/s 139(1).
- This falls squarely within the permissible scope of "prima facie adjustments" under Section 143(1)(a), as recognized in AA520 Veerappampalayam PACCS Ltd. (Madras HC, 2022).

### **DR's Contentions for Ground No. 3:**

#### **1. Plain Language of the Statute**

- Section 80AC(ii), as substituted by the Finance Act, 2018, provides that "no deduction under any provision of this Chapter shall be allowed unless the return of income is furnished by the assessee on or before the due date specified under sub-section (1) of section 139."
- The use of the word "shall" denotes a mandatory legislative command, leaving no discretion either to the Assessing Officer or to appellate authorities.
- Had the Legislature intended flexibility, it would have used permissive expressions like "may" or provided an enabling clause for condonation of delay. The absence of such relaxation confirms that the condition is imperative and not merely directory.

#### **2. Principles of Statutory Interpretation**

- The settled rule of interpretation is that where the Legislature uses the word "shall", particularly in the context of conditions precedent for claiming statutory benefits, the requirement is mandatory unless the context indicates otherwise.

- The Supreme Court in *State of Jharkhand v. Ambay Cements* (2005) 1 SCC 368 held that if compliance with a condition is a prerequisite for availing a right, the requirement is mandatory.
- Section 80AC(ii) is couched in negative terms - "no deduction shall be allowed unless...". The negative wording reinforces the mandatory character.

### **3. Judicial Precedents Confirming Mandatory Nature**

- *Pr. CIT v. Wipro Ltd.* [2022] 446 ITR 1 (SC): The Hon'ble Supreme Court has categorically held that where the statute makes filing of return within the due date u/s 139(1) a condition precedent, such condition is mandatory and cannot be relaxed. This is a binding precedent directly on point.
- *AA520 Veerappampalayam PACCS Ltd. v. DCIT* [2022] 138 taxmann.com 571 (Madras HC): The Madras High Court held that Section 80AC(ii) clearly bars deduction under Part C of Chapter VIA in case of belated returns. The Court specifically observed that the statutory mandate must be given full effect, and CPC's adjustment under Section 143(1)(a) was justified.
- *CIT v. Anjum M.H. Ghaswala* (2001) 252 ITR 1 (SC): The Supreme Court clarified that when statute uses mandatory language, neither CBDT nor courts can override the mandate by invoking equity or hardship.

### **4. Distinction from Procedural Provisions**

- The assessee relies on decisions such as *G.M. Knitting Industries* (SC), where late filing of audit reports was

condoned. These decisions are distinguishable as they relate to procedural lapses (timing of furnishing forms).

- In contrast, Section 80AC(ii) imposes a substantive condition precedent for eligibility. Failure to comply with such condition results in total disentitlement.

## **5. Legislative Intent Behind Finance Act, 2018 Amendment**

- Prior to Finance Act, 2018, Section 80AC applied only to a limited set of deductions. By expanding its scope to cover all deductions under Part C of Chapter VIA, the Legislature intended to strictly enforce timely compliance.
- The Memorandum explaining the provisions of Finance Bill, 2018 emphasized rationalization and uniformity, ensuring that no assessee could claim deductions without adhering to the statutory due date.
- Reading "shall" as merely directory would defeat this legislative intent and render the amendment nugatory.

## **6. Doctrine of Strict Compliance for Incentive Provisions**

- The Constitution Bench in Commissioner of Customs v. Dilip Kumar & Co. (2018) 9 SCC 1; MANU/SC/0789/2018 has held that in the case of exemption and incentive provisions, conditions prescribed by statute must be strictly complied with.
- Hence, compliance with Section 80AC(ii) is mandatory, and no deduction can be allowed if the return is not filed within due date u/s 139(1).

## **DR's Contentions for Ground No. 4:**

### **1. Legislative Supremacy and Express Statutory Mandate**

- Section 80AC(ii), as substituted by the Finance Act, 2018, unequivocally provides that "no deduction under any provision of this Chapter shall be allowed unless the return of income is furnished on or before the due date specified under sub-section (1) of section 139."
- The provision is couched in negative language, signifying a clear prohibition. The Legislature has consciously restricted deductions only to cases of timely filing u/s 139(1).
- Extending the benefit to belated returns u/s 139(4) would amount to re-writing the provision and conferring a relief which Parliament has expressly withheld.

### **2. Explanatory Notes to Finance Act, 2018**

The intent of Parliament is further clarified in the Explanatory Notes to Finance Act, 2018 (Circular No. 8 of 2018, para 22):

- Prior to amendment, Section 80AC imposed the timely-filing condition only for limited sections (80-IA, 80-IAB, 80-IB, etc.).
- To ensure timely filing of return by all assessees claiming profit-linked deductions, the scope of Section 80AC was expanded to cover the entire class of deductions under the heading "C.- Deductions in respect of certain incomes".
- The amendment was made effective from A.Y. 2018-19 onwards.

Thus, the legislative intent is explicit; no deduction under Part C of Chapter VIA is admissible if the return is not filed within the due date u/s 139(1).

6. The Authorised Representative submitted that the claim of deduction u/s 80JJA was made by assessee after the due date of filing of return u/s 139(4) of the Act so the claim of deduction was within time prescribed u/s 139(4) of the Act.

7. From examination of record and in light of aforesaid rival contentions it is crystal clear that while deciding grounds of appeal Nos. 1 to 4 the Id CIT(A) in para 6 observed that there was a delay of 52 days in filing of return of income for the assessment year as compared to the date specified as per Section 139(1) and in para 6.1 the Id CIT(A) observed considering the request of appellant the Ministry of Corporate Affairs vide order dated 26.09.2022 extended the last date of conducting AGP by appellant within 31.12.2022. *"Considering the above requests of the Appellant, the Ministry of Corporate Affairs vide its order dated 26.09.2022 extended the last date of conducting AGM by the Appellant by three months i.e. to 31.12.2022. A copy of the order aforesaid referred order passed by the Ministry of Corporate Affairs was also submitted. From the facts it is ascertained that it has completed the finalization of books of accounts and tax audit on 29.12.2022 and filed the return of income on the same day along with tax audit report including CA's certificate in Form 10DA for claim of deduction under section 80JJAA of the Act."*

8. In para 8 and 8.1 the Id CIT(A) observed as under:-

*"8. Aforesaid discussions are summed up as under:*

*(i) The only ground for invoking section 143(1)(a) by the AO, CPC under was that deduction claimed in the return of income by the Appellant is*

*more than the deduction mentioned in the form 10DA. This is based on incorrect appreciation of fact as the claim of deductions per the return of income is INR 18,13,01,752/- as against claim made in form 10DA filed by the Chartered Accountant at Rs. 20,05,79,051/-. Accordingly, such adjustment is incorrect and liable for deletion.*

*(ii) The claim of deduction under section 80JJAA was made by the appellant after the due date of filing of return under section 139(1) but before the prescribed due date of filing of return under section 139(4) of the Act. The legal position has been settled by the courts / Tribunals from time to time that claim of deduction under chapter VI-A made by the return of income filed before due date stipulated under section 139(4) is allowable. Accordingly, the appellant's claim of deduction under section 80JJAA of the Act by filing return of income within the time limit permitted under section 139(4) is allowable.*

*(iii) Further, on identical facts and for identical Assessment year, the courts/ ITATS as stated above, have held that the claim of deduction under section 80JJAA of the Act is allowable.*

*(iv) The Hon'ble Supreme Court has settled the legal principle that the claim of deduction under Chapter VIA is mandatory but the timing is directory. The Apex Court had, therefore, permitted that the claim of deduction could be made up to the finalization of assessment. The said principle has been followed by various courts including the jurisdictional High Court and Jurisdictional Delhi Tribunal in several cases. In view of this settled principle, the appellant's claim of deduction u/s 80JJAA of the Act is allowable.*

*(v) Furthermore, the courts/ITATs from time to time have also held that the fresh claim of deduction under chapter-VIA such as 80JJAA of the Act may be made even before the higher authority such as CIT(A) or ITAT.*

*(vi) It is also a settled position of law that the bona fide and reasonable delay of filing of return of income is permitted and therefore, is liable to be condoned. In the instant case, as ascertained from the facts, the delay of 52 days from the prescribed due date for filing of return u/s 139(1) was attributable to genuine hardship and accordingly, such delay is liable to be ignored.*

*8.1 In view of the aforesaid discussions and by following the binding legal precedents, the addition made by the AO is incorrect. Accordingly, the appellant's grounds on this issue are allowed."*

9. Hon'ble High Court of Delhi in case titled as "Shree Bhavani Power Projects (P) Ltd. Vs. Income-tax Officer (2024) 165 taxmann.com 733 (Delhi) has held that "*where Assessing Officer reopened assessment on ground that assessee had failed to electronically upload Form 10CCB along with its return of income within time frame prescribed under section 139, since a failure to digitally upload Form 10CCB could not lead one to conclude that assessee had failed to make a full and true disclosure, impugned reassessment proceedings after four years from end of relevant year were to be set aside.*"

10. In view of the above said materials facts and well settled legal position as well as discussion, the grounds of appeal being devoid of merit are rejected.

11. In the result, application for condonation of delay of 52 days in filing of appeal is allowed and appeal filed by the Department of Revenue is dismissed.

Order pronounced in the open court on 21 /01/2026.

Sd/-  
**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

Dated: 21/01/2026  
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR