



IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC", PUNE

BEFORE DR.MANISH BORAD, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2919/PUN/2025
Assessment Year : 2023-24

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| Bashir Jafar Bhaladar, Sonai Services 1 Sonai Services, Baramati Road, Indapur, Pune 413106, Maharashtra PAN : BNEPB5120L | Vs. | Assessing Officer, Ward-14(5), Pune |
| Appellant | | Respondent |

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| Assessee by | : | Shri Rajkumar Doshi |
| Revenue by | : | Shri Shashank Ojha (virtual) |
| Date of hearing | : | 14.01.2026 |
| Date of pronouncement | : | 30.01.2026 |

आदेश / ORDER

The captioned appeal at the instance of assessee pertaining to the Assessment Year 2023-24 is directed against the order dated 24.11.2025 of National Faceless Appeal Centre, Delhi (NFAC) passed u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') arising out of Assessment Order dated 17.03.2025 passed u/s.143(3) r.w.s.144B of the Act.

2. The only grievance of the assessee is that ld.CIT(A) erred in disallowing the clam of deduction u/s.80JJA of the Act.

3. At the outset, ld. Counsel for the assessee submitted that assessee made the claim u/s.80JJA firstly for A.Y. 2021-22 and as per the provisions of section u/s.80JJA of the Act such claim can be made for three assessment years starting from the assessment year in which the employees are employed. He submitted that the claim u/s.80JJA of the Act



for A.Y. 2021-22, 2022-23 has been allowed but the claim made for the year under appeal has been denied solely on account of observation of the Assessing Officer that there is no increase in the number of employees as compared to March, 2022. He submitted that since new employees were employed during F.Y. 2020-21 assessee claimed first instalment of deduction @30% in A.Y. 2021-22 and remaining two instalments of deduction is claimed in subsequent two years. He therefore prayed that assessee's claim of deduction u/s.80JJA of the Act deserves to be allowed.

4. On the other hand, ld. Departmental Representative supported the order of ld.CIT(A).

5. I have heard the rival contentions and perused the record placed before us. I note that the assessee is an individual and running a sole proprietary concern in the name of M/s. Sonai Services. Income of ₹19,92,370 declared in the return of income for A.Y. 2023-24 furnished on 06.10.2023. So far as the issue under consideration is concerned, assessee has claimed deduction u/s.80JJA of the Act at ₹14,58,544 but the same has been denied by the Assessing Officer. Assessee challenged the said disallowance before ld.CIT(A). However, ld.CIT(A) has not specifically dealt on merits of the case and has only observed that because the case of the assessee has been selected for complete scrutiny, ld. Assessing Officer has rightly examined the issue and his observation cannot be faulted with. Before me, ld. Counsel for the assessee has made reference to the provisions of section 80JJA of the Act which reads as under :



“Deduction in respect of employment of new employees.

80JJAA. (1) *Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent of additional employee cost incurred in the course of such business in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.*

(2) *No deduction under sub-section (1) shall be allowed,—*

(a) *if the business is formed by splitting up, or the reconstruction, of an existing business:*

Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(b) *if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;*

(c) *unless the assessee furnishes the report of the accountant, as defined in the Explanation below sub-section (2) of section 288, before the specified date referred to in section 44AB giving such particulars in the report as may be prescribed.*

Explanation.—For the purposes of this section,—

(i) *"additional employee cost" means the total emoluments paid or payable to additional employees employed during the previous year:*

Provided that in the case of an existing business, the additional employee cost shall be nil, if—

(a) *there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;*

(b) *emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed:*

Provided further that in the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost;

(ii) *"additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include—*



ITA No.2919/PUN/2025
Bashir Jafar Bhaladar

- (a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or
- (b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952); or
- (c) an employee employed for a period of less than two hundred and forty days during the previous year; or
- (d) an employee who does not participate in the recognised provident fund:

Provided that in the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, the provisions of sub-clause (c) shall have effect as if for the words "two hundred and forty days", the words "one hundred and fifty days" had been substituted:

Provided further that where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly;

- (iii) "emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include—
 - (a) any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee under any law for the time being in force; and
 - (b) any lump sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

(3) The provisions of this section, as they stood immediately prior to their amendment by the Finance Act, 2016, shall apply to an assessee eligible to claim any deduction for any assessment year commencing on or before the 1st day of April, 2016."

6. Perusal of the above sub-section (1) of section 80JJAA of the Act indicates that in a case if the assessee fulfils the conditions mentioned in sub-section (2) of section 80JJAA of the Act he shall be allowed deduction for an amount equal to 30% of the additional employee cost incurred during the



previous year for three assessment years including the assessment year relevant to the previous year. Assessee before us is claiming that a valid claim u/s.80JJAA of the Act has been made and allowed for A.Y. 2021-22 and even the same has been subsequently allowed in A.Y. 2022-23 also. He also made a reference to the order of Id.CIT(A) for the preceding assessment year 2022-23 wherealso similar issue was raised and Id.CIT(A) has allowed the claim of the assessee observing as follows :

“6. Decision :

6.1 The appellant was issued notice u/s.250 of the IT Act and in response to the notice, the appellant filed written submission. On the basis of the written submission, statements of facts and the documents furnished along with the Form 35, the appeal is decided on merit.

6.2 On perusal of the grounds of appeal, the appellant submits that appellant is an individual taxpayer who filed Return of Income for A.Y. 2022-2023 on 13.09.2022 vide Acknowledgement no 490280981130922 declaring income of Rs. 10,20,530/-and disallowed the deduction u/s 80JJAA of the Income Tax Act 1961 of Rs.18,28,383/- Appellant is a manpower supplier who was required to get his accounts audited u/s 44AB of Income Tax Act, 1961. Since during the AY 2022-23, appellant employed 'New Workmen' within the meaning of Sec 80JJAA and appellant was fully entitled to deduction u/s 80JJAA but the said deduction was denied by CPC without giving any reason. Appellant has also been given the facility of video conferencing for verifying the relevant documents and evidences and on perusal of documents and evidences provided by the appellant, the grounds of appeal given by the appellant are allowed. So, the AO is directed to delete the addition after due verifications of evidences on record and give appeal effect accordingly.

6.3 In view of the above Grounds of appeal given by appellant, the appeal raised by the appellant is hereby allowed for statistical purposes.”

7. Assessee has claimed the third instalment of deduction u/s.80JJAA of the Act and that too has been reduced after considering the employees who have left the job because of



ITA No.2919/PUN/2025
Bashir Jafar Bhaladar

which the claim made in the preceding assessment year at ₹18,28,383 has been reduced to ₹14,58,544.

8. I however find that all these facts remained to be verified by the Assessing Officer and inspite of the fact that report u/s. 10DA was available in support of the said clam, however, ld. Assessing Officer has only referred to the remark that there is no increase in number of employees as compared to March 2022 and hence no new deductions applicable which means that ld. Assessing Officer has only taken note of the increase in employee number for the year under consideration but failed to take note of the provisions of section 80JJAA of the Act. Therefore I find that specific verification of the issue about the claim made u/s.80JJAA of the Act needs to be done by the ld. Jurisdictional Assessing Officer and the issue is remitted back to the limited purpose of examination of alleged claim in terms of provisions of section 80JJAA of the Act as well as finding of ld.CIT(A) for A.Y. 2022-23 and allow the claim of assessee if found to be correct. Grounds of appeal raised by the assessee are allowed for statistical purposes as per the terms indicated above.

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

Order pronounced on this 30th day of January, 2026.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.

Satish



ITA No.2919/PUN/2025
Bashir Jafar Bhaladar

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, “**SMC**” बेंच,
पुणे / DR, ITAT, “**SMC**” Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune