

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 5835/MUM/2025 (AY : 2023-24)

(Physical hearing)

Jayantilal Moolchand Vanigota 1602, Aaditya Tower, B-Wing, V.P. Road, Girgaon, Mumbai – 400007. [PAN No. ABTPV9460D]	Vs	ITO, Ward-42(2)(3), Mumbai 753, Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai – 400051.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri R.C. Modi a/w Ms. Ketki Rajeshirke, CA
Revenue by	Shri B. Laxmikanth, Sr. DR
Date of institution of appeal	23.09.2025
Date of hearing	27.01.2026
Date of pronouncement	27.01.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the assessment order of Id. CIT(A)/ADDL/JCIT(A)-6, Chennai dated 11.07.2025 for Assessment Year (A.Y.) 2023-24. Though the assessee has raised various grounds of appeal, however, in my considered view the substantial grounds of appeal relate to denying the benefit taxation under section 115BAC for delaying filing Form 10IE. The assessee has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in rejecting the Appellant's claim of opting for taxation u/s 115BAC of the Income Tax Act, 1961 on the ground that Form 10IE was not filed within the prescribed due date u/s 139(1).

The Appellant submits that he validly exercised the option by filing Form 10IE before filing the return of income and therefore, the tax be computed as per the new tax regime.

2. *On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the action of CPC of treating Form 101E e-filed on 16.01.2022 as beyond the due date, when the same Form 101E was also accepted by the CPC for Assessment Year 2022-23 vide rectification order dated 27.03.2023, thereby creating an inconsistent approach for subsequent years.*

The Appellant submits that the Appellant's claim of opting for new tax regime vide Form 101E e-filed on 16.01.2022 be allowed.

The Appellant further submits that the demand raised as per taxation under old tax regime be deleted.

3. *On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in treating the requirement of filing Form 101E within the due date u/s 139(1) as mandatory rather than directory, ignoring the beneficial nature of provisions of Section 115BAC by merely relying on the decision of Hon. Supreme court in the case of Principal Commissioner of Income-tax vs. Wipro Ltd. [2022] 140 taxmann.com 223 (SC)/[2022] 288 Taxman 491 (SC)/[2022] 446 ITR 1 (SC) [11-07-2022] having very different facts and not accepting the decision of Harbans Singh vs. AO, CPC, Bangalore in ITA No.25/Asr/2024,Amritsar Bench, ITAT, Krishna Gopal Diwedi HUF v. CPC (ITA Nos. 3482 & 3452/M/2024), ITAT Mumbai and PCIT vs. KGY Glass Industries P Ltd., (2023) 156 taxmann.com18 (Gujarat), Gujarat HC relied by the appellant having the similar and identical facts.*

The appellant submits that the benefits of provisions of section 115BAC be given to the appellant considering the decisions relied upon by the appellant and distinguishing the decision relied upon by the Hon. CIT(A) where in it is held that the filing of Form 101E is only a procedural requirement and therefore, the Appellant's claim of opting for taxation u/s 115BAC be accepted.

4. Without prejudice to the above grounds of appeal raised, the Appellant submits that -

On the facts and in the circumstances of the case, the Appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the action of CPC of denying deductions under Chapter VI-A on the ground that the appellant is not eligible to claim the deduction as per Section 80A(5) because the Return of Income filed beyond the date specified u/s 139(1).

The appellant submits that the Hon'ble Commissioner of Income Tax (Appeals) has erred in denying the deduction claimed during the course of the appeal proceedings as per the provisions of Section 80A(5).

The Appellant further submits that the deduction under Chapter VI-A could not be claimed as he opted for new tax regime in the Return of Income filed.

The Appellant submits that the deduction under Chapter VIA be allowed, if the option of new tax regime is denied.

5. The Appellant craves leave to add, alter, amend, or withdraw any or all of the grounds of appeal

2. Rival submissions of both the parties have been heard and record perused.

The learned Authorised Representative (Id. AR) of the assessee submits that assessee filing return of income for A.Y. 2023-24 on 25.07.2024 opted for benefit of new tax regime under section 115BAC. The assessee exercised such option on the basis of filing Form 10IE on 16.01.2022 vide Acknowledgement No. 935768200160122 which was duly acknowledged. In case for A.Y. 2021-22, the assessee was not allowed benefit of taxation under section 115BAC on the ground that relevant form for that assessment order was filed after filing return of income. On appeal before Id. CIT(A), the action of assessing officer in that year was confirmed. However, on further appeal before Tribunal the assessee was allowed benefit of new regime in ITA No. 5834/M/2025 order dated 02.12.2025. However, in A.Y. 2022-23, Central Processing Centre (CPC) allowed relief to assessee on filing application under section 154. But, in the year under consideration (2023-24), the assessee again denied benefit of new tax regime under section 115BAC and taxed the assessee under old tax regime. The application under section 154 dated 25.07.2023 was rejected vide order dated 20.02.2025. On appeal before Id. CIT(A), the action of AO / CPC was confirmed. The Id. AR of the assessee submits that in A.Y. 2021-22, the assessee was allowed relief by Tribunal in

ITA No. 5834/M/2025 (supra) and in A.Y. 2022-23, the CPC itself allowed relief to the assessee, therefore, the ground of appeal raised by assessee is covered in favour of the assessee.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the Revenue supported the order of lower authorities.
4. I have considered the submission of both the parties and gone through the orders of lower authorities carefully. I find that a very short dispute is involved in the present appeal. There is no dispute that assessee is allowed similar relief in A.Y. 2021-22 by Tribunal in ITA No. 5834/M/2025 dated 02.12.2025, similar relief for taxing the assessee in new regime is accepted by CPC / AO. I further find that similar relief was already been allowed in A.Y. 2021-22. Thus, the assessing officer is directed to tax the assessee under section 115BAC subject to verification of compliance with other condition under the said section. Thus, the assessee is also eligible for similar treatment. In the result, grounds of appeal raised by assessee are allowed.
5. In the result, the appeal of assessee is allowed.

Order pronounced in the open Court on 27/01/2026.

Sd/-

PAWAN SINGH
JUDICIAL MEMBER

MUMBAI, Dated: 27/01/2026
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai