

**THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "SMC" BENCH**

**Before Dr. BRR Kumar, Vice President  
And Ms. Suchitra Kamble, Judicial Member**

**ITA No. 2153/Ahd/2025  
Assessment Year 2023-24**

Alpa Harshadbhai Gandhi, 13 Laxmi Nivas, Opp. Gitabag Society, Paldi, Ahmedabad-380007 PAN: AAWPG4173E (Appellant)	Vs	The ITO, Ward-5(3)(1) Ahmedabad (Respondent)
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**Assessee by: Shri D K Parikh, A.R.**

**Revenue by: Shri Veerbadram Vislavath, Sr. D.R.**

Date of hearing : 12-01-2026

Date of pronouncement : 26-02-2026

**आदेश/ORDER**

**Per Suchitra Kamble, Judicial Member:**

This is an appeal filed against the order dated 30-09-2025 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2023-24.

2. The grounds of appeal are as under:-

*"1. The learned ADDL./JCIAT(APPEALS) has grievously erred both in law and on facts in upholding I COMPUTATION OF TAX made by Id AO/CPC-Bangluru by not accepting the grounds of the appellant that the option u/s 115BAC(5) by filing Form No: 10E was exercised within the time prescribed for filing Income tax return u/s 139(1) which was filed on 11.09.2023 and revised on 21.10.2023 as the appellant is a partner in a firm requiring tax audit. The tax was rightly computed by the appellant as per law. It be so held now.*

*2. The Id Addl./JCIT further grievously erred both in law and on facts in not appreciating that as noted by himself at para 4.3 of his order and submissions reproduced at page 3 to 5 of his order, its was evident that as per the copies of Return of Income. Form 10E etc the Form 10E was filed within time prescribed u/s 139(1) and hence his observation that due date of filing Return was*

*31.07.2023 is patently wrong and against facts and law. It be so held now and Tax as calculated by appellant as per New Tax Regime be directed to be accepted.*

*3. The ld Addl./JCIT (Appeals) erred both in law and on facts in distinguishing the various decisions cited before him which are squarely applicable and there by erred in not accepting the submissions made to him. It be so held now.*

*4. Addl./JCIT(Appeals) The ld NFAC/CIT(A) ought to have allowed the appeal of the appellant in toto and deleted the erroneous demand of Rs. 80,000/- .It be so directed now.*

*5. The appellant craves leave to add, alter, modify or delete any of the grounds at the time of hearing.”*

3. The assessee is an individual and filed return of income for assessment year 2023-24 on 11-09-2023 with option u/s. 115BAC of the Act. Form 10IC was filed to exercise option to file u/s. 115BAC which is for availing benefits under new tax regime. Form 10IE was filed on 11-09-2023, the due date for filing of return of income u/s. 139(1) of the Act was 31-07-2023. As per the intimation, the said return was filed on 11-09-2023. It was further revised and filed u/s. 139(5) on 21-10-2023, declaring a total income of Rs. 19,54,960/-. The return was processed by the Assessing Officer CPC u/s. 143(1) of the Act vide intimation order dated 31-01-2024 computing the total income at Rs. 19,54,960/-. The computation of tax was not done as per the provisions of section 115BAC of the Act (New Tax Regime) and was done as per the old tax regime.

4. The assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the assessee has taken option u/s. 115BAC(5) by filing Form 10IE as per time prescribed for filing income tax return u/s. 139(1) on 11-09-2023 and revised on 21-10-2023. As the assessee is a partner in a firm requiring tax audit, the tax was rightly computed by the assessee as per

the law and has submitted the same as per new tax regime. The ld. A.R. submitted that the observation made by the CIT(A) that the due date for filing return was 31-07-2023 is not correct as the assessee calculated her tax as per the new tax regime and has filed the return within the due period.

6. The ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the assessee is a partner of partnership firm requiring tax audit as the assessee is receiving remuneration from the said partnership firm. The due date of filing return was 31<sup>st</sup> October, 2023 and not 31<sup>st</sup> July, 2023 as observed by the CIT(A). Thus, the assessee filed her income on 11-09-2023 which is well within the due date of filing of return i.e. 31-10-2023 and the revised return was also filed on 21-10-2023 prior to the said due date i.e. 31-10-2023. Form 10IE was also filed on 11-09-2023. Thus, the observation made by the CIT(A) was not right and the tax has to be calculated as per the new tax regime as the assessee has rightly filed the return as per the requirement under the income tax provision being the partner of the partnership firm which requires to file return as per audited account of the firm.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26-02-2026

**Sd/-**  
**(Dr. BRR Kumar)**  
**Vice President**  
**Ahmedabad : Dated 26/02/2026**

**Sd/-**  
**(Suchitra Kamble)**  
**Judicial Member**

a.k.

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद