

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No.4828/Mum/2025
(Assessment year: 2024-25)

Electronfab Engineering Pvt Ltd. Unit No.33, SDF-II, SEEPZ-SEZ, Andheri-East, Mumbai-400096 PAN:AAACE0300J	vs	CPC/ITO
APPELLANT		RESPONDENT

Assessee by: Shri Nishit Gandhi, Advocate (virtually appear) & Mrs. Usha Dalal
Respondent by: Shri Himanshu Joshi (Sr. DR)

Date of hearing : 13/02/2026

Date of pronouncement : 16/03/2026

ORDER

Per: Anikesh Banerjee (JM):

The instant appeal of the assessee preferred against the order of the Ld. Commissioner of Income Tax Appeal ADDL/JCIT-(A), Bhubaneswar [for brevity 'the Ld. CIT(A)'], order passed under section 250 of the Income Tax Act 1961 (for brevity 'the Act') for assessment year 2024-25, date of order 30.05.2025. The impugned order emanated from the order of the CPC Bengaluru (for brevity the 'Ld. AO') order passed under section 143(1) of the Act date of order 22.01.2025.

2. The brief facts of the case are that the assessee is a company incorporated under Companies Act 1956, owns 11 flats and earn rental income by letting the flats to “Advance Power Display System Limited”. The assessee filed the return by declaring loss Rs.11,46,283/-. The Ld. AO computed the taxable income of the assessee amount of Rs.2,02,89,906/- being book profit u/sec. 115JB of the Act. The CPC issued the notice u/sec 139(9) of the Act for defective return related to difference in amount reflected in Form No.26AS and turnover declared by the assessee. The assessee response the notice and rectified the defect by submitting the revise return u/sec. 139(5) of the Act, but before filing the return the assessee filed Form No.10IC under Rule 21AE of the Income Tax Rules, 1962 (hereinafter referred the ‘Rules’). Accordingly the assessee had fulfilled the necessary condition for claiming the simplified tax scheme u/sec. 115BAA of the Act. The return for process u/sec. 143(1) of the Act by the CPC. The CPC rejected the assessee’s claim for allowing the benefit in simplified tax scheme u/sec. 115BAA of the Act and the demand was raised 32,99,240/-. The aggrieved assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) rejected the assessee’s appeal. Being aggrieved assessee filed an appeal before us.

3. The Learned Authorised Representative (Ld. AR) submitted that a **paper book** comprising **pages 1 to 218** has been filed and placed on record. The Ld. AR contended that although the assessee had not initially claimed the benefit of the simplified tax regime under section 115BAA of the Act in the original return of income, the said return was not accepted by the revenue during the processing stage. Consequently, a notice for a defective return was issued under section 139(9) of the Act. In response, the assessee filed a revised return under section

139(5) of the Act. Prior to filing the revised return, the assessee had already submitted Form No. 10IC before the CPC. The Ld. AR further submitted that during the processing of the revised return, the said Form No. 10IC was duly available on the record of the CPC.

4. After the first round of hearing, the Bench fixed the matter for clarification on the issue as to whether the claim of benefit under section 115BAA made through the revised return was legally admissible. During the subsequent hearing, the Ld. AR placed on record a list of dates and events, which is reproduced below:

“FACTS

Date	Particulars	Remarks Observations	Ref. Pg. No.
15.11.2024	Return of Income filed on this date	No claims made in accordance u/sec. 115BAA of the Act	Ref. Pg.2 of PB (Enclosed herewith)
22.11.2024	Defect Notice was issued on the Assessee	The said notice was not as regards to 115BAA of the Act	Ref. 107-108 of PB (Enclosed herewith)
02.12.2024	Form 10 IC filed on this date	Claim of 115BAA of the Act was made along with the Form 10 IC	Ref. Pg. 2 of initial PB (Enclosed herewith)
06.12.2024	Return of Income us139(9) of the Act filed in response to the Defect Notice	All the Fields are properly filled.	Ref. Pg.109 of PB (Enclosed herewith)
22.01.2025	The intimation u/sec. 143(1) was issued raising demand of Rs.2,02,89,906/-	This is issued/passed without giving any prior notice/intimation to the Assessee.	Ref. Impugned Intimation Challenged in Appeal

PROPOSITIONS:

1. *The impugned intimation issued by the Learned Centralised Processing Centre ["the CPC" for short] is invalid for the most primary reason that it is passed without issuing any prior intimation or adjustment memoto the Assessee giving a notice to him as regards the adverse adjustment to be made in the intimation u/s 143(1) of the Income Tax Act, 1961 ["the Act" for short] vis-à-vis the Return. The validity of the said intimation is challenged vide ground 1.5 & 1.6. Therefore the said intimation u/s 143(1) must be set aside.*

2. *The Appellant filed its return under section 139(9) of the Act in response to the defect notice u/s 139(9) issued by the CPC. It is not a revised return under section 139(5) of the Act. This return was filed to remove the defect as notified vide defect memo dated 22.11.2024 (Ref. Pg. 107 & 108 of Paper Book).*

3. *Prior to the filing of return, the Assessee had already filed Form 10 IC in accordance with Rule 21AE of the Income Tax Rules and therefore fulfilled all the conditions necessary for claiming the simplified Tax Scheme u/s 115BAA of the Act.*

4. *In the fact that the Assessee has made a claim u/s 115BAA of the Act in his return of income is also admitted in the intimation u/s 143(1) of the Act.*

5. *In any case, the denial of concessional / simplified tax scheme u/s 115BAA of the Act is an issue requiring deliberation and therefore incapable of being adjudicated in an intimation u/s 143(1) of the Act.*

6. *The Appellant further submits that neither the CPC nor the Learned Commissioner of Income Tax (Appeals) ["the Ld. CIT(A)" for short] have disputed the fact that the Assessee has claimed the benefit of section 115BAA of Act in return of income. This is also evident on the face of the Order u/s 143(1) of the Act which is impugned in the present appeal.*

7. *The Appellant further submits, that the delay in filing form 10IC was not deliberate but was only because of the eye surgery of the person handling the affairs and for which a detailed affidavit has already been furnished."*

5. The Ld. AR stated that the filing of the revised return u/sec. 139(5) and opting for concessional tax regime u/sec. 115BAA is itself treated as the return filed u/sec. 139(1) of the Act. The revised return replaced the original return filed

u/sec. 139(1). So the Form No 10IC was filed within due date and before filing of return. The Ld. AR respectfully relied on the order of Coordinate Bench of ITAT Hyderabad in the case of **ACIT vs Lahari Holiday Homes P. Ltd.** reported in **(2025) 179 taxmann.com 217 (Hyderabad-Trib)** the relevant para 7 of the said order is reproduced as below:

"7. Per contra, as regards to the first issue regarding concessional tax regime under section 115BAA of the Act, the Learned Authorised Representative ("Ld. AR") submitted that the assessee had exercised the option under section 115BAA of the Act for the first time in its revised return filed within the statutory due date. In this regard, the assessee relied on CBDT's own clarification in FAQ on ITR-6 (uploaded on the Income-tax Department's official portal), wherein it is categorically stated that a company may file a revised return opting for section 115BAA of the Act, even if the original return was filed otherwise. He further contended that under settled law, a revised return under section 139(5) of the Act substitutes the original return and is deemed as filed under section 139(1) of the Act. Thus, the Ld. AO's interpretation of "withdrawal" is misconceived, since there was no earlier exercise of section 115BAA of the Act that could be withdrawn."

6. The Ld. AR further argued that the Form No. 10 IC is not an obligatory tax audit report and intention to opt for lower tax rate u/sec. 115BAA was unambiguously declared in tax audit report which was filed before the due date of filing the revised return. And the said report was duly available during the processing of the return. The Ld. AR respectfully relied on the order of Coordinate bench of ITAT Ahmedabad in the case of **Aprameya Engineering Ltd. vs ITO** reported in **(2024) 164 taxmann.com 740 (Ahmedabad-Trib)**. The relevant paragraphs of the said order are reproduced as below:

“8.1 The Hon'ble Gujarat High Court in the case of Zenith Processing Mills v. CIT [1996] 219 ITR 721 held that provision of section 80J(6A) of the Act to extent it requires furnishing of auditor's report in prescribed form along with return, is directory in nature and not mandatory. Further, it was held that the assessee can be permitted to produce such a report at later stage when question of disallowance arises during course of assessment proceedings. In the instant case, the Ld.A.O. as well as the Ld.CIT(A) has denied benefit of concessional tax rate u/s 115BAA of the Act on account of an inadvertent error on the part of the assessee in not e-filing Form 10 IC before due date prescribed. We are, therefore, of the view that there is sufficient compliance if the Form 10 IC has been filed during the course of proceeding, since there is noed in Form 3CD. judicial objective to be achieved by the assessee in not e-filing the same, once the intent was very well declared in form 3CD.

8.2 Considering the principle of beneficial interpretation, the procedural requirements should not override substantive benefits. The Courts have taken a lenient view on procedural lapses when substantive benefits are volved. SC ruling in the case of CIT v. G.M. Knitting Industries (P.) Ltd. [2016] 71 taxmann.com 35/(2015) ITR 456 (SC) emphasized that the making of a claim of deduction is mandatory, but timing is directory. Even if the claim is made during the assessment proceedings, such a claim is to be allowed.

8.3 After considering the submissions, the judicial precedents cited and the specific facts of the case, we are of the opinion the delay in filing Form 10-IC, though a procedural requirement, should not invalidate the assessee's substantive right to the benefit of section 115BAA of the Act.

8.4 The CBDT's Circulars extending the due dates for filing such forms in earlier years indicate a recognition of such procedural difficulties. These Circulars indicate a degree of administrative flexibility and a recognition that procedural lapses should not necessarily lead to the denial of substantive benefits. Moreover, denying the benefit based solely on this lapse would be against the principles of equity and justice, especially when there is no dispute regarding the assessee's eligibility for the lower tax rate.

8.5 In light of the above, the Ground Number 1 is allowed. Ground Number 2 is an alternative ground and, Therefore, not adjudicated. Ground Numbers 3 and 4 are general in nature, which are also not adjudicated.

9. In the result, the order of the CIT(A) is set aside, and the appeal of the assessee is partly allowed.”

7. The Ld. Departmental Representative (Ld.DR) argued and stated that the assessee had not opted the concessional tax rate u/sec. 115BAA during the filing

of return u/sec. 139(1). So, the assessee is denied for getting the opportunity to avail the lower tax rate u/sec. 115BAA of the Act.

8. The Ld. DR respectfully relied on the order of Hon'ble Delhi High Court in the case of **Sarla Holdings Pvt. Ltd. vs PCIT** reported in **(2025) 179 taxmann.com 83 (Del.)**. If the assessee unable to opt the tax concession in the original return the assessee is not eligible to get the benefit of that said section. Accordingly, the Ld. DR relied on the orders of revenue authorities. The relevant paragraphs of the order of Hon'ble Delhi High Court are reproduced as below:-

"11. In the present case, the petitioner had not exercised its option before the due date for filing the return of income in respect of AY 2020-21. Admittedly, the time for filing the return under Section 139(1) of the Act was extended till 15.02.2021 on account of outbreak of Covid-19. The petitioner had filed its return on 13.02.2021, which was within the time as prescribed, however, the petitioner had expressly indicated that it was not opting for taxation under Section 115BAA of the Act. The relevant extract of the return filed by the petitioner, setting out the 'filing status' is reproduced below:-

<i>"Filing Status</i>	
<i>Filed u/s or Filed in Response to notice u/s</i>	<i>139(1)-On or before due date</i>
<i>If revised/in response to notice for Defective/ Modified, then enter Receipt No.</i>	<i>Date of filing original return (DD/MM/YYYY)</i>
<i>If filed, in response to a notice u/s 139(9)/142(1)/148/153A/153C or order under section 119(2)(b), enter unique number /Document Identification Number (DIN) and date of such notice/Order, or if filed u/s 92CD enter date of advance pricing agreement</i>	
<i>Unique number/ Document Identification number (DIN)</i>	
<i>Date of such Notice or Order or if filed u/s 92CD enter date of advance pricing agreement</i>	
<i>Residential Status</i>	<i>RES- Resident</i>
<i>Whether the assessee has opted for taxation under section 115BA/ 115BAA/ 115BAB? (applicable on Domestic Company)</i>	<i>None of above.</i>

Whether total turnover/ gross receipts in the previous year 2017-18 exceeds 400 crore rupees? (Yes/No) (applicable for Domestic Company)	No."
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12. It is clear from the above that against the entry whether the petitioner has opted for taxation under Section 115BA/115BAA/115BAB, the petitioner had responded "none of above". The contention that there was no specific box (space) in the return to reflect the option, as contended on behalf of the petitioner, is clearly erroneous.

13. The contention that the petitioner had in fact opted for the lower taxation under Section 115BAA of the Act, but inadvertently not indicated its option, is also unpersuasive. It is not in dispute that the petitioner's computation of depreciation was not strictly in accordance with the terms of Sub-section (2) of Section 115BAA of the Act. However, in our view, the same would be of a little relevance considering the petitioner had expressly indicated that it was not opting for taxation under Section 115BAA of the Act.

14. The reliance placed by the petitioner on the CBDT Circular No.6/2022 is also misplaced. The CBDT had extended the time for filing the Form 10-IC, but the CBDT had not relaxed the condition of assessee exercising its option in the affirmative before the prescribed time for filing the return under Section 139(1) of the Act. The Circular No.6/2022 issued by the CBDT is set out below:-

" Circular No.6/2022

F.No.173/32/2022-IT A-1

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

New Delhi, the 17th March, 2022

Sub : Condonation of delay under section 119(2)(b) of the Income Tax Act, 1961 in filing of Form 10-IC for assessment year 2020-21 - Reg

Section 115BAA of the Income Tax Act, 1961 (the Act) was inserted by the Taxation Laws (Amendment) Act, 2019 w.e.f. 01.04.2020. As per the Section, the income tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such

person be computed at the rate of twenty-two per cent subject to satisfaction of conditions contained in subsection (2) of the section.

1.2 As per sub-section (5) of section 115BAA of the act read with Rule 21AF of the Income Tax Rules, 1962 (the Rules), the assessee company is required to submit Form 10-IC electronically on or before the due date of filing of return of income u/s 139(1) of the Act and such option once exercised shall apply to subsequent assessment years.

1.3 Failure to furnish such option in the prescribed form on or before the due date specified u/s 139(1) of the Act results in denial of concessional rate of tax of twenty rate of tax of twenty-two per cent to such person.

2. Representations have been received by the Board stating that Form 10-IC could not be filed along with the return of income for AY 2020-21, which was the first year of filing of this form. It has been requested that the delay in filing of Form 10-IC may be condoned.

3. On consideration of the matter, with a view to avoid genuine hardship to the domestic companies in exercising the option u/s 115BAA of the Act, the Central Board of Direct Taxes, in exercise of the powers conferred under section 119(2)(b) of the Act, hereby directs that:-

The delay in filing of Form 10-IC as per Rule 21AE of the Rules for the previous year relevant to AY 2020-21 is condoned in cases where the following conditions are satisfied:

- (i) The return of income for AY 2020-21 has been filed on or before the due date specified under section 139(1) of the Act.
- (ii) The assessee company has opted for taxation u/s 115BAA of the Act in (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6 and
- (iii) Form 10-IC is filed electronically on or before 30.06.2022 or 3 months from the end of the month in which this Circular is issued, whichever is later.

Sd/-

Sourabh Jain)

Under Secretary (ITA-1)"

15. Paragraph no.2 of the above Circular indicates that the same was issued pursuant to the representations received by the CBDT to the effect that the delay in filing the Form 10-IC, which was required to accompany with the returns, be condoned. The CBDT had considered the hardship faced by the domestic companies and decided to condone the delay in cases where certain conditions as specified in paragraph 3 of the circular were satisfied. Clause (ii) of paragraph no.3 of the Circular makes it explicitly clear that the delay in filing the Form 10-IC

could be condoned only in cases where the assessee company had opted for lower taxation under Section 115BAA of the Act ["Part A-GEN" of the Form of Return of Income].

16. In the present case, the petitioner does not satisfy this condition as it had not opted for availing the lower taxation under Section 115BAA of the Act in its return.

17. In view of the above, we find the petitioner's challenge to the impugned assessment order or the impugned order, is unmerited. The petition is, accordingly, dismissed. The pending application is also disposed of."

9. In response to the submissions made by the Ld. DR, the Ld. AR sought time to file written submissions. Accordingly, the matter was fixed for further hearing, and the Ld. AR subsequently placed on record a written note analysing the applicability of the judicial ruling relied upon by the revenue in the assessee's case. The relevant extract of the submissions made by the Ld. AR is reproduced below:

"10. The Appellant further submits that the judgment of the Honourable Delhi High Court in the case of Sarla holdings Pvt. Ltd. v/s PCIT [2025] 179 taxman.com 83 is distinguishable on facts, in as much as, in that case Assesse had made a conscious choice of not opting for the concessional scheme of taxation u/s 115BAA of the Act [Ref. para 11 of the said judgement]. Further in that case, no specific reason was provided by the Assessee before the Honourable Delhi High Court justifying the non-filing of form 10 IC and non-opting of the provisions of section 115BAA of the Act.

11. The judgement in the case of Sarla Holdings (supra), was a case where an assessment was framed under section 143(3) of the Act and the Assessee was given the opportunity to explain. In the present case the appeal is against an intimation u/s 143(1) of the Act and therefore the facts are different. Even on this count the said judgement in the case of Sarla holdings is inapplicable.

12. It is further submitted that, in any case the Assessee has merely rectified its defective return and which has been accepted by both the Ld. CPC as well as the Ld. CIT(A). It is not a revised

return, so to speak and therefore the judgement in the case of Sarla holdings Pvt. Ltd. v/s PCIT [2025] 179 taxman.com 83 is distinguishable even on this aspect.

13. The Appellant further submits that in any case the manner of claiming /opting for simplified scheme of taxation u/s 115BAA of the Act is byway of filing form 10IC as per the Income Tax Rules ["the Rules" for short] which has been done by the Appellant in this case, though belatedly by a little more than 2 weeks. Therefore, the Appellant has complied with the necessary conditions as per the Act for claiming the benefit of section 115BAA of the Act.

14. Further the Order in the case of Sarla Holdings (supra), is on different facts. Firstly, in that case, the delay in filing Form 10IC was more than a year and no reason, whatsoever, for the delay was given by the Petitioner therein. It must be noted that, the Judgement in the case of Sarla Holdings (supra) doesn't hold that there is no scope for condonation of delay in Filing Form 10IC. In fact, it supports the case of the Assessee in as much as, it holds that, in a given case the delay in filing Form 10IC could be condoned.

15. The Appellant lastly submits, that the Honourable Delhi High Court was not apprised of the relevant provisions including rule 21AE of the Income Tax Rules and as a result the Order passed did not reflect the impact of the said rule in claiming / opting for simplified scheme of taxation under section 115BAA of the Act.

16. Further, no argument was raised to submit that the revised return in fact replaces the original return and once the revised return is accepted to be valid in law, all consequences of the same have to follow."

10. After considering the rival submissions and the material available on record, we observe that the assessee had originally filed its return of income under section 139(1) of the Act on 15.11.2024 without opting for the concessional tax regime under section 115BAA of the Act. Subsequently, a defect notice under section 139(9) of the Act was issued by the CPC. In response thereto, the assessee rectified the defect and, prior to filing the corrected return, submitted Form No. 10-IC on 02.12.2024 in accordance with Rule 21AE of the Rules, thereby expressing its intention to opt for the concessional tax regime under section

115BAA of the Act. It is also an undisputed fact that the said Form No. 10IC was already available on the record at the time when the return was processed under section 143(1) of the Act on 22.01.2025. The assessee has explained that the delay in filing Form No. 10IC along with the original return occurred due to a medical emergency faced by the accountant responsible for handling the income-tax matters, and a notarized affidavit to this effect was also placed on record. The delay involved was minimal, and the intention of the assessee to opt for the concessional regime was clearly demonstrated through the filing of Form No. 10IC as well as through the subsequent rectified return. Judicial precedents relied upon by the assessee, including the decisions of the Coordinate Benches in **Lahari Holiday Homes Pvt. Ltd.** (supra) and **Aprameya Engineering Ltd.** (supra) support the proposition that procedural lapses should not defeat a substantive claim where the intention to avail the benefit is clearly evident and the statutory conditions are otherwise fulfilled.

We also find merit in the contention of the assessee that the decision relied upon by the Ld. DR in **Sarla Holdings Pvt. Ltd.** (supra) is distinguishable on facts. In the said case, the assessee had consciously indicated in the return that it was not opting for taxation under section 115BAA of the Act. In the present case, however, the assessee did not make any such conscious declaration and had subsequently filed Form No. 10IC and rectified the defect in the return. Further, the impugned action in the present case arises from an intimation under section 143(1), whereas the decision relied upon by the Ld. DR pertained to a regular assessment under section 143(3) of the Act.

Considering the overall facts and circumstances of the case, and respectfully following the decisions of the Coordinate Benches referred to above, we are of

the view that the filing of Form No. 10IC and the subsequent return rectifying the defect sufficiently demonstrate the assessee's intention to opt for the concessional tax regime under section 115BAA of the Act. The procedural lapse in not exercising the option in the original return cannot defeat the substantive claim of the assessee when the statutory conditions have otherwise been complied with.

Accordingly, we set aside the impugned order of the Ld. CIT(A) and direct the Assessing Officer to verify the filing of Form No. 10-IC and, if found to be in order, allow the assessee the benefit of the concessional tax regime under section 115BAA of the Act in accordance with law.

So, the appeal of the assessee is allowed for statistical purposes.

11. In the result, the appeal of the assessee bearing **ITA No.4828/Mum/2025** is allowed for statistical purposes.

Order pronounced in the open court on 16th day of March 2026.

Sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Mumbai, दिनांक/Dated: 16/03/2026
SAUMYASr.PS

Sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकरआयुक्त CIT
4. विभागीयप्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
5. गार्डफाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), **ITAT, MUMBAI**