

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.8126/Del/2025
Assessment Year: 2022-23

Welkin Industries Private Limited C/O Sumer Garg & Company 501A ITL Northex Tower A-9 Netaji Subhash Place Delhi-110034 PAN NO. AACCW2217L	Vs.	ITO Ward 27(1)
(APPELLANT)		(RESPONDENT)

Appellant by	Shri S. C. Garg, CA
Respondent by	Shri Harpreet Kaur Hansra, Sr, DR

Date of hearing:	07/04/2026
Date of Pronouncement:	26/05/2026

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal is preferred by the assessee against the order dated 29.10.2025 of the Commissioner of Income -Tax (Appeals) -2 Lucknow [hereinafter referred to as "Ld. CIT(A)"] against the intimation order dated 11-01-2023 for the assessment year

2022-23 u/s 143(1) of the Income Tax Act 1961[hereinafter referred to as “the Act”]

2. Brief facts of the case are that the assessee filed return of income on 20-12-2022 u/s 139(4) of the Act. For the year under appeal, the assessee opted for the concessional tax rate of 22 % u/s 115BAA of the Act by e-filing the requisite Form 10-IC under Rule 21 AE (1) of the Income -tax Rules, 1962 on 29-11-2022 with a delay of 22 days. The return of income was processed vide intimation under section 143(1) of the Act dated 11-01-2023 wherein a normal tax rate was applied and the benefit u/s 115BAA of the Act was denied by the CPC. The reason for applying the normal tax rate was that the assessee has not followed the conditions to opt for concessional rate of taxation. It was observed that the assessee the Form 10-IC was filed after the due date and no condonation was sought by the assessee. Since the assessee filed Form 10-IC on 29-11-2022 and ITR on 20-12-2022 which was after the due date of filing of its ITR as specified under sub section (1) of section 139 of the Act. Accordingly, the CPC had applied normal rate of Tax.

3. Aggrieved the order of the CPC the assessee filed the appeal before the Ld. CIT(A), who vide his order dated 29-10-2025 dismissed the appeal treated time barred as well as the Form 10-IC was not filed within time.

4. Aggrieved by the order of the Ld. CIT(A) the assessee filed the present appeal before the tribunal by taking following grounds of appeal:

1. The AO, CPC erred in law and on facts in denying the benefit of concessional tax u/s 115BAA vide intimation u/s 143(1) and the first appellate authority erred in law and on facts in confirming the action of the AO in the facts and circumstances of the case.

2. The Ld. Additional /JCIT erred in law and on facts in not condoning the delay in filing the appeal in the facts and circumstances of the case.

3. The appellant craves leave to amend or alter all or any of the aforesaid grounds of appeal and amend alter or add any other ground of appeal.

5. The Ld. AR of the assessee submitted that Form No. 10-IC was filed prior to the processing the return of income and it is a procedural mistake. It is also stated that section 115BAA specifically gave an option to the assessee company to opt for the new tax regime. From the tax calculated in ITR the intention of the assessee was very much clear to opt new tax regime. The IT portal did not provide option for condonation of delay in filing

this form. The Ld. AR relied on certain decisions of the coordinate benches and Hon'ble High Court in support of the contention that filing of Form is not mandatory, which are under:

- (i) Kworks Technologies Pvt. Ltd. vs. DCIT ITA No. 5773/Del/2024
- (ii) Bansal Coelam Pvt. Ltd. Vs. ITO ITA No. 1856/Del/ 2023
- (iii) Aprameya Engineering Ltd. vs. ITO ITA No. 456/ Ahd/2024
- (iv) CIT V. G.M. Knitting Industries (P.) Ltd. (2015) 376ITR 456 (SC)
- (v) Anita Seth ITA No. 109/Kol/ 2022
- (vi) Satischandra Hiralal Berawala vs. DCIT ITA No. 940/ Ahd/2024
- (vii) Microland Ltd. ITA no. 1154/Bang/ 2024

6. The Ld. Sr. DR supported the orders of the lower authorities and submits that the assessee has not full filled the conditions for availing the concessional tax rates and therefore the benefits was rightly denied by the lower authorities. She also submitted that the appeal was rightly dismissed because assessee has failed to upload the required Form within time.

7. We have heard both the parties and perused the material available on record. The sole issue involved in the instant case is denial of benefit u/s 115BAA of concessional rate of tax on the ground that Form 10-IC was not filed within the prescribed time. It appears that the assessee had acted in bonafide manner in claiming the option of concessional tax u/s 115BAA of the Act, in as much as while filing the return, it made clear that option to pay tax under section 115BAA was exercised. The assessee also paid the tax accordingly. The intention to opt the new regime was very much clear that the assessee calculated the tax u/s 115BAA of the Act. Form 10-IC was available with the CPC at the time of processing the return of income. The reason given for the delay was bonafide where the Form 10-IC was filed with a delay of 22 days is a procedural lapse.

8. We find that in the case of Kworks Technologies Pvt. Ltd. vs ITA 5773/Del/2024 relying the various judgment the CO-ordinate bench of Delhi Tribunal allowing the appeal of the assessee held as under:

9. *The Hon'ble Supreme Court, in the case of **Dilip Kumar (2018) 9 SCC 1 (FB, SC)**, while deciding the Doctrine of Substantial Compliance held as under:*

"33. A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an

enactment is insisted, where mandatory and directory requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the noncompliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted."

10. *The Hon'ble Allahabad High Court in the case of **Cell Com Teleservices (P.) Ltd. vs. Union of India [2025] 176 taxmann.com 712 M (Allahabad) [17-07-2025]** (refer Page No. 36- 55 of Case Law Compilation (CLC)) wherein the Hon'ble Allahabad High Court held as under –*

19. *"The arbitrary rejection of the condonation of delay in filing Form 10-IC are strongly supported by various judgments that widely interpret "genuine hardship" under Section 119(2)(b) of the Act. The Hon'ble Supreme Court in B.M. Malani (supra) emphasized that "genuine hardship" signifies "genuine difficulty" and requires a purposeful interpretation of the provision, mandating a judicious exercise of discretion by statutory*

authorities. The Hon'ble Gujarat High Court in Gujarat Electric Co. Ltd. (supra) held that "genuine hardship" must be construed liberally. The Hon'ble Bombay High Court in K.S. Bilawala Ors. (supra) and Sitaldas K Motwani (supra) further consolidated this liberal interpretation, asserting that the power to condone delay is for substantial justice and refusing it can defeat the interest of justice. The Hon'ble Gujarat High Court in Deepak Pragjibhai Gondaliya (supra), held that the filing of forms for claiming benefits is procedural and no assessee benefits from late filing. The Hon'ble Bombay High Court in Pankaj Kailash Agarwal (supra) recited by the Madras High Court in MRF Ltd. (supra), firmly stated that the "an assessee feels that he would be paying more tax if he does not get the advantage of deduction will certainly constitute genuine hardship."

20. The judgments discussed hereinabove collectively stress that when substantial justice and technical considerations are aligned against each other, the preference should be given to the cause of substantial justice and the authorities' approach should be justice-oriented on merits. The clear and repeated position of law is that even if a procedural delay occurs due to "genuine hardship", it should not prevent an assessee from receiving a rightful tax benefit. Therefore, in light of the aforesaid judgments of Hon'ble Supreme Court and Hon'ble High Courts, we are of the view that filing of Form 10-1C prior to filing of return is not mandatory and if "genuine hardship" is shown then delay may

be condoned and in this respect the provision of law shall be taken as a beneficial piece of legislation.

21. After perusing the contentions of the learned counsel for the parties, records and case laws cited, in the opinion of the Court, the genuine hardship shall be seen by the concerned respondent authority as the petitioner is not getting benefit of concessional rate of tax under the Act, in respect of delay, therefore, the impugned order dated 30.01.2024 passed by the Principal Commissioner of Income Tax, Ghaziabad is quashed and the respondent authority is directed to condone the delay in filing Form 10-IC and accept the said Form 10-IC. The respondent concerned is further directed to provide consequential relief to the petitioner by recomputing its tax liability on the submission of its ITR by taking into account Form 10-IC.

22. Accordingly, the writ petition is allowed.”

*11. The Co-ordinate Bench of Delhi Tribunal in the case of **Bansal Corelam Pvt. Ltd v ITO, ITA No. 1856/Del/2023 dated 26 November 2024, Hon'ble ITAT Delhi** (refer Page No. 1-6 of CLC) held as below:*

2. “The only issue to be decided in this appeal is as to whether the Id NFAC was justified in confirming the denial of claim made by the assessee to opt new tax regime under section 115BAA of the Act in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee is a private limited company and had filed its return of income for assessment year 2021-22 belatedly on 30-3-2022. The extended due date under section 139(1) of the Act for the year under consideration was 15-3-2022. The assessee in the return of income had opted to pay the tax under the new tax regime as provided in section 115BAA of the Act by declaring total income of Rs 1,11,94,760/-. The requirement to file Form No. 10 IC along with the return of income was indeed not adhered to by the assessee in the instant case. Form 10 IC was admittedly filed by the assessee on 17-3-2022 which was beyond the extended due date under section 139(1) of the Act. But the return of income was filed belatedly on 30-3-2022. The Learned CPC while processing the return under section 143(1) of the Act on 13-11-2022 denied the benefit of lower tax rate as provided under section 115BAA of the Act to the assessee on the ground that Form 10-IC was not filed on or before the due date of filing the return of income under section 139(1) of the Act and computed the income of the assessee under normal provisions of the Act. In the instant case, Form 10 IC was filed by the assessee beyond the due date prescribed under section 139(1) of the Act, but was filed before the date of filing the return under section 139(4) of the Act. The intention of the assessee to disclose the income under the new tax regime under section 115BAA of the Act was disclosed in the tax audit report of the assessee. In our considered opinion, the filing of Form 10

IC though mandated in the Act need to be construed as directory in nature. This view of ours is further fortified by the decision of Ahmedabad Tribunal in the case of Aprameya Engineering Ltd vs ITO reported in 164 taxmann.com 740 (Ahdbd Trib) wherein it was held as under:-

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."

4. Respectfully following the same, we direct the learned AO to recompute the income under the new tax regime in terms of section 115BAA of the Act in the facts and circumstances of the instant case. Accordingly, the grounds raised by the assessee are allowed."

12. The Co-ordinate Bench of Ahmedabad Tribunal in the case of **Aprameya Engineering Ltd. vs. ITO [TS-411-ITAT-2024(Ahd)]** (refer Page No. 7-17 of CLC) wherein it was held that considering the principle of beneficial interpretation, the procedural requirements should not override substantive benefits. Hence, delay in filing of Form 10-IC, being a procedural requirement, should not invalidate the assessee's right to claim the benefit of Section 115BAA of the Act. It was further held that CBDT circulars extending due dates for filing of such forms in the earlier years indicate a degree of administrative flexibility and recognition that procedural lapses should not lead to denial of substantive benefits. The relevant extract of the judgement is reproduced as under:

8.1... "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 assessment proceeding, since there is no material 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 involved. SC ruling in the

case of CIT v. G.M. Knitting Industries (P.) Ltd. reported in (2015) 376 ITR 456 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 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 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.”

*13. The Co-ordinate Bench of Pune Tribunal in the case of **Akshay (Akshay Devendra Biruri vs. DCIT, CPC [TS-402-ITAT2024(PUN)]** (refer Page No. 18-21 of CLC) wherein the Hon'ble Tribunal held that in order to claim the benefit of the new*

tax regime, filing of Form 101E under Rule 21AG of the Rules, is not a mandatory requirement but it is rather directory in nature. The Hon'ble Tribunal directed the Revenue to allow the benefit of the new tax regime by taking into consideration the Form 101E as the same was available with the Revenue at the time of processing the return of income. The relevant paragraph of the said ruling is reproduced herewith for your Honour's ready reference:

7. "We heard the Id. Sr. DR and perused the relevant material on record. The solitary issue that arises for our consideration in the present appeal is whether the CPC was justified in denying the benefit of New Tax Regime. Admittedly, the appellant had failed to submit the prescribed Form No.101E in order to claim the benefit of New Tax Regime before the due date for filing the return of income. However, the appellant had filed the said form on 10.01.2024 on which date the CPC had processed the return of income u/s, 143(1)(a) denying the benefit of New Tax Regime. In any event, it is not a mandatory requirement for filing of Form No.101E but directory in nature. The Form No.101E was very much available with the CPC and the CPC ought to have considered the same allowing the benefit of New Tax Regime. Therefore, we direct the CPC to amend the intimation by taking into consideration the Form No.101E, as the same was available with the CPC at the time of processing the return of income. We order accordingly."

14. *The Co-ordinate Bench of Mumbai Tribunal in the case of **Krishna Gopal Diwedi HUF [TS-140-ITAT-2025(Mum)]** wherein the Hon'ble Mumbai Tribunal held as under*

7.9. *“Coming to the instant case, we observe that till the date of processing the return filed by the Assessee for the A.Y. 2022-23, Form No. 101E for exercising the option for availing the benefits of new tax regime filed on 10-01-2022 for the AY 2021-22 was neither withdrawn nor rejected or made invalid but the same was still available or effective before the AO during the assessment proceedings or passing the Assessment order and therefore in our considered view, the return filed by the Assessee should have been considered, under the new tax regime provisions. Thus, the Assessee is entitled for the benefit of new tax regime and consequently the addition is deleted. Resultantly, the appeal i.e. ITA no. 3482/M/2024 filed by the Assessee is allowed,”*

15. *In previous years, the CBDT extended the due dates for filing such forms indicates 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. 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 involved. Supreme Court rulings always emphasized that the making of a claim of deduction is mandatory, but timing/format is directory. 16. In view of the above facts and by respectfully following judicial pronouncements cited above), in our considered opinion assessee should not be deprived from the concessional rate of tax available in the statute merely for the procedural lapse. Accordingly, we direct the AO to compute the tax at the concessional rate as per Section 115BAA of the Act. The ground of appeal No. 1 to 4 taken by assessee are allowed.

9. In the instant case the Form 10-IC was available at the time of processing the return of income with the CPC. The Form 10-IC was neither withdraw or rejected or made invalid but the same was effective at the time of processing the ITR. There is no dispute regarding the assessee's eligibility for the lower tax rebate, then the denial of the benefit based solely on the lapses would be against the principal of equity and justice. Respectfully following judicial decision, we are the considered opinion that the assessee could not be deprived from the concessional rate of tax available in the statute merely for the procedural lapse. Accordingly, we direct the Assessing officer to compute the tax at the concessional rate as per section 115BAA of the Act. The ground raised by the assessee are allowed.

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

Order pronounced in the open court on 26.05.2026.

Sd/-

**(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER
SR BHATNAGGAR**

Sd/-

**(SUDHIR KUMAR)
JUDICIAL MEMBER**

Date 26.05.2026

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR
ITAT NEW DELHI**