

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD “B” BENCH: HYDERABAD

BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, JUDICIAL MEMBER

ITA.No.1377/Hyd./2024
Assessment Year 2021-2022

The DCIT, Circle-3(1), Hyderabad. Telangana. PIN 500 081.	vs.	Sandor Medicaids Private Limited, Hyderabad-500034 Telangana. PAN AADCS4168H
(Appellant)		(Respondent)

Cross Objection No.8/Hyd./2025
Arising out of
ITA.No.1377/Hyd./2024 - Assessment Year 2021-2022

Sandor Medicaids Private Limited, Hyderabad. PIN -500034. Telangana. PAN AADCS4168H	vs.	The DCIT, Circle-3(1), Hyderabad. Telangana. PIN 500 081.
(Cross Objector)		(Respondent)

For Revenue :	Shri D Praveen, Sr. AR
For Assessee :	Shri Narahari Biswal, Advocate

Date of Hearing :	07.05.2025
Date of Pronouncement :	07.05.2025

ORDER

PER MANJUNATHA G. :

This appeal has been filed by the Revenue against
the order dated 08.10.2024 of the learned CIT(A)-National
Faceless Appeal Centre [in short the “NFAC”] Delhi, relating

to the assessment year 2021-2022. The assessee has filed cross objection C.O.No. 8/Hyd./2025 against the order of the learned CIT(A).

2. Briefly stated facts of the case are that, the appellant is a Private Limited Company, filed its return of income for the assessment year 2021-2022 on 29th March 2022 by declaring total income of Rs.4,50,20,530/-. In the said return of income, the assessee has opted for tax under the provisions of section 115BAA of the Act. The appellant has also filed Form-10IC exercising its option for taxation under section 115BAA of the Act on 29.03.2022. The return of income filed by the appellant was processed and intimation under section 143(1) of the Act dated 13.11.2022 was issued by determining the total income at Rs.4,50,20,530/- and tax payable at Rs.5,22,01,460/-. While processing the return of income, the Assessing Officer-CPC has computed tax liability as per the normal provisions and applied MAT provision instead of computing the tax under section 115BAA of the Act on the ground that, Form-10IC was filed on 29.03.2022 i.e., after the due date.

3. The appellant filed appeal against the assessment order passed by the Assessing Officer-CPC before the CIT(A). Before the CIT(A), the appellant contended that, in view of decision of Hon'ble Supreme Court in M.A.No.21 of 2022 vide order dated 10.01.2022 extended the time limit for any proceeding before the Authorities till 30.05.2022 due to Covid-2019 pandemic outbreak period i.e., between 15.03.2020 to 28.02.2022 and thus, the return of income filed by the appellant along with relevant Form 10IC dated 29.03.2022 is well within the extended due date as per the order of the Hon'ble Supreme Court (supra). Therefore, the Assessing Officer-CPC is erred in rejecting Form-10IC filed by the appellant exercising it's option to tax under the provisions of section 115BAA of the Act. The learned CIT(A) after considering the relevant submissions of the appellant and also taking note of the order of the Hon'ble Supreme Court (supra) observed that, Form-10IC filed by the appellant on 29.03.2022 declaring it's intention to opt for concessional tax regime under section 115BBA is within the extended due date for filing the return and related Forms

because, the Hon'ble Supreme Court has extended the said due date up-to 30.05.2022. Therefore, Form-10IC filed by the appellant on 29.03.2022 is within the extended due date and, therefore, the appellant is entitled for concessional tax regime under section 115BAA of the Act and thus, directed the Assessing Officer to compute the tax liability of the appellant in terms of section 115BAA of the Act.

4. Aggrieved by the order of the learned CIT(A) the Revenue is now in appeal before the Tribunal and assessee has filed cross objection.

5. Shri D. Praveen, learned Sr. AR for the Revenue, submitted that, the learned CIT(A) has erred in directing the Assessing Officer to compute the tax liability in terms of section 115BBA of the Act, even though, the appellant failed to file it's return of income on or before the due date provided under section 139 of the Act. Learned DR referring to the due date for filing the return of income in the present case, it is on 15.03.2022 submitted that, although, the due date for filing return is 15.03.2022, but, the appellant has filed return on 29.03.2022 along with Form-10IC and in

view of Circular 1 of 2022 dated 11.01.2022 issued by the CBDT, the appellant cannot opt for concessional regime of taxation, if relevant Form-10IC was not filed on or before the due date for filing the return of income. The learned CIT(A) without appreciating the relevant facts, has simply allowed the concessional tax rate to the appellant. Therefore, he submitted that, the order of the learned CIT(A) should be set aside.

6. Shri Narahari Biswal, Learned Counsel for the Assessee, on the other hand, supporting the order of the learned CIT(A) submitted that, the order passed by the Hon'ble Supreme Court extending the due date in view of Covid-2019 pandemic outbreak is applicable to all proceedings pending before any Court or Quasi Judicial Authority including filing of any return of income by an assessee. The proceedings before any 'Authority' includes filing of return of income. Therefore, once the Hon'ble Supreme Court extended the due date till 30.05.2022 for all proceedings, the due date for filing return of income also gets extended. If we consider the due date prescribed by the

Hon'ble Supreme Court (supra), the return of income filed by the assessee was dated 29.03.2022, which is well within the due date and consequently, the appellant is eligible for concessional tax regime in terms of section 115BAA of the Act. The learned CIT(A) after considering relevant facts has rightly allowed relief to the appellant and, therefore, the order of the learned CIT(A) should be upheld.

6.1. Shri Narahari Biswal, Learned Counsel for the Assessee, referring to the cross-objection filed by the appellant submitted that, admittedly the Assessing Officer passed order under section 143(1) of the Act and made adjustment towards tax payable by rejecting Form-10IC filed by the appellant. However, as per the provisions of section 143(1) of the Act, only adjustment provided under section 143(1)(a) can be made, that too, after providing an opportunity to the appellant by issuing intimation indicating the proposed adjustments. In case of any adjustment is made, contrary to the adjustment provided under section 143(1)(a) without any intimation, then, the said adjustment cannot be sustained under Law. Therefore, he submitted

that, the assessment made by the Assessing Officer to compute the tax under normal provisions of the Act, ignoring Form-10IC filed by the appellant, is not in accordance with section 143(1)(a) of the Act. Further, the Assessing Officer made adjustment without issuing any notice to the appellant. Therefore, he submitted that, the tax computed by the Assessing Officer cannot be sustained. In this regrd, he relied on the decision of ITAT, Kolkata Bench in the case of ITO (Exemption), Ward-1(1), Kolkata vs., Camellia Educare Trust, Kolkata in ITA.No.646/Kol./2022 along with C.O.No.7/Kol./2023 order dated 30.05.2023.

6.2. Alternatively, Shri Narahari Biswal, Learned Counsel for the Assessee submitted that, in any case, filing of relevant Form-10IC is directory in nature and when said Form-10IC is available to the Assessing Officer before he passes his assessment order, then, the benefit cannot be denied. In this regard, he relied upon decision of ITAT, Hyderabad Bench in the case of Darga Ehazrat Syedshah Khwajadas Chisti Unnayabi Perpetual Trust, Vatpalli vs.,

ITO (Exemption), Ward-1(3), Hyderabad, order dated 29.08.2024 in ITA.No.567/Hyd./2024.

7. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that, the appellant has filed it's return of income for the year under consideration beyond the due date provided under section 139(1) of the Act. In fact, the extended due date for filing the return of income for the assessment year 2021-2022 is 15.03.2022, whereas, the appellant has filed it's return of income on 29.03.2022. Provisions of section 115BBA provides for concessional rate of tax for new companies beginning on or after the 1st day of April, 2020 at the option of such person @ 20%, if the conditions contained in sub-section-(2) are satisfied. In order to avail the benefit of concessional rate of tax under section 115BBA of the Act, the assessee shall have to exercise it's option by filing Form-10IC on or before the due date specified under section 139(1) of the Act, for furnishing return of income for any assessment year. The Assessing Officer has not

disputed the fact that, the appellant is a company eligible for concessional rate of tax under section 115BBA of the Act. However, rejected the option exercised by the appellant for not filing the return of income along with form 10IC on or before the due date provided under section 139(1) of the Act. It was the argument of the Counsel for the Appellant that, the appellant has filed it's return of income along with Form 10IC on or before the due date prescribed by the Hon'ble Supreme Court, where the Hon'ble Supreme Court has extended the due date for all proceedings before any Court or Authority by considering the hardship faced by the common people because of Covid 2019 pandemic outbreak and as per the said order of the Hon'ble Supreme Court (supra), the due date for all proceeding is extended up-to 31.05.2022.

8. We find that, the due date of the appellant for filing it's return of income for the assessment year in question is 15.03.2022, whereas, the appellant has filed it's return of income on 29.03.2022. The appellant had also filed Form-10IC on 29.03.2022. If we go by the due date

provided under law including relevant Notification issued by the CBDT, then, the appellant ought to have filed its return of income on or before 15.03.2022. However, going by the order passed by the Hon'ble Supreme Court (supra), the Hon'ble Supreme Court by considering the hardship faced by tax payers who are general public, has extended the due date for all proceedings pending before any Court or Authority up-to 30.05.2022. If we consider the said due date, then, in our considered view, the return of income filed by the appellant along with Form-10IC is on or before the extended due date of filing any application. Although, there is no specific reference to extension of due date for filing the return of income, in our considered view, any proceeding includes the proceedings of filing the return of income and, therefore, even said due date is applicable for filing the return of income by any assessee. Therefore, if an assessee files return of income on or before the due date prescribed by the Hon'ble Supreme Court, in our considered view, the Assessing Officer should have consider the said return as has been filed on or the before the due date provided under

the Act for the purpose of extending the benefit under section 115BBA of the Act. The learned CIT(A) after considering the relevant facts has rightly held that, the appellant has filed Form-10IC within the extended due date and, therefore, the Assessing Officer should have accepted the concessional rate of tax claimed by the appellant in terms of section 115BBA of the Act.

9. Coming back to the cross-objection filed by the appellant. The appellant has challenged the adjustment made by the Assessing Officer towards computation of tax liability as per the normal provisions of Income Tax Act, 1961 by ignoring the Form-10IC for concessional rate of tax. The Learned Counsel for the Assessee, referring to the provisions of section 143(1) of the Act submitted that, except adjustment has been made as provided under section 143(1)(a), no further adjustment can be made by the Assessing Officer, while processing the return of income under section 143(1) of the Act. The appellant further contended that, before making any adjustment the Assessing Officer shall issue an intimation to the appellant

for such adjustment either in writing or in electronic mode. In the present case, the Assessing Officer made adjustment without giving any intimation to the appellant. We find that, the Assessing Officer has applied normal rate of tax as against concessional rate of tax in terms of section 115BBA of the Act, without issuing any intimation of such adjustment either in writing or in electronic mode. Therefore, in our considered view, any adjustment made by the Assessing Officer without issuing intimation is not in compliance with the 1st proviso to section 143(1)(a) of the Act. Although, the appellant claims that, Assessing Officer has not sent any intimation before making adjustment under section 115BA, but, Learned DR has made a request that Revenue may be given time to verify the records and submit relevant details of any intimation issued by the Assessing Officer. The Learned Counsel for the Assessee accordingly contended that, the assessee has not received any intimation before making adjustment. Therefore, in our considered view, the adjustment made by the Assessing Officer without following the due procedure as provided

under 1st provision to section 143(1)(a) of the Act cannot be sustained.

10. To sum-up, on the facts and circumstances of the case, we are of the considered view that, there is no error in the reasoning given by the learned CIT(A) to direct the Assessing Officer to compute the tax at concessional rate of tax in terms of section 115BAA of the Act, because, the appellant has filed its return of income on or before the extended due date in terms of Order of the Hon'ble Supreme Court (supra). Thus, we uphold the findings of the learned CIT(A) and dismiss the appeal filed by the Revenue.

11. In so far as the cross-subjection filed by the appellant is concerned, the matter is remitted to the file of Assessing Officer for the limited verification of facts with regard to issuance of notice/intimation by the Assessing Officer before making adjustment under section 143(1) of the Act. In case, no intimation was issued before making adjustment u/sec.143(1) of the Act, then, on this ground

itself, we direct the Assessing Officer to delete tax liability computed in terms of normal provisions of the Act.

12. In the result appeal ITA.No.1377/Hyd./2024 of the Revenue is dismissed and cross-objection C.O.No.8/Hyd./2025 of the assessee is allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 07.05.2025.

Sd/-
[RAVISH SOOD]
JUDICIAL MEMBER

Sd/-
[MANJUNATHA G]
ACCOUNTANT MEMBER

Hyderabad, Dated 07th May, 2025

VBP

Copy to

1.	The DCIT, Circle-3(1), Room No.714, 7 th Floor, Signature Towers, Opp. Botanical Gardens, Kondapur, Hyderabad – 500 081.Telangana.
2.	Sandor Medicaids Private Limited, 8-2-326/5, 4 th Floor, Plot No.1, Road No.3, Banjara Hills, Hyderabad-500034 Telangana.
3.	Pr. CIT, Central, Hyderabad.
4.	The DR ITAT “B” Bench, Hyderabad.
5.	Guard File.

/By Order//

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