

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “G”, DELHI**

**BEFORE SH. SUDHIR KUMAR JUDICIAL MEMBERS
AND
SH. NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No.1298/DEL/2026
Assessment Year: 2023-24

Sandeep Kumar H.No.1301 HUDA Sector-3 Rohtak-1204001(Haryana) PAN No. APNPK6978B (APPELLANT)	Vs.	ITO Ward-2 Rohtak Haryana-124001 (RESPONDENT)
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Appellant by	Ms. Mansi Jain Adv. Shri Siddarth Bajaj Adv.
Respondent by	Sh. Ravi Kant Choudhary, Sr. DR

Date of hearing:	25/05/2026
Date of Pronouncement:	05/06/2026

ORDER

PER SUDHIR KUMAR, JUDICIAL MEMBER:

This appeal by the assessee is directed against the order of the Commissioner of Income tax Appeals Add/JCIT(A) -1 Gurugram[hereinafter referred to as “Ld.JCIT(A)”] vide order dated 28-01-2026 pertaining to A.Y. 2023-24.

2. The assessee raised the following grounds in the appeal:

1. *That the order passed by the Ld. JCIT(A)-1 Gurgaon is bad in law and facts and is liable to be quashed.*
2. *That the Ld. JCIT(A)-1 Gurgaon has erred in law and facts in confirming demand of Rs.90,030/- raised by the Ld. CPC in an order passed u/s 154 of the Act by processing the return of income in old regime despite the fact that the appellant had filed the return of income in new regime.*
3. *That the Ld. JCIT(A)-1 Gurgaon has erred in law and facts in confirming the demand raised by the Ld. CPC by processing the return of income for A.Y.2023-24 under the old tax regime despite the appellant having validly opted for the New Tax regime u/s 115BAC and having duly filed Form 10IE on 26-11-2022.*
 - 3.1 *That the Ld. JCIT(A)-1 Gurgaon has erred in law and facts in wrongly holding the appellant to be guilty for not filing Form 10IE during the A.Y.2023-24. The appellant has already file the Form10IE on 26-11-202 i.e. during the A.Y.202-23 as the said form can only be filed once in a life time for opting new tax regime from old regime ant not required in each year.*
 - 3.2 *That the Ld. JCIT(A)-1 Gurgaon has erred in law and facts in not considering the submissions and judgements submitted by the appellant.*
4. *That the appellant craves leave to add, amend or alter any of the grounds of appeal.*
3. The brief facts of the case are that the assessee had filed his return of income for the A.Y.2023-24 on 28-10-

2023 under the new tax regime u/s 115BAC of the Income Tax Act 1961(the Act). The return of income was processed u/s 143(1) of the Act on 10-01-2024. The Assessing Officer accepted the income returned by the assessee and charging tax liability under the old tax regime whereas the assessee had claimed taxation option u/s 115BAC of the Act as per new tax regime. The assessee had opted the new tax regime first time for A.Y.2022-23 and had duly filed form 10IE on 26-11-2022 and such was effective for the A.Y.2023-24. Once Form 10IE is filed and new tax regime is opted unless withdrawn in subsequent year the same is continue to be available for the later assessment years.

4. Aggrieved by the denial of benefit of new tax regime opted by the assessee in the intimation order passed u/s 143(1) of the Act, the assessee filed the appeal before the Ld. JCIT(A). The Ld. JCIT(A) dismissed the appeal of the assessee on the ground that the assessee though opted for the scheme of taxation under section 115BAC in his return of income but failed to file fresh Form 10IE for the A.Y.2023-24 for availing the benefits of new tax regime as form 10IE and ITR filed in A.Y. 2021-22 was filed after the due date. The relevant findings and observations of the Ld. Add/JCIT(A) is reproduced below:

4.4 A perusal of the documents available on record reveals that although the appellant had opted for new tax regime in the A.Y.202-23. CPC has processed the ITR of the appellant without granting it the benefits of provisions of section 115BAC as the appellant was not eligible for the same. He needs to file a fresh Form-10iIE for availing the benefits of new regime as Form 10IE and ITR filed in A.Y.2021-22 was filed after due date but he failed to do so. Thus, I am of the view that AO, CPC is right in denying the benefits of provisions of section 115BAC. Hence all the grounds of appeal taken by the appellant are dismissed.

5. Being aggrieved the order, the assessee is in appeal before us.

6. The Ld. AR of the assessee submitted that the Ld. Addl/JCIT(A) has dismissed the appeal of the assessee merely on technical ground. The assessee filed Form 10IE for AY.2022-23 on 26-11-2022 but same was not accepted by the CPC since it was belatedly filed. He further submitted that Ld. Addl/JCIT(A) therefore erred in confirming the order of the CPC without appreciating the

fact that belated Form 10IE was already filed in previous A.Y.2022-23. He also stated that IT Portal does not allow filing of Form 10IE again once it has already been uploaded on the portal. The assessee has not withdrawn the option of the new tax regime. Ld. AR relied the following decisions.

(i) Meenaben Maheshchandra Patel v. ITO Ward -3, ITA No750/Ahd/2025 ITAT Surat

(ii) Seema Kulkarni v. ITO ITA No.3324/Pun/2025 ITAT Pune

(iii) Rajeev Pandurang Kamat v. ITO ITA No. 2602/Pun/2024 ITAT Pune

7. The Ld. DR on the other hand supported the order of the lower authorities.

8. We heard the parties and perused the records. In the instant case the assessee filed his return of income on 28-10-2023 which was processed on 10-01-2024 under section 143(1) of the Act, by the CPC denying the benefit of new tax regime claimed by the assessee under section 115BAC of the Act as the assessee has failed to file the prescribed Form 10IE before the due date for filing the return of income. The Ld.JCIT(A) rejected the claim of the assessee for the relevant year 2023-24 for the reason that the assessee filed Form 10IE on 26-11-2022 for A.Y.2022-23,

no fresh Form 10IE was filed for the A.Y. under consideration. It is contended by the Ld. AR that the observation of the Ld. JCIT(A) is not correct on account of the fact that the assessee's form 10IE was already available on record while processing the return of income under 143(1) of the Act. Once form 10IE uploaded there is no option to again file the same as the already filed Form 10IE sustains in the Absence of the withdrawal. The assessee has not withdrawn the option of the new tax regime. **In the case of Meenaben Maheshchandra Patel v. ITO Ward -3, ITA No750/Ahd/2025 ITAT Surat the co-ordinate bench held as under:**

“6. We have heard the rival contentions of the Ld. Representatives of the parties and gone through the record. Before proceeding further, it will be relevant here to reproduce the relevant provisions of sub-section(5) of Section 115BAC of the Act.

Sub-section (5) of Section 115BAC

(5) Nothing contained in this section shall apply unless option is exercised in the prescribed manner by the person,—

(i) having income from business or profession, on or before the due date specified under sub-section (1) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April,

2021, and such option once exercised shall apply to subsequent assessment years;

(ii) having income other than the income referred to in clause (i), alongwith the return of income to be furnished under sub-section (1) of section 139 for a previous year relevant to the assessment year: **Provided** that the option under clause (i), once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option under this section, except where such person ceases to have any income from business or profession in which case, option under clause (ii) shall be available. **Provided further** that the provisions of this sub-section shall not apply for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024.

6.1. The second proviso reproduced hereinabove has been inserted by Finance Act, 2023, w.e.f. 1.4.2024. ITA No.750/Ahd/2025

7. A perusal of the aforesaid provisions of section 115BAC of the Act would reveal that the statute had given a right to the assesseees to opt for taxation under the new regime u/s.115BAC of the Act and this option could be exercised on or after the first day of April-2021 and such option once exercised would apply to subsequent assessment years. Further, the said right to opt under the new regime has been withdrawn for the assessment year beginning on or after the first day of April-2024. The assessment year under consideration is AY 2023-24. The

assessee had already exercised to get taxed under the new regime by way of filing a valid Form 10IE on 08/11/2022. Though, the said option was exercised for AY 2022-23 and was to be applicable and to continue for subsequent years also. However, the CPC did not grant the benefit to the assessee for opting for taxation under the new regime on the ground that the Form was delayed by one day so far as the AY 2022-23 was concerned. Here, the peculiar fact to be noted is that the assessee had duly exercised his option to be taxed under the new regime and the same has never been withdrawn by the assessee. He was denied the benefit of the taxation under the new regime because of delayed filing of Form 10IE for AY 2022-23. However, the said Form was well within time for AY 2023-24. There was no option to the assessee to file a fresh Form for AY 2023-24 as the option to file the Form 10IE, as noted by the CIT(A) also, could be exercised once by the assessee and that option stood exercised by the assessee on 08/11/2022. The assessee duly mentioned in the return of income for AY 2023-24 that Form 10IE was already on record and also Acknowledgement number and date of filing of the said Form and it has been duly intimated to the authorities that she has not withdrawn the exercised option of taxation under the new regime and that return may be processed and she may be taxed as per the provisions of section 115BAC of the Act. A perusal of above said provisions would reveal that the assessee had right to exercise the said option of taxation under new regime upto the AY 2023-24. Therefore, the lower authorities are not justified in

not allowing the assessee to avail the benefit of the taxation under the new regime. It has been, time and again, held that the income-tax authorities are not supposed to punish the litigations for their bonafide mistakes, rather they should assist the assesseees to pay their due taxes and also to claim the benefit of exemptions/deductions/tax relief, if any, available to them under the statute. The Government had rolled out the new tax regime for the benefit of the citizens and the tax-authorities are supposed to help the citizens to avail such benefits instead of standing in the way as an obstacle in implementation of assessee-friendly government schemes. It has also been held, time and again, that the Department should charge only the legitimate taxes from the assesseees. In this case, the assessee had duly availed the benefit of new tax regime and there was no reason for the lower authorities to deny the same.

8. In view of our above observations, the AO is directed to tax the assessee as per the provisions of section 115BAC of the Act.”

9. Respectfully following the decision of the co-ordinate bench of the Surat Tribunal, we set aside the order of the Ld. Addl/JCIT(A) and direct the AO to allow the claim of the assessee taking into consideration Form 10IE already available on record of the department. The grounds raised by the assessee are allowed.

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

Order pronounced in the open court 05.06.2026.

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER
SR BHATNAGGAR
Date: 05.06.2026

Sd/-
(SUDHIR KUMAR)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT DELHI