आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, हैदराबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' Bench, Hyderabad

श्री विजय पाल राव, माननीय उपाध्यक्ष एवं श्री मंजूनाथ जी, माननीय लेखा सदस्य के समक्ष
BEFORE SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT & SHRI MANJUNATHA.G, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./**ITA Nos.2463 & 2464/Hyd/2025**
निर्धारण वर्ष/**Assessment Years: 2021-22 & 2023-24**

Sambaiah Dara, Flat No.G-4 Golden Enclave, Mangamuru, Ongole- 523 002. **[PAN: BGJPS 6236 G]**	**v.**	The ITO, Ward-1, Ongole.
(अपीलार्थी/Appellant)		**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Shri C. Subrahmanyam, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri K. Prasad, Sr.AR
सुनवाई की तारीख/Date of Hearing	:	30.06.2026
घोषणा की तारीख /Date of Pronouncement	:	15.07.2026

आदेश / O R D E R

PER MANJUNATHA.G, AM:

These appeals filed by the assessee are directed against the orders of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, both dated 13.10.2025, and pertain to assessment years 2021-22 & 2023-24.

2. The brief facts of the case are that the assessee filed return of income for AY 2021-22 on 10.02.2022 declaring total income of

Rs.17,93,423/- and opted to pay tax under new tax regime in terms of Section 115BAC of the Income Tax Act, 1961 (in short "the Act") by filing Form No.10-IE on 31.01.2022. The RoI has been processed and intimation u/s.143(1) of the Act has been issued on 04.08.2022, where the AO/CPC denied the benefit of lower rate of tax u/s.115BAC of the Act and tax was computed under the old regime resulting in a demand of Rs.95,080/- on the ground that the assessee has not furnished RoI on or before due date provided u/s.139(1) of the Act along with Form No.10-IE as required u/s.115BAC of the Act indicating option to pay tax under new regime of lower rate of taxes. The assessee filed application u/s.154 of the Act and the same has been rejected by the AO/CPC on the ground that there is no prima facie mistakes in the order passed u/s.143(1) of the Act.

3. Aggrieved by the assessement order u/s.154 of the Act dated 27.05.2025, the assessee preferred an appeal before the Ld.CIT(A) and challenged denial of new regime of taxes u/s.115BAC of the Act and claimed that filing of Form No.10-IE on or before due date provided u/s.139(1) of the Act is only a directory, but not mandatory and if such form is made available to the AO, before he passed the assessement order, the AO ought to have considered the claim of the assessee. The assessee had cited certain judicial precedents including the decision of the ITAT, Pune Bench in the case of Akshay Devendra Birari v. DCIT, CPC, Bangalore in ITA No.782/PUN/2024 order dated 05.06.2024.

4. The Ld.CIT(A) after considering the relevant submissions of the assessee and also taken note of provisions of Sec.115BAC of the Act and Rule 21AG of the Income-tax Rules, 1962 (in short "the Rules") observed that the combined reading of Section 115BAC of the Act & Rule 21AG of IT Rules makes it abundantly clear that the option to be taxed under new Regime which is conditional & time bound and for making a claim, assessee has to file Form No.10-IE on or before due date provided u/s.139(1) of the Act. The Ld.CIT(A) further noted that as per the decision of the Hon'ble Supreme Court in the case of CIT v. Calcutta Knitwears reported in [2014] 362 ITR 673 (SC), "the Law is well settled in as much as when statutes are clear, no interpretation is required". Therefore, held that since filing Form No.10-IE on or before due date provided u/s.139(1) of the Act is mandatory, the AO/CPC has rightly computed tax under old regime of taxes as against new regime claimed by the assessee for not filing relevant Form No.10-IE along with RoI on or before due date provided u/s.139(1) of the Act

5. Aggrieved by the order of the Ld.CIT(A), the assessee is now in appeal before this Tribunal.

6. The Ld. Counsel for the assessee, Mr. C. Subrahmanyam, CA, submitted that there is no dispute with regard to the fact that the assessee has filed belated RoI within the due date provided u/s.139(4) of the Act and also filed Form No.10-IE on 31.01.2022 which is before the date when the AO passed order u/s.143(1) of the Act on 04.08.2022. Since the assessee filed Form No.10-IE and the same was made available to the AO, when he has passed the order u/s.143(1) of the Act, the AO ought to have considered new regime of taxation as per Section 115BAC of the Act. In this regard, he relied on the following decisions of various Tribunals:

- Arun Gopilal Samnani v. ITO reported in [2025] 174 taxmann.com 33 (Ahmedabad-Trib.)
- Sonea Dhir v. CIT reported in [2025] 176 taxmann.com 827 (Delhi-Trib.)
- Meenaben Maheshchandra Patel v. ITO reported in [2025] 181 taxman.com 800 (Surat-Trib.)
- Harbans Singh v. AO, CPC reported in [2024] 165 taxmann.com 146 (Amritsar – Trib.)
- Shrikant Joshi v. ITO reported in [2025] 170 taxmann.com 123 [Jaipur-Trib.)

7. The Ld.SR-AR for Revenue, on the other hand, supporting the order of the Ld.CIT(A) submitted that as per provisions of Sec.115BAC(5) of the Act, filing Form No.10-IE on or before due date provided u/s.139(1) of the Act is mandatory and if assessee doesn't file relevant forms within the due date, he can't claim new regime of taxation and therefore, the AO has rightly computed tax as per old regime and the same has been upheld by the Ld.CIT(A). Therefore, he submitted that the order of the Ld.CIT(A) should be upheld.

8. We have heard both the parties, perused the materials available on record and had gone through orders of the authorities below. The provisions of Sec.115BAC of the Act, deals with concessional rate of taxation of individuals and HUF subject to fulfillment of certain conditions.

Sub-section (5) of Section 115BAC of the Act lays down a condition of filing declaration in Form No.10-IE on or before due date provided u/s.139(1) of the Act for any previous year relevant to the assessement year commencing after the 1st day of April, 2021 and such option once exercised shall apply to subsequent assessement years. As per first proviso to Section 115BAC of the Act, exercised by the assessee shall be invalid, if the assessee fails to satisfy the conditions mentioned in Sub-section (2). In other words, the claim of the assessee shall be invalid, if conditions specified in sub-section (2) are not satisfied, but not belated filing of relevant declaration in Form No.10-IE as per Rule 21AG of the Income Tax Rules, 1962. In the present case, although, the assessee has filed belated RoI u/s.139(4) of the Act and also exercised option to pay tax under new regime in terms of Section 115BAC of the Act by filing Form No.10-IE as required under Rule 21AG of the IT Rules, before the AO passed order u/s.143(1) of the Act but the AO denied concessional rate of tax only on the ground that the assessee has not exercised option by filing relevant Form No.10-IE on or before due date provided u/s.139(1) of the Act.

9. We find that this issue is no longer a res-integra and the coordinate Benche of ITAT Ahmedabad has considered an identical issue in the case of Arun Gopilal Samnani v. ITO reported in [2025] 174 taxmann.com 33 (Ahmedabad-Trib.), where it has been clearly held that failure to file Form No.10-IE within the prescribed due date doesn’t invalidate, assessee’s claim of option to pay taxes under new regime and mandate of filing Form No.10-IE is only directory in nature but not mandatory. A similar view has been taken by ITAT Delhi Bench in the case of Sonea Dhir v. CIT reported in [2025] 176 taxman.com 827 (Delhi-Trib.). The decision of the ITAT Surat Bench in the case of Meenaben Maheshchandra Patel v. ITO reported in [2025] 181 taxmann.com 800 (Surat-Trib.) had also considered an identical issue and held that where the assessee opted taxation under new regime for AY 2023-24 and filed Form No.10-IE on 08.11.2022, option once exercised shall be apply for subsequent years including relevant assessement year. The sum and substance of ratio laid down by various benches of the Tribunal is that filing Form No.10-IE as required under Rule 21AG of the IT Rules is directory in nature but not mandatory and if such form is filed and made available to the AO before he passed order u/s.143(1)/143(3) of the Act, then the AO ought to have considered the claim of the assessee in terms of Sec.115BAC of the Act. In the present case, since the assessee has filed relevant declaration in Form No.10-IE, although belatedly, but before the AO passed order u/s.143(1) of the Act, therefore, in our considered view, the AO ought to have considered the claim of the assessee for payment of taxes under new regime in terms of Section 115BAC of the Act. The Ld.CIT(A) without considering the relevant facts simply upheld the reasons given by the AO for denial of the benefit u/s.115BAC of the Act. Thus, we set aside the order of the Ld.CIT(A) and direct the AO to allow the benefit of new regime as per Section 115BAC of the Act as claimed by the assessee.

10. In the result, appeal filed by the assessee for AY 2021-22 is allowed.

11. Coming back to AY 2023-24. The AO/CPC denied the benefit of provisions of Sec.115BAC of the Act and levied tax as per old regime of taxation only on the ground that the option exercised by the assessee for AY 2021-22 was invalid in the base year and further, there was no fresh option filed by the assessee for the year under consideration and thus, the assessee is not entitled for the benefit of concessional rate of taxation in terms of Section 115BAC of the Act. The Ld.CIT(A) upheld the reasons given by the AO/CPC on the very same ground by considering provisions of Sec.115BAC of the Act & Rule 21AG of the IT Rules and observed that filing of relevant Form No.10-IE is mandatory on or before due date provided u/s.139(1) of the Act. In other words, Form No.10-IE filed by the assessee on 31.01.2022, exercising option to pay tax as per Sec.115BAC of the Act was not disputed by the AO and if we consider the above Form No.10-IE for the assessement year under consideration, it is much before the due date for filing of RoI u/s.139(1) of the Act. Further, the assessee had also furnished RoI for the assessement year under consideration on 21.07.2023 which is on or before due date provided u/s.139(1) of the Act. Since the assessee has filed RoI on or before due date provided u/s.139(1) of the Act and also exercised option to pay tax as per Sec.115BAC of the Act, in our considered view, the AO/CPC ought to have allowed the claim of the assessee for payment of taxes as per Sec.115BAC of the Act. Further, for AY 2021-22 very same issue has been considered by the Tribunal in ITA No.2463/Hyd/2025 where the Tribunal by following certain judicial precedents including the decisions of various benches of the Tribunal held that filing of Form No.10-IE is directory in nature and if such form is filed and made available to the AO before he passed order u/s.143(1) of the Act, then the AO ought to have considered the claim of the assessee for payment of taxes as per Sec.115BAC of the Act. Since the option exercised by the assessee is considered to be valid for AY 2021-22, in our considered view, the assessee is eligible for claiming benefit of lower rate of taxes as per Sec.115BAC of the Act for the subsequent assessement years and thus, the AO is directed to allow the benefit of lower rate of taxes as per Sec.115BAC of the Act for the assessement year under consideration and compute the tax as per new regime in terms of Sec.115BAC of the Act.

12. In the result, appeal filed by the assessee for AY 2023-24 is allowed.

13. In the result, appeals filed by the assessee for AYs 2021-22 & 2023-24 are allowed.

Order pronounced on the 15th day of July, 2026, in Hyderabad.

Sd/- (विजय पाल राव) **(VIJAY PAL RAO)** उपाध्यक्ष **/VICE-PRESIDENT**	**Sd/-** (मंजूनाथा. जी) **(MANJUNATHA.G)** लेखा सदस्य **/ACCOUNTANT MEMBER**

Hyderabad, dated 15.07.2026.
TLN

आदेश की प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:**			
1	निर्धारिती/The Assessee	:	Sambaiah Dara, Flat No.G-4 Golden Enclave, Mangamuru, Ongole- 523 002
2	राजस्व/ The Revenue	:	The ITO, Ward-1, Ongole.
3	The Principal Commissioner of Income Tax, Guntur.		
4	विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT Hyderabad.		
5	गार्ड फ़ाईल / Guard file		

आदेशानुसार / BY ORDER

TUMMALACHARLA LAKSHMI NARAYANA

Digitally signed by TUMMALACHARLA LAKSHMI NARAYANA
DN: cn=TUMMALACHARLA LAKSHMI NARAYANA, c=IN, o=INCOME TAX APPELLATE TRIBUNAL, ou=INCOME TAX APPELLATE TRIBUNAL, CHENNAI BENCH
Date: 2026.07.15 15:42:21 +05'30'

Sr. Private Secretary
ITAT, Hyderabad