



Tax alert: Benefit of concessional tax rate available if taxpayer proves commencement of manufacturing activities in subsequent AY

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The Hyderabad Bench of the Income-tax Appellate Tribunal has held that if the taxpayer is able to prove that manufacturing activities have commenced before 31 March 2024, that would be sufficient compliance of the Income-tax Act, 1961. The subsequent commencement of the activity (albeit prior to 31 March 2024) after filing the return of income and Form 10-ID, is to be factored in and taken into account by the Revenue.

In a nutshell



Harmonious interpretation and reconciliation is required, though manufacturing activity has not commenced for the AY in question. However as and when the taxpayer started manufacturing activity, that should be factored in and taken into account by the Revenue for the purpose of giving benefit of section 115BAB of the ITA.



If the taxpayer is able to prove that the taxpayer has commenced activities before 31 March 2024, that would be sufficient compliance of the ITA and the subsequent commencement of the manufacturing activity albeit prior to 31 March 2024 after filing the return of income and Form 10-ID, is to be factored in and taken into account by the Revenue.



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Background:

- The taxpayer¹ company was set up on 16 January 2023. It filed its return of income for the Financial Year (FY) 2022-23, corresponding to Assessment Year (AY) 2023-24, along with Form 10-ID [i.e., application for exercise of option under section 115BAB(7) of the Income-tax Act, 1961 (ITA)].

Section 115BAB relates to tax on income of new manufacturing domestic companies at 15 percent (plus applicable surcharge and cess).

- The Centralized Processing Center (CPC) processed the return filed by the taxpayer for AY 2023-24 and denied the claim of the taxpayer under section 115BAB of the ITA since the taxpayer had not commenced its production. Taxpayers' rectification application against the same was rejected by the CPC.
- Aggrieved by the order of the CPC, the taxpayer filed an appeal and in the course of appellate proceedings the matter reached before the Hyderabad Bench of the Income-tax Appellate Tribunal (ITAT).

The taxpayer's key contention before the ITAT was that it had started manufacturing prior to 31 March 2024 and therefore, the taxpayer was entitled to benefit of lower tax regime under section 115BAB of the ITA.

Relevant provisions in brief:

Relevant extract of section 115BAB of the ITA

“(1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, 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 fifteen per cent, if the conditions contained in sub-section (2) are satisfied...

...(2) For the purposes of sub-section (1), the following conditions shall apply, namely:—

(a) the company has been set-up and registered on or after the 1st day of October 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March 2024 and...

...(7) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year...”

Decision of the ITAT:

The ITAT noted /observed the following:

- Section 115BAB of the ITA, postulates for fulfilment of the conditions mentioned therein namely, that the company must have been set up on or after 1 October 2019 and the company should have commenced manufacturing or production of article or thing on or before 31 March 2024.
- From the perusal of Form 10-ID, it was essential that the said Form was required to be filed along with the return of income for the **first AY**.
- In the case under consideration, the first AY was AY 2023-24. However, the condition of Form 10-ID was not fulfilled as it was filed prior to commencement of the manufacturing activities and the taxpayer could not be

¹ Granules CZRO Private Limited vs. ITO [ITA No. 706/Hyd/2024] (Hyderabad ITAT)

expected to file Form 10-ID showing commencement of manufacturing activity when the date of commencement of manufacturing activity was up to 31 March 2024.

- If the taxpayer was able to prove that the taxpayer had commenced activities before 31 March 2024, that would be sufficient compliance of the ITA and the subsequent commencement of the manufacturing activity albeit prior to 31 March 2024 after filing the return of income and Form 10-ID, was to be factored in and taken into account by the revenue.
- Further, FAQs² on Form 10-ID clearly provide that the taxpayer is not required to file fresh Form 10-ID after filing it along with the first return of income for the first AY. The contradiction was clear that even if the taxpayer had not commenced its activities, the taxpayer was required to file the certificate showing the commencement of business activities and manufacturing activities, however, the taxpayer was prohibited to file the Form 10-ID in the subsequent AY, when it had actually started manufacturing its article or thing.
- If the taxpayer was able to prove the commencement of manufacturing for the subsequent AY, the insistence of the fulfilment solely on the basis of the Form filed for the present AY should not be insisted upon and the AO should consider and grant the applicability of lower tax regime for the taxpayer for the subsequent AYs.
- Harmonious interpretation, reconciliation was required, though the manufacturing activity had not commenced for the AY in question. However as and when the taxpayer started its manufacturing activity, that should be factored in and taken into account by the Revenue for the purpose of giving benefit of section 115BAB of the ITA.

In view of the above, though the taxpayer had failed to fulfill condition as laid down under section 115BAB of the ITA for the AY in the case under consideration, the Revenue was under obligation to take into account the commencement of the manufacturing activity for the subsequent AY and not act upon the earlier Form 10-ID. Accordingly, the ITAT considered the commencement of the manufacturing and granted relief to the taxpayer.

Comments:

For the purpose of claiming concessional tax rate of 15% under section 115BAB of the ITA, the taxpayer is required to file Form 10-ID along with the return of income for the **first AY**. However, an issue may arise where the condition of commencement of manufacturing activities as provided under section 115BAB of the ITA is not satisfied in the first AY (as the company may be in the process of being set-up) and is satisfied in subsequent AY.

In this regard, the ITAT has held that:

- Harmonious interpretation, reconciliation is required, though the manufacturing activity has not commenced for the AY in question. However as and when the taxpayer started its manufacturing activity, that should be factored in and taken into account by the Revenue for the purpose of giving benefit of section 115BAB of the ITA.
- If the taxpayer is able to prove that the taxpayer has commenced activities before 31 March 2024, that would be sufficient compliance of the ITA and the subsequent commencement of the manufacturing activity albeit prior to 31 March 2024 after filing the return of income and Form 10-ID, is to be factored in and taken into account by the Revenue.

Taxpayers may want to evaluate the impact of this ruling to the specific facts of their cases.

² Frequently Asked Questions (FAQs) available on the income-tax website

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