IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.11194 of 2024
and
W.M.P.Nos.12271 and 12273 of 2024

M/s MRF Limited
New No.114 (Old No.124),
Greams Road, Chennai 600 006
Represented by its Vice Chairman and
Managing Director, Mr.Arun Mammen. ..Petitioner

Vs.

1.Central Board of Direct Taxes
Represented by its Director (ITA-I),
Department of Revenue,
Ministry of Finance, Government of India,
New Delhi.

2.The Deputy Commissioner of Income Tax,
Central Circle 3(3),
3rd Floor, Investigation Building,
M.G.Road, Nungambakkam,
Chennai 600 034. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records of the respondent contained in its order passed under Section 119(2)(b) of the Income Tax Act, 1961, bearing reference F.No.197/33/2023-ITA-I, dated 26.03.2024 in PAN:AAACM4154G for Assessment Year (AY) 2020-21 and to quash the same as arbitrary unjust and illegal and to consequently direct the respondent to condone the delay in Form 10-IC for AY 2020-21.

For Petitioner	: Ms.Amritha Sathyajith for Mr.Suhrith Parthasarathy
For Respondents	: Mr.A.P.Srinivas, Senior Standing Counsel assisted by Mr.ANR Jayaprathap, Junior Standing Counsel.

ORDER

The present writ petition is filed challenging the impugned order dated 26.03.2024, rejecting the petitioner's application under Section 119(2)(b) of the Income Tax Act, 1961, seeking condonation of delay in filing Form 10-IC as required to avail the concessional tax rate prescribed under Section 115BAA of the Act.

2.The petitioner is engaged in the business of manufacturing of tyres. For the Assessment Year 2020-21, the petitioner filed its returns on 05.02.2021 with the introduction of Section 115BAA of the Act, the petitioner was eligible for a corporate tax rate at 22% (excluding surcharge and cess) on its total income. The petitioner would be entitled to avail of the option under Section 115BAA of the

Act, provided it foregoes claims for deductions and allowances as specified under Section 115BAA(2) of the Act. The petitioner, while filing its return in column 8, had opted for taxation under Section 115BAA of the Act. The relevant portion of the return is extracted hereunder

FORM NO.3CD
[See rule 6G(2)]
Statement of particulars required to be furnished under Section 44AB of the Income Tax Act, 1961

1	*Name of the assessee*	*MRF Limited*		
2	*Address*	*114, MRF House, Greams Road, Thousand Lights, Chennai, Tamil Nadu, 6000 006*		
3	*Permanent Account Number (PAN)*	*AACM4154G*		
4	*Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, goods and services tax, customs duty, etc. if yes, please furnish the registration number or GST number or any other identification number allotted for the same*			
....	....	....	....	....
8	*a*	*Whether the assessee has opted for taxation under Section 115BA/115BAA/115BAB*	***Yes***	
	b	*Section under which option exercised*	***115BAA***	
....	....	....	....	....

3. Importantly, the petitioner, in terms of 115BAA of the Act has not availed or rather foregone deductions which it was otherwise entitled to in terms of the Act. That the petitioner has foregone its entitlement to claim deductions is not in dispute. Section 115BAA of the Act, requires the petitioner to file Form 10-IC. However, the petitioner failed to file Form 10-IC within the stipulated period, which may lead to the denial of the benefit of discharging taxes in terms of the option exercised under Section 115BAA of the Act. The petitioner thus filed an application under Section 119(2)(b)of the Act *inter alia* stating that the due date for filing Form 10-IC in terms of Rule 21AE of the Income Tax Rules, 1962 was on or before 15.02.2021, however, during the relevant period, the tax function of the company was carried out remotely due to Covid-19 restrictions imposed by the Government. Conscious of the difficulties faced in view of the pandemic, the time limit for filing Form 10-IC was extended up to 30.06.2022. The petitioner had not filed Form 10-IC, even within the extended period, which the petitioner submitted was in view of the fact that it was under the bonofide impression that the above requirement viz., filing of Form 10-IC had already been complied with.

4. It is submitted by the learned counsel for the petitioner that the petitioner's income tax return for the assessment year 2020-21 was not processed and the petitioner was not served with any intimation under Section 143(1) of the Act, denying the option of income tax under Section 115BAA of the Act. The petitioner became aware of the non-filing of Form 10-IC, only when the petitioner tried to file its return of income for Assessment Year 2022-23, adopting once again the provision of Section 115BAA of the Act, the petitioner noticed that for the first time a functionality had been introduced by which the information regarding the filing of Form-10IC was required to be populated. It was only then that the petitioner realized that Form 10-IC for Assessment Years 2020-21 and 2021-22 had not been filed. Immediately, thereafter the petitioner attempted to file Form 10-IC, however, the online e-portal did not permit filing of Form 10-IC for the Assessment Year 2020-21, in view of the delay. It is also submitted that prior to the Assessment Year 2020-21, the petitioners had been discharging taxes at the regular rate and had claimed deductions, which were foregone during the relevant Assessment Year upon opting for the benefit under Section 115AA of the Act. It was thus submitted that the rejection of the application under Section 119(2)(b) is

unjustified inasmuch as it would cause genuine hardship and the respondent authority ought to have seen that it is only "desirable" or "expedient" to avoid "genuine hardship", that the petitioner be permitted to file Form 10-IC in support of its exercise of option under Section 115BAA of the Act.

5. In this regard, it was submitted by the learned counsel for the petitioner that Section 119(2)(b) has been considered by various High Courts including Hon'ble Supreme Court and it has consistently been held that the discretion under this provision ought to be exercised liberally. It was then submitted by the learned counsel for the petitioner that the belated filing of Form 10-IC in support of the option exercised under Section 115BAA of the Act had been dealt with by this Court in W.P.No.3425 of 2024 dated 13.11.2024 wherein after referring to various case laws on the scope of the expression "genuine hardship", it was found that there was substantial compliance inasmuch while filing the return it was stated that the petitioner had opted to pay taxes under Section 115BAA of the Act which is the case here as well. In this regard, it may be relevant refer to the following order:

"………

13. The expression "genuine hardship" had come up for consideration on more than one occasion before various Court, including this Court and the

Apex Court. It appears that it has been consistently held that the power conferred under Section 119(2)(b) of the Act, ought to be exercised liberally provided circumstances set out therein exist. Here it may be relevant to keep in view the decision of the High Court of Bombay in the case of Pankaj Kailash Agarwal v. CIT, reported in (2024) 464 ITR 65, wherein it was held that no assessee would stand to benefit by lodging its claim late. More so, where the assessee would get tax advantage/benefit. It was held that the fact that an assessee feels that he would be paying more tax if he does not get the advantage of deduction will certainly constitute "genuine hardship". The phrase "genuine hardship" used in section 119(2)(b) of the Act should be construed liberally. The Legislature has conferred the power to condone the delay to enable the authorities to do substantial justice to the parties by disposing of the matters on merits."

6. The learned counsel for the respondents would submit that the petitioner having failed to comply with the filing of Form 10-IC within the extended period warrant cannot find fault with the rejection of the application under Section 119(2)(b).

7. Heard both sides and perused the material available on record.

8. This Court, after carefully considering the submissions and examining the scope, purport and object of Section 119(2)(b), finds that identical submissions were made before this Court and the same was rejected in W.P.No.3425 of 2024 dated 13.11.2024. The relevant portion is extracted here under:

> *"10. Section 119(2)(b) vests power in the Board to admit an application or claim for any exemption, deduction, refund or any other relief under the Act after the period specified under the said Act, for making such application or claim, if it is considered by the Board to be desirable or expedient so to do for avoiding genuine hardship in any case or class of cases.*
>
> *11.......................if the circumstances set out under Section 119(2)(b) of the Act exist, a duty is cast on the Assessing Officer to exercise its power under Section 119(2)(b) of the Act. It is trite law that vesting of power in an authority results in imposition of duties on that authority to exercise that power in a manner which would advance the purpose for granting/vesting of such power. In other words, this Court is of the view that the power under Section 119(2)(b) though seemingly an enabling provision, conferring discretionary power, such power is coupled with duty.*
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> ....
>
> *16. I also find that, there has been substantial compliance of the requirement under Section 115BAA of the Act, as evident from the fact that while filing the returns, it was declared / stated by the petitioner that the option to discharge the tax was exercised under Section 115BAA of the Act and taxes were in fact paid @ 22% without claiming deductions as*

contemplated under Section 115BAA of the Act. In this regard, it may be relevant to refer to the Hon'ble Supreme Court, in the case of ***Dilip Kumar (2018) 9 SCC ,*** *wherein 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 non-compliance 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."*

17. In the circumstances this Court is of the view that the Respondent Authority/Board has completely mis-directed itself in not-examining if the failure to consider the claim of option to discharge tax under Section 115BAA on the ground of failure on the fact of the petitioner to file Form 10-IC within the period stipulated under Section 115BAA would cause "genuine hardship" to the petitioner/assessee and thus it is *desirable as expedient to permit the petitioner to file Form 10-IC in support of its option under Section 115BAA and deal with the same on merit. The facts narrated supra leaves no room for doubt that the rejection of the petition under Section 119(2)(b) to permit the petitioner to file Form 10-IC in support of its exercise of option under Section 115BAA of the Act would cause genuine hardship and it is desirable and expedient to permit the petitioner to file Form 10-IC in support of its claim / option under Section 115BAA of the Act and deal with such claim on merits in accordance with law.*

18. In view thereof, the impugned order is set-aside, the respondent shall keep the portal open to enable the petitioner to upload the Form 10-IC and the petitioner shall file the Form 10-IC within a period of four weeks from the date of receipt of a copy of this order, thereafter the respondent shall proceed to deal with the claim of the petitioner under Section 115BAA on merit and in accordance with law."

8.1. Following the same, this Court is inclined to set aside the order passed under Section 119(2)(b). In view thereof, the impugned order dated 26.03.2024 is set-aside, the respondents shall keep the portal open to enable the petitioner to upload the Form 10-IC and the petitioner shall file the Form 10-IC within a period of four weeks from the date of receipt of a copy of this order, thereafter the respondents shall proceed to deal with the claim of the petitioner under Section 115BAA on merit and in accordance with law.

9. Accordingly, this writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
shk

To
1.Central Board of Direct Taxes
Represented by its Director (ITA-I),
Department of Revenue,
Ministry of Finance, Government of India,
New Delhi.

2.The Deputy Commissioner of Income Tax,
Central Circle 3(3),
3rd Floor, Investigation Building,
M.G.Road, Nungambakkam,
Chennai 600 034.

MOHAMMED SHAFFIQ, J.

shk

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