

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'F': NEW DELHI.**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 5454/ DEL/2025
(Assessment Year : 2023-24)**

Ferranza Electric Vehicle Pvt. Ltd
31-B, Gali No.5E, Sarurpur,
Industrial Area, Faridabad 121004

Vs.

DCIT
Faridabad

(PAN: AAECF7994F)

ASSESSEE BY : Sh. Rahul Agarwal, Adv &
Sh. Dhanjay Bharadwaj, Adv
REVENUE BY : Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing : 19.01.2026
Date of Order : 12.02.2026

ORDER

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals), ADDL/JCIT (A)-6, Mumbai (hereinafter referred to 'ld. CIT(A)') dated 30.06.2025 for AY 2023-24.
2. Brief facts of the case are, assessee filed its return of income for AY 2023-24 on 15.10.2023 plus. The above said return was remained invalid return as per section 139(9) of the Income Tax Act, 1961 (in short 'Act'), due to defective or incomplete. Accordingly a letter was issued to the assessee and in

response assessee had filed its return u/s 139(5) of the Act on 18.12.2023 wherein it had opted for Section 115BAB mentioned as 'Yes'. The return of income was processed u/s 143(1) on 28.10.2024 accepting the total income. However, CPC Bengaluru had denied the option for taxation u/s 115BAB of the Act. Subsequently, assessee filed rectification application. However, the same was rejected by the CPC Bengaluru u/s 154 of the Act.

3. Aggrieved with the above order assessee filed an appeal before Ld. CIT(A), ADDL/JCIT (A)-6 Mumbai before Ld. CIT(A) has submitted as under:-

Our arguments:

1. Income Tax Return for A.Y. 2023-24 was filed on 15/10/2023 vide E-filing Ack. No.411350981151023.

Copy of the ITR Form is attached at Page No.1 to 104 of the Paper Booklet filed with this submission.

We draw your attention of your Honor to Page No.1 of the Paper Booklet

Have you opted for taxation under section 115BA/115BBA/115BAB? (applicable on Domestic Company)	Section 115BAB
If Yes, please furnish the AY in which said option is exercised for the first time along with date of filing of relevant form (10-IB/ 10-IC/ 10-ID) & acknowledgement number.	
Assessment Year	2022-23
Acknowledgement number	777227710041122
Date of filing	04/11/2022

The above facts have been highlighted in the copy of ITR attached herewith for your reference.

- 2 Copy of Form 10-ID (Application for exercise of option under sub-section (7) of section 115BAB of the Income tax Act, 1961) filed on 04/11/2022 vide e-Filing Ack. No.777227710041122 for A.Y. 2022-23 and subsequent years is also attached at Page No. 105-107 of the Paper Booklet filed with this submission. From perusal of the Form 10ID filed for A.Y. 2022-23 and

subsequent years, it is evident that the Form 10-ID was filed before the due date for filing of the Income Tax Return for A.Y. 2023-24.

Copy of the Form 10-ID Form is attached at Page No.105 to 107 of the Paper Booklet filed with this submission.

3. Copy of Order passed u/s 154 dated 04/03/2025 is attached at Page No. 108 to 115 of the Paper Booklet filed with this submission.

Copy of the Intimation passed u/s 154 is attached at Page No.108 to 115 of the Paper Booklet filed with this submission.

Kindly refer at Page No.109 wherein while the option u/s 115BAB was selected as "Yes" by the Appellant but in response thereto the Department has specified "NO".

This specified "No" by the Department is incorrect.

4. Now, we draw the attention of your Honor to the extract of the ITR filed for A.Y. 2022-23 along with extract of the Intimation Order passed by the Centralized Processing Center u/s 143(1) wherein the option u/s 115BAB was selected as "Yes" and the Centralized Processing Center has also specified is as "Yes". The specific fields are highlighted for the convenience of your Honor.

Kindly refer to Page No.116 and 117 of the Paper Booklet filed with this submission.

While the option selected by the assessee u/s 115BAB is selected "Yes", the assessment by taking it as "No" is contrary to law and therefore the assessment framed with "No" has resulted in demand being payable by the appellant and is liable to be corrected and the assessment be corrected taking the option as "Yes"

From the above, it is very clear that the Centralized Processing Center was in error, while processing the ITR by specifying the option u/s 115BAB as "No".

Hence, the assessment is liable to be made by taking the option u/s 115BAB as "Yes" and the addition is liable to be deleted.

Ground No.2

The appellant craves leave to add or amend any of the ground of appeal.

Our arguments:

Since no additional ground has been taken by the appellant and no existing ground has been amended, this Ground is not applicable.

We hope you will find the above in order.

Thanking you.

Yours faithfully.

For Ferranza Electric Vehicle Private Limited

(Ravi Aggarwal)

Director

Encl: a/a

4. After considering the statements of the assessee, ld. CIT(A) observed that upon verification of records and systems data, it was observed that assessee did not file any valid return of income within the due date prescribed u/s 139(1) of the Act. Further observed that although a return was filed on 16.10.2023, it was subsequently treated as invalid return and the valid return was filed only on 18.12.2023. He observed that in accordance with the provisions of Section 115BAB of the Act, the option to avoid concessional tax rate is permissible only if the filed return of income is furnished within the due date specified u/s 139 of the Act. Since the valid return in the present case was filed after the due date it constitutes a belated return under the Act.

Therefore, he sustained the findings of the CPC in this regard, and accordingly dismissed the appeal filed by the assessee.

5. Aggrieved with the above order assessee is in appeal before us raising following grounds of appeal:-

1. That, on the facts and circumstances of the case the Ld. CIT(A) has erred in law and on facts in upholding the order passed by the Ld. Assessing Officer (AO), CPC, Bangalore, u/s.154 r.w.s.143(1) of the Act.

2. That on the facts and in the circumstances of the case and in law, the Learned CIT(A) has erred in upholding the action of the Assessing Officer, CPC in denying the benefit of the concessional tax regime under section 115BAB of the Income-tax Act, 1961, without proper appreciation of the facts of the case and the applicable law. The order of the Ld. CIT(A) is arbitrary, contrary to law, and unsustainable.

3. That the Learned CIT(A) has erred in law and on facts in upholding the action of the AO, CPC in making adjustments under section 143(1) of the Act by unilaterally altering the valid option exercised by the assessee under section 115BAB. The CPC, in the impugned intimation, has incorrectly and without jurisdiction treated the said option as "No", which is clearly beyond the scope of adjustments permissible under section 143(1) of the Act.

4. That the Learned CIT(A) has erred in law and on facts in failing to appreciate that there exists no provision under the Income-tax Act, 1961 which authorises or justifies the action of the AO, CPC in denying the assessee's valid claim under section 115BAB. By upholding such action, the Ld. CIT(A) has rendered the impugned order without jurisdiction, beyond the mandate of the Act, and bad in law.

5. That the Learned CIT(A) has erred in law and on facts in passing a non-speaking order without properly considering or dealing with the detailed submissions and evidences filed by the assessee. The impugned order is therefore vitiated being contrary to the settled principles of natural justice and bad in law.

6. The appellant craves leave to add or alter one or more ground (s) during the course of hearing of appeal.

6. At the time of hearing, Ld. AR of the assessee submitted that assessee has filed valid return of income in the previous Assessment year and also filed Form No.10ID on 4th November 2022. He submitted that as per the provisions assessee had to file only once to exercise the option and it is not required on the part of the assessee to file the above said form every year. In this regard, he brought to our notice sub-section 7 of Section 115BAB of the Act. He submitted that assessee has to select the option only once and the same is applicable to subsequent assessment years. He submitted that the assessee has filed its return of income u/s 139(1) of the Act within the due date. However, CPC has treated the same as nullified and accordingly based on the intimation assessee has filed the same u/s 139(4) of the Act. He brought to our notice page 24 of the paper book which was also confirmed by Ld.CIT(A). We submitted that the conclusion drawn by the Ld. CIT(A) is factually wrong and he prayed that claim of the assessee may be allowed.
7. On the other hand, Ld. DR relied on the findings of the lower authorities.
8. Considered the rival submissions and material placed on record assessee is eligible to claim concessional rate of tax by opting the concessional rate u/s 115BAB of the Act and it is obligation on the part of the assessee to file Form 10ID in the year in which assessee is opting the same. We also observed the similar direction given in sub-section 7 of Section 115BAB of the Act, for the brevity it is reproduced below:-

“Tax on income of new manufacturing domestic companies.

115BAB.....

(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.”*

9. From the above it is clear that assessee has to file its return of income u/s 139(1) of the Act in the first year of opting the option and once option is exercised the same is applicable in the subsequent assessment years. Further we observed that as per the provisions of the above sub-section it is clear that once the option is exercised, the same cannot be subsequently withdrawn for the same any other previous year. It clearly shows that once the option is exercised the same cannot be subsequently withdrawn and the same direction is applicable to the Assessing Officer. We noticed that the assessee has exercised the above option in the previous assessment year that is AY 2022-23. In the present assessment year assessee has filed its return of income which was subsequently treated as invalid u/s 139(9) of the Act. Upon intimation assessee had filed the revised return u/s 139(5) of the Act on 18.12.2023. We observed that lower authorities have denied the concessional rate on the basis of not filing of return of income u/s 139(1) of the Act within the due date. As per the facts available on record we observed that assessee has already exercised the option in the previous assessment year itself. In the

year under consideration, the assessee has filed the return of income u/s 139(5) of the Act only on the basis of invalid return u/s 139(9). It is not the case that assessee has not filed its return of income u/s 139(1) of the Act. Further, this is the second year of availing the benefit u/s 115BAB of the Act. That being the case the same cannot be denied with the observation that assessee has not filed return of income u/s 139(1) of the Act before opting the above option.

10. Therefore, we are inclined to allow the claim of the assessee for simple reason that assessee has already opted the option in the previous assessment year itself. This being the following assessment year mere technical defect cannot be reinforced when the Act itself provides that the same cannot be withdrawn subsequently and the above direction is equally applicable to the lower authorities.

11. In the result, appeal filed by the assessee is **allowed**.

**Order pronounced in the open court on this day of 12th February
2026**

Sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Sd/-

**(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 12.02.2026

***Mittali Sr. PS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI