IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW "A" BENCH, LUCKNOW

BEFORE SH. KUL BHARAT, VICE-PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER

ITA No.112/Lkw/2026
A.Y. 2022-23

DCIT, Circle-1, Room No. 202, 2nd Floor, Pratyaksh Kar Bhawan, 57, Ram Tirath Marg, Lucknow, Uttar Pradesh-226001.	vs.	**Arif Industries Pvt. Ltd.,** 2nd Floor, Metro City Centre, Nishatganj, Mahanagar S.O., Lucknow, Uttar Pradesh-226006.
		PAN: AACCA2048M
(Appellant)		(Respondent)

Assessee by:	Sh. Rajiv Joshi, CA
Revenue by:	Shri Sonal Singh, Addl. CIT- DR
Date of hearing:	29.09.2026
Date of pronouncement:	30.10.2026

O R D E R

PER NIKHIL CHOUDHARY, A.M.:

This is an appeal filed by the Department against the order of the ld. Addl./JCIT(A)-7, Mumbai dated 14.11.2025, wherein the learned ld. First Appellate Authority (FAA) has allowed the appeal of the assessee against the order passed by the ld. Assessing Officer under section 143(1) of the Income Tax Act, 1961 (the Act), for the AY 2022-23 dated 16.03.2023. The grounds of appeal are as under:-

> *"1. Because on the facts and in the circumstances of the case and in law, the Ld. Addl./Joint Commissioner of Income Tax (Appeals) has erred in allowing the assessee's claim of deduction under section 80IB(10) of the Income-tax*

Act, 1961, ignoring the fact that the same issue had already been decided by the Ld. Commissioner of Income Tax (Appeals), NFAC, Delhi, vide appellate order dated 03.09.2024, which had attained finality.

2. Because the Ld. Addl./Joint CIT(A) has erred in law in adjudicating and allowing an appeal on an issue which stood concluded by an earlier appellate order of a higher authority, thereby violating the binding principles of judicial discipline and administrative hierarchy.

3. Because the Ld. Addl./Joint CIT(A) has failed to appreciate that an order passed by the Ld. CIT(A) is binding on subordinate appellate authorities and cannot be reviewed, overridden, or nullified by a lower authority under the Act.

4. Because the Ld. Addl./Joint CIT(A) has erred in holding that the filing of Form No. 10CCB on 13.10.2022 was within the permissible time, ignoring the statutory mandate of section 44AB, which clearly requires filing of the audit report one month prior to the due date prescribed under section 139(1).

5. Because the impugned appellate order dated 14.11.2025 is without jurisdiction, legally untenable, and bad in law, as it effectively amounts to a review of a concluded appellate decision, which is impermissible under the Income-tax Act, 1961.

6. The appellant craves leave to add, amend, alter, or withdraw any of the above grounds of appeal at or before the time of hearing."

2. The facts of the case are that the assessee filed return of income for the AY 2022-23 declaring a total income of Rs. 1,87,10,752/-. The return was processed under section 143(1) of the Act resulting in a demand of Rs. 58,95,760/-. While processing the return, the ld. AO/CPC disallowed the assessee's claim for deduction under section 80IB(1) of the Act on the ground that the audit report in Form 10CCB was not filed within due date prescribed for the relevant AY. Before the First Appellate Authority (FAA) the assessee submitted that both the audit report and the return of income was filed on 13.10.2022 i.e. before the due date of the filing of the return. Furthermore, a Tax Audit Report under section 44AB in Form 3CA-3CD was filed on 30.09.2022. It was further submitted that a notice under section 143(1)(a) was issued on 14.12.2022 proposing an adjustment on account of, "disallowance of incorrect claim amounting to Rs. 3,36,91,079/-" without specifying the basis on which the said claim was considered incorrect. The

assessee submitted a response in which it pointed out that Form 10CCB had been duly filed and providing the filing acknowledgment details. However, an intimation under section 143(1) was issued on 16.03.2022 disallowing the deduction claimed under section 80IB(10) of the Act that resulted in the aforementioned tax demand. Before the ld. FAA it was submitted that there was nothing in the return which apparently made the claim under section 80IB(10) as incorrect. The mandatory audit report had been filed on time, the computation of eligible deduction under section 80IB(10) of Rs. 3,36,91,079/- had been duly filled in schedule-80IB Sl. No. (g) and the claim was also mentioned in schedule VI-A Sl. No.2 part-C "deduction in respect of certain income Sl. No. (h)". It was further submitted that the eligible deduction had been restricted to the extent of business income, which in the instant case was Rs. 2,91,71,517/- and thus, the assessee rightfully claimed the deduction under section 80IB(10) of the Act. The ld. AO had firstly gone beyond the scope of adjustment under section 143(1) and secondly failed to consider the response of the assessee to the notice under section 143(1)(a) of the Act. The assessee had always been granted deduction under section 80IB(10) in the past including in the latest scrutiny assessment case for the immediately preceding AY. It was further submitted that the requirement of furnished prescribed audit report in the Form 10CCB with respect to the date mentioned in section 44AB comes in the form of specific sub-clauses only in the cases of section 80IB(7A), section 80IB(7B), section 80IB(11B), and section 80IB(11C) and nowhere else i.e. there was no requirement of furnished of audit report one month before the due date of filing of return as required in section 44AB for eligible business undertakings, not covered by the aforesaid sub-sections. It was further argued that the adjustment could only be made under section 143(1)(a)(ii) if the incorrect claim was apparent from any information in the return and where disallowance of deduction

claimed under chapter-VIA was being made, if the return was furnished beyond the due date as specified under sub-section (1) of section 139 of the Act. In the assessee's case, the ITR was filed within the due date and there was no incorrectness with regard to the claim under section 80IB(10) that was apparent for any information in the return. Hence, there was no justification for making the adjustment under section 143(1)(a) and the ld. AO was in error on this account.

3. The ld. FAA considered the submissions of the assessee and pointed out that judicial precedents as well as CBDT Circular No. 9/2006 dated 10.10.2026 had clarified that the deduction should not be denied merely on account of delay in furnishing of audit report, provided the report was obtained before the due date of filing of return and was submitted before the completion of assessment proceedings. In the present case the audit report in Form 10CCB had duly been furnished on 13.10.2022 which was within the time permissible for filing the return of income for the relevant AY. Furthermore, the computation of the eligible deduction of Rs. 3,36,91,079/- was correctly reflected in the various schedules as required and it had also been restricted to the extent of business income, which for the present case amounted to Rs. 2,91,71,517/-. In the circumstances, it was held that the appellants claimed for deduction under section 80IB(10) was valid and accordingly it was allowed.

4. The revenue is aggrieved at this order passed by the ld. FAA and has accordingly filed this appeal. Smt. Sonali Singh, Addl. CIT-DR appearing on behalf of the Department submitted a report from the ld. AO in which it was pointed out that against the said adjustment, the assessee had moved an application under section 154, which had resulted in an order dated 11.04.2023 dismissing the claim of the assessee. The assessee had filed an

appeal before the ld. CIT(A) against the order under section 154 dated 11.04.2023 and the same had been dismissed by the ld. CIT(A)/NFAC vide his order dated 03.09.2024. Aggrieved with the order of the ld. CIT(A), the assessee had filed an appeal before the Hon'ble ITAT, Lucknow and the ITAT, Lucknow had allowed the appeal of the assessee vide its order dated 28.10.2025. However, this order had not been communicated to the office of the ld. AO before the communication was sent by Sr. DR on 13.04.2026. Furthermore, it was submitted that the assessee had also filed an appeal before the ld. CIT(A) against the adjustment notice under section 143(1)(a). The essence of the arguments of the ld. Sr. DR were that since the appeal on the issue had stood concluded by an earlier appellate order of a higher authority, the order of the ld. FAA violated the binding principles of judicial and administrative hierarchy. It was submitted that the ld. FAA had failed to appreciate that the order passed by the ld. CIT(A) was binding on subordinate appellate authorities and it cannot be reviewed, overridden or nullified by the lower authorities under the Act. It was submitted that the ld. FAA had erred in holding the filing of Form 10CCB was within the permissible time, ignored, the statutory mandate of section 44AB which clearly required the filing of audit report one month prior to the due date prescribed under section 139(1) of the Act. Accordingly, it was submitted that the impugned order was without jurisdiction untenable in law and deserves to be quashed as such.

5. On the other hand, Sh. Rajiv Joshi, CA representing the assessee submitted that there was two orders which have been appealed against by the assessee, namely; the order under section 143(1) dated 16.03.2023 and the order under section 154 dated 11.04.2023. The appeal order against the order under section 143(1) had been passed by the Addl. /JCIT(A)-7, Mumbai on 04.11.2025 whereas the appeal against the order under section

154 had been passed by the ld. CIT(A)/NFAC on 03.09.2024. Subsequently, the assessee had carried the appeal against the order of the ld. CIT(A)/NFAC to the ITAT, Lucknow which had decided the issue in its favour vide its order dated 28.10.2025. The appeal against the order passed by the Addl./JCIT(A), Mumbai was now contested by the Department before this Hon'ble Bench. The ld. AR submitted that if we were to extend the logic of the Department, raised in its grounds of appeal no. 2 & 3, then this the appeal should never had been filed, because the same stood finally settled in favour of the assessee vide the order of the Hon'ble ITAT, "A" Bench in ITA No. 638/Lkw/2024 vide its order dated 28.10.2025 for the same AY. In view of the same, it was submitted that there was no force in the grounds of appeal no. 1,2,3 & 5 of the Department and they deserved to be dismissed. With regard to the ground no.4 of the Departments appeal, it was submitted that the issue stood fully covered by the order of the ITAT in ITA No. 638/Lkw/2024 for the AY 2022-23. Accordingly, it was prayed that since the reference to date mentioned in section 44AB was with regard to certain specific sub-clauses of section 80IB, and there was no requirement of furnishing audit report one month before the due date in respect of the other sub-clauses, there was no necessity to make any disallowance on this account and therefore addition could be made on this account. Accordingly, it was prayed that the appeal of the Department may kindly be dismissed.

6. We have duly considered the facts and circumstances of the case and the arguments advanced by both the parties. We noticed that the identical issue has already been dealt with by this very Bench in ITA No. 63/Lkw/2024, which was an appeal against the order of the ld. CIT(A) to uphold the dismissal of the rectification application filed by the assessee under section 154 of the Act, for the same AY and in respect of the same order under section 143(1) of the Act. After hearing both the parties and

placing reliance on the judgment of Delhi Bench of ITAT in the case of Sanjay Kukreja vs. ACIT in ITA No. 652/Del/2023 and the decision of Hon'ble Allahabad High Court in the case of PCIT vs. Surya Merchands Ltd. [2016] 387 ITR 105 (Alld.), the coordinate bench had held that since the Form 10CCB was filed on 13.10.2022 i.e. before the due date of filing the return, the claim of the assessee was in accordance with law and therefore deserves to be allowed. We further observed that this order was passed prior to the order passed by Addl./JCIT(A)-7, Mumbai and therefore since the issue stood settled by this order there ought not to have been any occasion for the Department to file an appeal against the order passed by the Addl./JCIT(A)-7, Mumbai on the same issue that stood concluded after such orders in ITA No. 638/Lkw/2024. However, considering that the Department has submitted that it was not aware of the aforesaid orders, we presume that the appeal was filed without knowledge of the same. Be that as it may, we cannot help but notice that the appeal has been filed on an erroneous presumptions that the Addl./JCIT(A)-7, Mumbai is a subordinate judicial authority to the ld. CIT(A). Both the ld. CIT(A) and the Addl./JCIT(A)-7, Mumbai are First Appellate Authorities and therefore in the matter of appellate hierarchy, hold equivalent ranking with each other. While the order passed by one may have persuasive value for the other, it cannot be held that an order passed by the ld. CIT(A) binds the Addl./JCIT(A)-7, Mumbai to follow suit as the Addl./JCIT(A)-7, Mumbai does not fall under the judicial hierarchy of the ld. CIT(A), but that of the ITAT. In the circumstances, the grounds preferred by the Department on this account are fit to be dismissed. Grounds No. 1, 2, 3 and 5 are accordingly dismissed.

7. With regard to ground no.4, we note that the observation of the ld. Addl./JCIT(A)-7, Mumbai, that the condition that the audit report should be furnished before the due date as specified in section 44AB is only specified in

section 80IB(7A), section 80IB(7B), section 80IB(11B) and section 80IB(11C) and is not mentioned in section 80IB(10). Accordingly, the deduction could not have been denied to the assessee on the grounds that the CPC has done. Ground No. 4 is therefore also dismissed.

8. In the result, appeal of the Revenue is dismissed.

Order pronounced on 30.10.2026 in the open Court.

Sd/-	***Sd/-***
[KUL BHARAT]	**[NIKHIL CHOUDHARY]**
VICE-PRESIDENT	**ACCOUNTANT MEMBER**

DATED: 30/10/2026
SK, Sr. PS

Copy forwarded to:
1. Appellant –
2. Respondent –
3. CITDR , ITAT,
4. CIT,
5. The CIT(A)

By order

SHARWAN KUMAR Digitally signed by SHARWAN KUMAR Date: 2026.11.02 11:35:28 +05'30'

Sr. P.S.