**Relevant provisions of Income Tax Act, 1961**

**Section 80AC of Income Tax Act, 1961** – This section provides that while computing income of an assessee for previous year relevant to assessment year commencing on the 1st day of April, 2006 or any subsequent assessment year, the deductions allowed to be claimed under sections 80IA, 80IAB, 80IB, 80IC, 80ID and 80IE, shall not be allowed unless the return of income for such assessment year is filed within the prescribed due date as per section 139(1).

Sections requiring fulfilment of condition for claiming deduction, as per section 80AC:

1. **Section 80IA** – It provides that an assessee (company) incorporate in India or working as per its agreement with Central or State government engaged in the business of infrastructure facility can claim deduction of an amount equal to hundred per cent of profits and gains derived from such business for ten consecutive years while computing the total income as per the provision of this section.
2. **Section 80IAB** – It provides that an assessee being a Developer includes any profits and gains derived from developing a Special Economic Zone, notified on or after the 1st day of April 2005 under the Special Economic Zones Act, 2005 can claim deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for ten consecutive assessment years while computing the total income as per the provision of this section.
3. **Section 80IB** – It provides that an assessee conducting any business referred in sub-section (3) to (11), (11A) and (11B) of this section can claim deduction from profits and gains of an amount equal to such percentage and for such number of years as specified in accordance to the provision of this section.
4. **Section 80IC** – It provides that an assessee conducting any business of Export Processing Zone or Software Technology or Industrial Estate or Industrial Park as per the scheme framed and notified by the Central Government can claim deduction of (i) one hundred per cent of such profits and gains for five assessment years commencing with the initial assessment year while computing the total income of such business in State of Sikkim & North Eastern States

(ii) one hundred per cent of such profits and gains for five assessment years commencing with the initial assessment year and thereafter, twenty-five percent (or thirty per cent where the assesse is a company) of the profits and gains while computing the total income of such business in State of Himachal Pradesh or the State of Uttaranchal.

1. **Section 80ID** – It provides that an assessee conducting any business of hotel located in specified area or specified district having world heritage site or engaged in business of convention centre located in specified area can claim deduction while computing the total income of an amount equal to hundred percent of the profit and gains derived from such business for five consecutive years beginning from the initial assessment year.
2. **Section 80IE** –It provides that an assessee conducting any business of manufacturing or producing any eligible article or undertake substantial expansion of such eligible article in North-Eastern States can claim deduction while computing the total income of an amount equal to hundred percent of the profits and gains derived from such business for ten consecutive assessment years commencing with the initial assessment year.

**Other relevant sections of Income tax act of which benefits are barred by return filing beyond time limit prescribed by 139(1)**

1. **Section 11** – It states that an assessee who’s income from a property held under trust wholly for charitable or religious purposes or in part for such charitable or religious purpose in India to the extent of 15% income from such property shall not be included in the total income for the previous year of the assessee.

**Explanation** – It can be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed.

1. **Section 22(1) of 1922 Income Tax Act** – It states that an assessee who is a principle officer of a company shall file its return of income and furnish the same to Income tax officer on or before 15th June of each year.

**Section 24(2) of 1922 Income Tax Act –** It states that an assesse who is a registered firm shall be entitle to have set off of any loss sustained against any income, profit or gain of the year in which the loss was sustained in respect of which tax is payable.

1. **Section 10A –** It states that an assessee being an undertaking of export of articles or things or computer software can claim deduction while computing total income for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

**Proviso to this section says** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139

1. **Section 10B** – It states that an assessee being hundred percent export oriented undertaking of articles or things or computer software can claim deduction while computing its total income for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software.

**Proviso to this section says** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139

**Case Laws**

**FOR:**

**Income Tax Officer Vs. Sri S. Venkataiah ITA No. 984/Hyd/2011 (ITAT Hyderabad)**

**Sections: –** 80IC

**Case laws cited:**

1. Asstt. CIT v. Dhir Global Industrial (P.) Ltd. [2011] [43 SOT 640](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link) / [7 taxmann.com 36](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link) (Delhi)
2. Bajaj Tempo Ltd. v. CIT [1992] [62 Taxman 480](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080472&source=link) (SC)
3. CIT v. U.P. State Agro Industrial Corpn. Ltd. [1991] [56 Taxman 349](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000012372&source=link) (All.)
4. CIT v. Hindustan Antibiotics Ltd. [1974] [93 ITR 548](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000016443&source=link) (Bom.)
5. CIT v. Satellite Engg. Ltd. [1978] [113 ITR 208](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000031590&source=link) (Guj.)
6. CIT v. Gedore Tools India (P.) Ltd. [1980] [126 ITR 673](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000025726&source=link) (Delhi)
7. Ashok Motors Ltd. v. CIT [1961] [41 ITR 397](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000042087&source=link) (Mad.)
8. Chembra Peak Estates Ltd. v. CIT [1972] [85 ITR 401](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000037068&source=link) (Ker.)
9. Capsulation Services (P.) Ltd. v. CIT [1973] [91 ITR 566](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000017043&source=link) (Bom.)
10. CIT v. Gaekwar Foam & Rubber Co. Ltd. [1959] [35 ITR 662](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000016405&source=link) (Bom.)
11. Trustees of Tulsidas Gopalji Charitable & Chaleshwar Temple Trust v. CIT [1994] [207 ITR 368](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000019437&source=link) / [73 Taxman 61](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000055757&source=link) 2 (Bom.)
12. CIT v. Kulu Valley Transport Co. (P.) Ltd. [1970] [77 ITR 518](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000078629&source=link) (SC)
13. Dy. CIT v. Vega Conveyors & Automation Ltd. [IT Appeal Nos. 1231 & 1199 (Hyd.) of 2010, dated 31-12-2010]

**Held:** As per the provision of section 80AC, deductions u/s [section 80IA](https://indiankanoon.org/doc/789969/) of [section 80IAB](https://indiankanoon.org/doc/789969/) or [section 80IB](https://indiankanoon.org/doc/789969/) or [section 80IC](https://indiankanoon.org/doc/789969/) (or [section 80ID](https://indiankanoon.org/doc/789969/) or [section 80IE](https://indiankanoon.org/doc/789969/)) shall not be allowed unless return of income for such assessment year is filed on or before the due date specified u/s 139(1)" but when the substantial question of justice is involved technicalities should be ignored, belated return filed after 74 days condoned. The claim of the assessee cannot be denied on technicalities when the assessee is legally otherwise entitled for deduction.

**Appealed by Revenue in Andhra Pradesh HC-** Commissioner of Income Tax-V Hyderabad vs. M/s. Sri S. Venkataiah I.T.T.A. No. 114 OF 2013

**Held:** There is a reasonable cause for filing the return of income belatedly and this is beyond the control of the assessee. The tribunal was right in dismissing the appeal of revenue and allowing deduction u/s 80IC.

**No further appeal.**

**Trustees of Tulsidas Gopalji ... vs Commissioner of Income-Tax 1994 207 ITR 368 Bom**

**Section –** 11(1)

**Case laws cited:** CIT v. Kulu Valley Transport Co. (P.) Ltd. [1970] [77 ITR 518](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000078629&source=link) (SC)

**Held:** Sub-section (1) provides the time within which the return is requited to be submitted voluntarily. Sub-section (4) of [section 139](https://indiankanoon.org/doc/789969/), however, permits an assessee, who has failed to furnish a return within the time allowed by sub-section (1) or in a notice under sub-section (2), to file the same at any time before the assessment is made. we are of the clear opinion that sub-sections (1) and (4) of [section 139](https://indiankanoon.org/doc/789969/) have to be read together and on such a reading, the inevitable conclusion is that a return made within the time specified in sub-section (4) has to be considered as having been made within the time prescribed in sub-section (1) or sub-section (2) of [section 139](https://indiankanoon.org/doc/789969/) of the Act.

**No further appeal.**

[**CIT v. Kulu Valley Transport Co. Ltd**](https://indiankanoon.org/doc/774586/)**. SC [1970] 77 ITR 518**

**Section –** 22(1) & 24(2)

**Case laws cited:**

1. Anglo-French Textile Co. Ltd. v. CIT (No. 4) [[1950] 18 ITR 906 (Mad.)](https://www.taxmann.com/fileopen.aspx?id=101010000000042076&source=link)
2. Anglo-French Textile Co. Ltd. v. CIT [[1953] 23 ITR 82 ; [1953] SCR 448 (SC)](https://www.taxmann.com/fileopen.aspx?id=101010000000079016&source=link)
3. CAIT v. Sultan Ali Gharami [[1951] 20 ITR 432 (Cal.)](https://www.taxmann.com/fileopen.aspx?id=101010000000021176&source=link)
4. CIT v. Govindalal Dutta [[1958] 33 ITR 630 (Cal.)](https://www.taxmann.com/fileopen.aspx?id=101010000000021200&source=link)
5. CIT v. Ranchhoddas Karsondas [1999] 36 ITR 569; [1960] 1 SCR 114 (SC),
6. Rama Iyer (P.S.) v. CIT [[1957] 32 ITR 458 (Mad.)](https://www.taxmann.com/fileopen.aspx?id=101010000000042728&source=link),
7. Ranchhoddas Karsondas v. CIT [1954] 26 ITR 105 (Bom.)
8. Tulsi Dass Jaswant Lal Kuthiala v. ITO, [[1964] 52 ITR 609 (Punj.)](https://www.taxmann.com/fileopen.aspx?id=101010000000051849&source=link)

**Held:** [Section 22(1)](https://indiankanoon.org/doc/1623255/) (corresponding to [section 139(1)](https://indiankanoon.org/doc/789969/) of the 1961 Act) must be read with [section 22(3)](https://indiankanoon.org/doc/1623255/) (corresponding to [section 139(4)](https://indiankanoon.org/doc/789969/) of the 1961 Act) for the purpose of determining the time within which the return has to be submitted. It was observed that [section 22(3)](https://indiankanoon.org/doc/1623255/) was merely a proviso to [section 22(1)](https://indiankanoon.org/doc/1623255/). On the aforesaid reasoning, it was held that a return of income, profits or gains or of a loss must be considered as having been made within the time prescribed if it is made within the time specified in [section 22(3)](https://indiankanoon.org/doc/1623255/) (corresponding to [section 139(4)](https://indiankanoon.org/doc/789969/) of the 1961 Act). In other words, if [section 22(3)](https://indiankanoon.org/doc/1623255/) (corresponding to [section 139(4)](https://indiankanoon.org/doc/789969/) of the 1961 Act) is complied with, [section 22(1)](https://indiankanoon.org/doc/1623255/) (corresponding to [section 139(1)](https://indiankanoon.org/doc/789969/) of the 1961 Act) also must be held to have been complied with. Provisions of [sections 22(1)](https://indiankanoon.org/doc/1623255/), [22(2)](https://indiankanoon.org/doc/1623255/) and [22(3)](https://indiankanoon.org/doc/1623255/) of the 1922 Act are identical with the provisions of sub-sections (1), (2) and (4) of [section 139](https://indiankanoon.org/doc/789969/) of the 1961 Act. On a careful comparison of the two sets of the provisions, it is evident that there is no difference between the two.

**Commissioner of Income Tax-VI vs. M/S Unitech Ltd. Delhi HC ITA 239/2015 & CM No. 6678/2015**

**Section:** 80AC

**Case laws cited:**

1. Umesh Chandra Dalakoti v. Assistant Commissioner of Income Tax ITA No. 07/2012 (Uttarakhand HC)
2. CIT v. Shelcon Properties (P) Ltd. [2015] 370 ITR 305 (Cal)
3. Saffire Garments v. ITO 20 ITR (Trib) 623
4. ACIT v. Shri V.N. Devadoss
5. Lakshmi Energy and Foods Ltd. v. ACIT
6. Dwarkadas Panchmatiya v. ACIT
7. CIT v. Integrated Databases (I) Ltd. (2009) 178 Taxman 432 (Del)
8. CIT v. Contimeters Electricals (P) Ltd. (2009) 178 Taxman422 (Del)
9. CIT v. Sri S Venkataiah
10. ACIT v. Precot Meridian Ltd
11. ACIT v. V.N. Devadoss
12. ACIT v. Dhir Global Industrial (P) Ltd. 133 TTJ (Del) 580
13. Hansa Dalakoti v. ACIT
14. M/s Vanshee Builders & Developers P. Ltd. v. CIT 63 SOT 30
15. M/s Shelcon Properties (P) Ltd. v. JCIT

**Held:**

At this stage there is no authoritative pronouncement of this court on the interpretation of section 80AC and on the question that whether 80AC is mandatory or directory. Therefore, it is held that ITAT was not in error in reversing the order of the CIT and allowing deduction u/s 80IB(10) in present case and Section 80AC of the Act is mandatory or directory is left open for consideration in an appropriate case.

**No further appeal**

**CIT Delhi vs Integrated Databases India Ltd (2009) 178 Taxman 432 (Del HC)**

**Section:** 10B

**Case law cited**: CIT v. Contimeters Electricals (P.) Ltd. [2009] [178 Taxman 422](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000027096&source=link)

**Held:**

The court held that the provision of Section 10B are virtually identical to the provisions of section 80-IA (7), 80HHB (3) (ia) and 80J(6A) which were held directory and not mandatory in ‘*Commissioner of Income Tax, Delhi vs. Contimeters Electricals Private ltd 178 Taxman 422 (Del HC)*’. Therefore, Section 10B is directory and not mandatory. No substantial question of law arises.

**No further appeal**

**Commissioner of Income Tax, Delhi vs Contimeters Electricals Private ltd 178 Taxman 422 (Del HC)**

**Sections:** 80-IA(7)

**Case law cited:**

1. CIT v. Gujarat Oil & Allied Industries [[1993] 201 ITR 325 (Guj.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000031434&source=link)
2. CIT v. A.N. Arunachalam [[1994] 208 ITR 481/75 Taxman 529 (Mad.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000043776&source=link)
3. CIT v. Shivanand Electricals [[1994] 209 ITR 63/75 Taxman 93 (Bom.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000019736&source=link)
4. Zenith Processing Mills v. CIT [[1996] 219 ITR 721 (Guj.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000031805&source=link)
5. CIT v. Jayant Patel [[2001] 248 ITR 199/117 Taxman 707 (Mad.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000043973&source=link)
6. CIT v. Mahalaxmi Rice Factory [[2007] 294 ITR 631/163 Taxman 565 (Punj. & Har.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000053599&source=link)
7. Commissioner of Customs v. Toyo Engg. India Ltd. [2006] 7 SCC 592

**Held:** The court held that a long line on decisions of various High Courts in considering the provisions of [Section 80J(6A)](https://indiankanoon.org/doc/1157416/) which are similar to the provisions of [Section 80-IA(7)](https://indiankanoon.org/doc/789969/), the Tribunal has arrived at the correct conclusion that the requirement of filing the audit report along with the return is not mandatory but directory and that if the audit report is filed at any time before the framing of the assessment, the requirement of [section 80-IA(7)](https://indiankanoon.org/doc/789969/) would be met.

**No further appeal**

**ACIT vs. V.N. Devadoss [2013] 57 SOT 67 (Chennai - Trib.) (URO.)**

**Sections:** 153A, 139(1)

**Case law cited:**

1. Asstt. CIT v. Dhir Global Industries (P.) Ltd. [[2011] 43 SOT 640/8 taxmann.com 208 (Delhi)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link)
2. Asstt. CIT v. Polyhose India (P.) Ltd. [I.T. Appeal No. 122 (Mds) of 2011, dated 30-6-2011]
3. CIT v. Web Commerce (India) (P.) Ltd. [[2009] 318 ITR 135/178 Taxman 310 (Delhi)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000028423&source=link)
4. Faisal Abbas v. Dy. CIT [I.T. Appeal Nos. 3485 & 3487 (Mum.) of 2010, dated 25-10-2011]
5. Dy. CIT v. Eversmile Construction Co. (P.) Ltd. [I.T. Appeal No. 4238 (Mum.) of 2010, dated 30-8-2011]
6. Saffire Garments v. ITO [[2012] 28 taxmann.com 27/[2013] 40 ITD 6 (Rajkot) (SB)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000077229&source=link)
7. Dr. V. Jayakumar v. Asstt. CIT [[2011] 10 taxmann.com 141/46 SOT 68 (Chenai) (SB)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000064189&source=link)

**Held:** Return of income in response to a notice issued under section 153A is as much good as the liability of file a return under section 139(1). All other sub-sections of section 139 are only derivatives thereof and explanations thereto. Therefore, the reference made to section 139 in section 153A(1)(a) is virtually the reference made to section 139(1)

**No further appeal**

**Hansa Dalakoti vs. Assistant Commissioner of Income-tax IT APPEAL NO. 3352 (DELHI) OF 2011**

**Sections:** 80AC, 80-IC, 10B

**Case law cited:**

1. Bajaj Temp Ltd. v. CIT [1992] [196 ITR 188](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080472&source=link) / [62 Taxman 480](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080472&source=link) (SC)
2. Asstt. CIT v. Dhir Global Industries (P.) Ltd. [2011] [43 SOT 640](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link) /[2010] [8 taxmann.com 208](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link)
3. CIT v. Integrated Database India Ltd. [2009] [178 Taxman 432](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000028377&source=link) (Delhi)
4. CIT v. National Taj Traders [1980] [121 ITR 535](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081174&source=link) /[1979] [2 Taxman 546](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081174&source=link) (SC)

**Held:**

Section 80AC and section 10B(1) is pari materia. Both of these sections debar the assessee from claiming deduction under section 80-IC and exemption under section 10B, in a case where return of income is not filed by the assessee within the prescribed statutory time under section 139(1). In the case assessee had filed all the necessary documents which were supporting the claim of the assessee for deduction under section 80-IC before due date of filing the return. The default of the assessee for not filing the return was only a technical grounds and the supporting documents were already filed with department.

**No further appeal**

**ACIT vs. Dhir Global Industria [2010] 8 taxmann.com 208 (Delhi)**

**Section:** 10B

**Case law cited:**

1. [Continental Construction (P.) Ltd. v. Union of India [1990]](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\NAME='BKM') [185 ITR 230](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000029308&source=link) / [53 Taxman 213](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000029308&source=link) (Delhi)
2. ITO v. VXL India Ltd. [2009] 312 ITR 187 (Guj.)
3. Bajaj Tempo Ltd. v. CIT [1992] [196 ITR 188](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000080472&source=link)/ [62 Taxman 480](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000080472&source=link) (SC)
4. CIT v. Nu-Cork Products (P.) Ltd. [2007] [160 Taxman 220](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000027862&source=link) (Delhi)
5. CIT v. Integrated Database India Ltd. [2009] [178 Taxman 432](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000028377&source=link) (Delhi)
6. CIT v. Web Commerce (India) (P.) Ltd. [2009] [318 ITR 135](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000028423&source=link) / [178 Taxman 310](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000028423&source=link) (Delhi)
7. Kapurchand Shrimal v. CIT [1981] [131 ITR 451](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000080856&source=link) / [7 Taxman 6](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000080856&source=link) (SC)

**Held:**

The court held that in the assessee’s case there was some financial problems, so assessee was not able to pay the self-assessment tax on time, as a result of which there was a marginal delay in the payment of tax and consequent filing of return by about 1 & ½ months. In these circumstances, it was opined that there was genuine and valid reason for the delay in filing of return. we find that this proviso in section 10(B)(1) is directory and not mandatory.

**No further appeal**

**Commissioner of Income-Tax vs A.N. Arunachalam [1994] 208 ITR 481 (Madras HC)**

**Section:** 80J

**Case law cited:**

1. [CIT v. Jaideep Industries [1989]](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\NAME='BKM') [180 ITR 81](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000054138&source=link) (Punj. & Har.)
2. CIT v. Gujarat Oil & Allied Industries [1993] [201 ITR 325](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000031434&source=link) (Guj.)
3. Halima Fancy Stores v. CIT [1976] [104 ITR 190](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000042490&source=link) (Mad.)
4. Addl. CIT v. Murlidhar Mathura Prasad [1979] [118 ITR 392](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000009504&source=link) (All.)
5. CIT v. Sitaram Bhagwandas [1976] [102 ITR 560](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000049983&source=link) (Pat.)
6. K.P. Varghese v. ITO [1981] [131 ITR 597](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000080848&source=link) (SC)
7. Director of Inspection of Income-tax v. Pooran Mall & Sons [1974] [96 ITR 390](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000079263&source=link) (SC).

**Held:**

It is not that every provision of a taxing statute that will fall under the rule of strict interpretation. There is no rule that every provision in a taxing statute is mandatory. The strict construction that a citizen does not become liable to tax unless he comes within the specific words of a statute is a different proposition. We, therefore, agree with the view of the Tribunal that the provisions of [section 80J(6A)](https://indiankanoon.org/doc/1157416/) of the Income-tax Act were not mandatory.

**No further appeal**

**Commissioner of Income-Tax vs Shivanand Electronics [1994] 209 ITR 63 (Bombay HC)**

**Section:** 80J

**Case law cited:**

1. [CIT v. Hardeodas Agarwalla Trust [1992]](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\name='BKM') [198 ITR 511](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000021599&source=link) (Cal.),
2. CIT v. Rai Bahadur Bissesswarlal Motilal Malwasie Trust [1992] [195 ITR 825](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000023744&source=link) (Cal.),
3. CIT v. Gujarat Oil & Allied Industries [1993] [201 ITR 325](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000031434&source=link) (Guj.)
4. CIT v. Jaideep Industries [1989] [180 ITR 81](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000054138&source=link) (Punj. & Har.).

**Held:**

The requirement of filing the audit report 'along with the return of income" is directory and if the assessee complies with the same before completion of the assessment and offers a satisfactory explanation for his failure to submit the same in time, the Income-tax Officer may consider the same and examine the claim of the assessee for deduction under [section 80J](https://indiankanoon.org/doc/564083/) on the basis of such report.

**No further appeal**

**Commissioner of Income-Tax vs Jayant Patel 2001 248 ITR 199 (Madras HC)**

**Section:** 80J(1)

**Case law cited:**

1. [CIT v. Jaideep Industries [1989]](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\NAME='BKM') [180 ITR 81](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000054138&source=link)/ [45 Taxman 444](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000054138&source=link) (Punj. & Har.)
2. CIT v. Gujarat Oil & Allied Industries [1993] [201 ITR 325](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx%3fid=101010000000031434&source=link) (Guj.).

**Held:**

Tribunal was correct in law in holding that section 80J(6A) is directory and not mandatory.

**No further appeal**

**Commissioner of Income Tax vs Mahalaxmi Rice Factory [2007] 294 ITR 631 (Punjab & Haryana)**

**Section:** 80J(6A)

**Case law cited:**

1. CIT v. Jaideep Industries [[1989] 180 ITR 81/ 45 Taxman 444 (Punj & Har.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000054138&source=link)
2. CIT v. Punjab Financial Corpn. [[2002] 254 ITR 6/ 121 Taxman 656 (Punj. & Har.) (FB)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000052862&source=link)
3. CIT v. Gujarat Oil & Allied Industries [[1993] 201 ITR 325 (Guj.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000031434&source=link)
4. CIT v. A.N. Arunachalam [[1994] 208 ITR 481/ 75 Taxman 529 (Mad.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000043776&source=link)

**Held:**

The provisions of section 80J(6A) of the Act have been held to be directory in nature to the extent that audit report, in case not filed along with the return is not fatal for grant of deduction.

**No further appeal**

**AGAINST**

**Umesh Chandra Dalakoti V. Assistant Commissioner of Income Tax ITA no. 07 of 2012 (Uttarakhand HC)**

**Section:** 10B(5)

**Case law cited: Nil**

**Held:**

The assesse submits that section 10B(5) and section 80AC are procedural provision. We note that section 10B(5) cannot be said to be pari material with section 80AC of the Act. Appeal of assessee is dismissed.

**No further appeal**

**Commissioner of Income Tax vs M/S. Shelcon Properties (P) Ltd [2015] 370 ITR 305 (Cal HC)**

**Section:** 80IB(10)

**Case law cited:**

1. CIT v. Kulu Valley Transport Co. (P.) Ltd. [[1977] 77 ITR 518 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000078629&source=link)
2. Fertilizers Corporation of India Ltd. v. State of Bihar 1988 Supp. (SCC) 73
3. Bajaj Tempo Ltd. v. CIT [[1992] 196 ITR 188/62 Taxman 480 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080472&source=link)
4. CIT v. Berger Paints (India) Ltd. [[2002] 254 ITR 503/[2003] 126 Taxman 435 (Cal.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000023395&source=link)
5. CCE v. Harichand Shri Gopal 2010 (260) ELT 3 (SC) (para 7).

**Held:**

The benefit of section 80IB(10) cannot be claimed if the return has not been filed on or before the prescribed day as per the provision of section 80AC. In our view, it is a mandatory direction which prescribes the consequence of omission to file the return in time.

**No further appeal**

**Saffire Garments V. ITO [2012] 20 ITR(T) 623 (Rajkot) (SB)**

**Section:** 10A(1A)

**Case law cited:**

1. CIT v. Hardeodas Agarwalla Trust [1992] [198 ITR 511](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000021599&source=link) (Cal.)
2. Church's Auxiliary for Social Acton v. DGIT (Exemption) [2010] [325 ITR 362](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000026141&source=link) (Delhi)
3. CIT v. Gujarat Oil & Allied Industries [1993] [201 ITR 325](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000031434&source=link) (Guj.)
4. CIT v. Shivanand Electronics [1994] [209 ITR 63/ 75 Taxman 93](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000019736&source=link) (Bom.)
5. ITO v. VXL India Ltd. [2009] 312 ITR 187 (Guj.)
6. Bajaj Tempo Ltd. v. CIT [1992] 96 ITR 188/ [62 Taxman 480](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080472&source=link) (SC)
7. Prakash Nath Khanna v. CIT [2004] [266 ITR 1 / 135 Taxman 327](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081453&source=link)  (SC)
8. Bal Krishan Dhawan HUF v. ITO [2012] [50 SOT 49 (URO)/ 18 taxmann.com 234](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000059738&source=link)  (Asr.)
9. CIT v. Ms. Jagriti Aggarwal [2011] [203 Taxman 203 / 15 taxmann.com 146](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000054367&source=link) (Punj. & Har.)
10. Trustees of Tulsidas Gopalji Charitable & Chaleshwar Temple Trust v. CIT [1994] [73 Taxman 612](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000019437&source=link) (Bom.)
11. Director of Inspection of Income-tax v. Pooran Mall & Sons [1974] [96 ITR 390](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000079263&source=link) (SC)
12. CIT v. Panama Chemical Work [2000] [113 Taxman 717](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000048053&source=link) (MP)
13. CIT v. Axis Computers (India) (P.) Ltd. [2009] [178 Taxman 143](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000027028&source=link) (Delhi)
14. CIT v. National Taj Traders [1979] [2 Taxman 546](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081174&source=link) (SC)
15. CIT v. Web Commerce (India) (P.) Ltd. [2009] [178 Taxman 310](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000028423&source=link) (Delhi)
16. Continental Contraction Ltd. v. Union of India [1990] [185 ITR 230 / 53 Taxman 213](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000029308&source=link) (Delhi)
17. Presidency Medical Centre (P.) Ltd. v. CIT [1997] 108 ITR 838 (Cal.)

**Held:**

There is no hesitation in holding that the provisions of proviso to Section 10A(1A) is mandatory and not merely directory.

**No further appeal**

**Dwarkadas Panchmatiya vs ACIT [2015] 44 ITR(T) 74 (Mumbai - Trib.)**

**Section:** 80IB(10)

**Case law cited:**

1. Hansa Dalakoti v. Asstt. CIT [[2012] 50 SOT 511/19 taxmann.com 226 (Delhi)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000068134&source=link)
2. ITO v. Yash Developers [IT Appeal No. 3644 (Mum.) of 2012, dated 31/1/2014]
3. Emerson Network Power India (P.) Ltd. v. Asstt. CIT [[2009] 27 SOT 593 (Mum)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000074786&source=link)
4. State of Madhya Pradesh v. G.S. Dall & Flour Mills [1991] 187 ITR 478 (SC)
5. E.K.K & Co. v. Asstt. CIT [[2013] 144 ITD 636/27 taxmann.com 111 (Cochin) (Trib)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000083461&source=link)
6. CIT v. S. Chenniappa Mudaliar [[1969] 74 ITR 41 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000078702&source=link)
7. CIT v. Nagpur Hotel Owners Association [[1994] 209 ITR 441 (Bom.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000016983&source=link)
8. CIT v. Gwalior Rayon Silk Mfg. Co. Ltd. [[1992] 196 ITR 149/62 Taxman 471 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000080578&source=link)
9. Saffire Garments v. ITO [[2013] 140 ITD 6/28 taxmann.com 27 (SB) (Rajkot)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000077229&source=link)
10. Prakash Nath Khanna v. CIT [[2004] 266 ITR 1/135 Taxman 327 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081453&source=link)
11. CIT v. Calcutta Knitwears [[2014] 362 ITR 673/223 Taxman 15 (Mag.)/43 taxmann.com 446 (SC)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000096910&source=link)

**Held:**

The conditions prescribed under [section 80AC](https://indiankanoon.org/doc/789969/) are ITA No.4727Mum/12 mandatory for availing the deduction under [section 80IB](https://indiankanoon.org/doc/789969/)

**No further appeal**

**Lakshmi Energy and Foods Ltd. vs. ACIT [2014] 44 taxmann.com 248 (Chandigarh - Trib.)**

**Section:** 80IB

**Case law cited:**

1. CIT v. Dhir Global Industrial (P) Ltd. [[2011] 43 SOT 640/[2010] 7 taxmann.com 36](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000067084&source=link)
2. CIT v. Hindustan General Industries Ltd [[1982] 137 ITR 851/[1981] 6 Taxman 360](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000027269&source=link)
3. Prakash Nath Khanna v. CIT, [[2004] 266 ITR 1/135 Taxman 327](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000081453&source=link)
4. CIT v. MS. Jagriti Aggarwal, [[2011] 339 ITR 610/203 Taxman 203/15 taxmann.com 146](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000054367&source=link)
5. Podder Pigments Ltd. v. CIT, [[2008] 175 Taxman 302](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000028195&source=link)
6. ITO v. S. Venkataiah, [[2012] 52 SOT 437/22 taxmann.com 2 (Hyd.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000070123&source=link)
7. Vansheer Builders & Developers (P.) Ltd v. ITO, [IT Appeal No. 386(Bang) of 2012]
8. Saffire Garments v. ITO, [[2012] 28 taxmann.com 27 (Rajkot)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000077229&source=link)

**Held:**

The assessee is not entitled to deduction u/s 80IB because the return of income was filed late and therefore deduction cannot be allowed in view of the restrictions contained in Sec 80AC

**No further appeal**

**Deputy Commissioner of Income-tax, Mumbai v. Siroya Developers [2017] 78 taxmann.com 19 (Mumbai - Trib.)**

**Section:** 80IB, 80AC

**Case law cited:**

1. ITO v. Yash Developers [IT Appeal No. 809 (Mum.) of 2011, dated 31-1-2014]
2. ITO v. Uma Developers [IT Appeal No. 771181 (Mum.) of 2014, dated 10-8-2016]
3. Saffire Garments v. ITO [[2013] 140 ITD 6/[2012] 28 taxmann.com 27 (Rajkot) (SB)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000077229&source=link)
4. CIT v. Shelcom Properties (P.) Ltd. [[2015] 370 ITR 305/[2014] 225 Taxman 165 (Mag.)/44 taxmann.com 170 (Cal.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000093085&source=link)
5. Umesh Chandra Dalakoti v. ACIT [IT Appeal No. 7 of 2012, dated 27-8-2012]
6. CIT v. Universal Medicare (P.) Ltd. [[2010] 324 ITR 263/190 Taxman 144 (Bom.)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000019002&source=link)
7. Asstt. CIT v. Bhaumik Colour (P.) Ltd.  [[2009] 118 ITD 1 (Mum.)(SB)](file:///D:\Users\Pooja\Desktop\Judgments%20related%20to%20139(1)\fileopen.aspx?id=101010000000074141&source=link)

**Held:**

The assessee has failed to fulfil the condition of filing of return u/s 139(1) and, therefore, the assessee was not eligible for the benefit of deduction u/s 80IB(10) in view of clear provisions of section 80AC of the Act. Thus, the action of the lower authorities on this issue is upheld.

**No further appeal**