

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER  
AND  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.3160/M/2024  
Assessment Year: 2023-24**

|   |     |   |
|---|-----|---|
| <b>Deputy Commissioner of<br/>Income Tax,</b><br>Room No.22, B-Wing,<br>6 <sup>th</sup> Floor, Ashar IT Park,<br>Wagle Industrial Estate,<br>Thane (W),<br>Maharashtra- 400 604 | Vs. | <b>M/s. Haren<br/>Performance Fabrics<br/>Private Limited,</b><br>Plot No.J-194,<br>MIDC Tara Pur Tal,<br>Palghar,<br>Thane,<br>Maharashtra- 401506<br><b>PAN: AAFCH7722J</b> |
| (Appellant)   |     | (Respondent)  |

**Present for:**

Assessee by : Shri Hitesh Jain, A.R.  
Revenue by : Shri P.D. Chougule, Addl. CIT) Sr. D.R.

Date of Hearing : 01 . 08 .2024  
Date of Pronouncement : 23 . 08 .2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Revenue against the order dated 20.03.2024, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2023-24.

**2.** In the instant case, the Assessee had declared its total income at Rs.7,05,48,234/- by filing its return of income on 31.10.2023 which was processed u/s 143(1) of the Act and vide intimation/order dated 22.12.2023 issued by the CPC/AO, the income of the Assessee was accepted as declared by the Assessee, however, the option exercised by the Assessee for taxation regime u/s 115AB of the Act was denied by the

Assessing Officer (AO)/CPC, which resulted into taxation of the income at 30% and thereby raising a demand of Rs.1,29,79,170/-.

**3.** The Assessee, being aggrieved, challenged the denial of the option exercised by the Assessee for taxing the income u/s 115BAB of the Act, before the Ld. Commissioner, who by considering written submissions and copies of documentary evidence/explanation etc. found the claim of the Assessee as correct and therefore vide impugned order dated, directed the AO to recalculate the tax liability u/s 115BAB of the Act.

**4.** Subsequently, the CPC vide order dated 2.5.24 u/s 154 of the Act rectified the mistake and accepted the option exercised by the Assessee for taxing the income of the Assessee u/s 115BAB of the Act and consequently determined the tax liability, as per calculation of the Assessee. Therefore, in our considered view, the instant appeal filed by the Revenue Department against the impugned order has become infructuous and hence the same is liable to be dismissed.

**5.** In the result, the appeal filed by the Revenue stands dismissed.

**Order pronounced in the open court on 23.08.2024.**

**Sd/-**  
**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(NARENDER KUMAR CHOUDHRY)**  
**JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.