

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.4721/M/2025  
Assessment Year: 2023-24**

<b>Shreyas Paradkar (Individual),</b> C/o CA Rahul Godbole & Associates, 204, Spectra, Kothrud, Pune - 411038. <b>PAN- CVZPP8788C</b>	Vs.	<b>ITO Range 1(1),</b> Ashar I.T. Park, 6 <sup>th</sup> Floor, Road No. 162, Wagle Indl. Estate, Thane - 400604.
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shir H.V. Datar, (Virtually Present)  
Revenue by : Shri Vinod Kumar V., SR. D.R.  
Date of Hearing : 20.11.2025  
Date of Pronouncement : 23.01.2026

**O R D E R**

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

This appeal has been preferred by the Assessee against the order dated 09.06.2025, impugned herein, passed by Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2023-24.

**2.** In the instant case, the assessee has claimed that he opted for the new tax regime while filing his return of income on 25th July 2023 by entering all the data on the income-tax website. On selecting the new tax regime, the income-tax website showed tax payable at ₹5,000 after giving credit for TDS, and therefore, the Assessee paid the respective tax payable and submitted the ITR. The assessee, on the last page of the ITR, computed the tax as per the new regime, but somehow, on the first page of the return of income filed, it is shown that the assessee did not opt for the new tax regime. This was a glitch on the website, but somehow, the return filed by the assessee was processed vide intimation dated 29.12.2023, whereby the taxable income and/or return filed by the assessee was computed as per the old regime and not as per the new tax regime mainly for the reason that the assessee failed to file the relevant

Form 10-IE within the prescribed time limit, which occurred due to oversight, as claimed by the assessee. However, the same was filed by the assessee immediately after receipt of intimation under section 143(1) of the Act. Thereafter, the assessee also filed a rectification application under section 154 of the Act for treating the return filed by the assessee under the new tax regime, however, of no avail. Therefore, the assessee challenged the said intimation dated 29.12.2023 by filing a first appeal before the Ld. Commissioner (Appeals), who dismissed the appeal of the assessee by observing and holding as under: -

*5.1.3 The Finance Act 2020 has inserted a new section 115BAC of Income Tax Act, 1961 wherein an individual gets an option to choose between the actual tax rates and the new concessional tax rates without considering prescribed exemptions or deduction. The new Section 115BAC of Income Tax Act, 1961 provides that a person, being an individual or an undivided Hindu family (HUF) having income other than income from profession or business, may exercise the option concerning of a previous year to be taxed under the Section 115BAC along with his/her return of income to be furnished under Section 139(1) of the Income-tax Act for each year. The concessional rate provided under Section 115BAC is subject to the condition that the total income needs to be computed without specified exemption or deduction, set off of a loss, and additional depreciation. On perusal of the facts of the case and provisions of section 115BAC of the IT Act, it seen that the Appellant (being an individual **having salary income during the year**) **had not opted out for the provisions of section 115BAC in A.Y 2023-24. The Appellant has contended that he has opted for taxation provisions under section 115BAC of the IT Act but has failed to file Form 10IE, whereas on perusal of the ITR Form it is noticed that the Appellant never opted for the provisions of section 115BAC and therefore, the Appellant shall NOT be eligible for taxing provisions of section 115BAC of the IT Act.** Further Intimation Order under section 143(1) of the Act also confirms that the Appellant has not opted for 115BAC. The relevant excerpt of the same is reproduced hereunder:*

CVZPP8788C- SHREYAS RAJENDRA PARADKAR  
A.Y. 2023-24  
ITBA/APL/S/250/2025-26/1076810773(1)

**Intimation u/s 143(1)** 

Name: SHREYAS RAJENDRA PARADKAR  
Address: 301 Shantivaner, Mira Road Thane Thane, Thane Maharashtra 401107  
Ph: 91-9823481865

नाम: श्रेयास राजेंद्र पारदकर  
पत्ता: 301 शान्तिवनर, मिरा रोड ठाणे ठाणे, ठाणे महाराष्ट्र 401107  
फोन: 91-9823481865

PAN: CVZPP8788C | AY: 2023-24 | Ack. No.: 685523760350723 | DIN: CPC/2334/AS/385926263

**You have a Demand for A.Y. 2023-24**

Amount of Demand: ₹ 86,350 | Demand Reference No.: 2023202337231956635T

ITR Form Type	Date of Filing	Intimation Order Date	Due Date	Extended Due Date	Status	Residential status
ITR3 Original	25/07/2023	29/12/2023	31/07/2023	31/07/2023	Individual	Resident

**RETURN DETAILS**

Sl.No.	Particulars	Reporting Heads	Amount in ₹	
			As provided by Taxpayer	As Computed u/s 143(1)
01	Taxation option	Opted for 115BAC	No	No
02	Income Details	Total Income	21,32,386	21,32,386
03	Tax Details	Tax Liability after relief	5,92,364	4,70,388
04	Interest and Fee Payable	Total Interest And Fee ( 234A, 234B, 234C & 234F )	0	8,355
05	Pre-paid Taxes	Total Taxes Paid ( Advance Tax, TDS, TCS, Self Assessment Tax )	5,92,313	5,92,313
06	Tax Payable	Net Amount Payable	0	86,350

5.1.4. Therefore, in view of the above discussion, the Appellate authority finds no discrepancy in intimation order passed by AO, CPC-ITR. The Appeal filed on ground No. 1 & 2 is dismissed.

3. Thus, the assessee, being aggrieved, has challenged the impugned order by filing the instant appeal under consideration.

4. Heard the parties and perused the material available on record. Admittedly, the Assessee filed Form 10-IE for claiming the new tax regime, only after processing the return of income under section 143(1) of the Act, and it is also a fact that the Assessee, in the income-tax return, at column No. 1 which pertains to the exercise of option for taxation

under section 115BAC of the Act, has given reply as "No", as observed by the Ld. Commissioner specifically.

5. The Assessee before this Court has also relied on three judgments delivered in the following cases.

1. ***Krishna Gopal Dwivedi Huf vs CPC ITA/3482/M/2024 Dt. 27.01.2025 (Para 7.7, Page 43, 44).***
2. ***Akshay Birari vs CPC [ITA/782/Pune/2024 Dt. 05.06.2024 (Para 7, Page 48)].***
3. ***Arun Gopilal Samnani vs ITO [ITA/2082/AHD/2024 dt. 29.04.2025 (Para 12.1, Page 61)]***

6. This Court observe that all the aforesaid cases are distinguishable to the facts of this case, as in all the three cases, the relevant Forms for opting for the new tax regime were filed along with the return of income and/or within the due date and/or made available before processing the returns of income. However, in this case admittedly such Form was filed only after proceeding the return of income u/s 143(1) of the Act and the Assessee while filing its return of income did not opt for taxation under new tax regime.

7. No doubt, the Hon'ble Courts have held that the filing of Form 10-IE is directory in nature. However, the same should be made available before processing the return of income.

8. From the facts as observed above by the Ld. Commissioner (Appeals), it clearly appears that in the 1<sup>st</sup> column with regard to exercising the option for the new tax regime, the assessee had replied specifically as "No". Which shows that the Assessee in the return of income did not opt for new taxation regime and opted for old taxation regime only but may inadvertently or oversight or otherwise, calculated the tax payable, as per the new tax regime. And it is a fact that the Assessee, before processing the return of income, failed to file the requisite Form 10-IE and thus, the assessee is not entitled to the relief, as prayed for.

8. In the result, Assessee's appeal is dismissed.

**Order pronounced in the open court on 23.01.2026.**

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

Tarun Kushwaha  
Sr. Private Secretary.

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

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.