IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI SIDDHARTHA NAUTIYAL (JUDICIAL MEMBER)

ITA 5706/MUM/2026

Assessment Year: (**2025-26**)

ANIRUDDHA MOHAN JOSHI 127, SUKRUT, DR. M.B. RAUT ROAD, BHAWANI SHANKAR ROAD, SHIVAJI PARK MUMBAI-400028, MAHARASHTRA.	**Vs.**	**WARD 16(2)(1), MUMBAI** AAYKAR BHAWAN, M. K. ROAD, MUMBAI-400020, MAHARASHTRA.
Appellant		**Respondent**

PAN No. **ACOPJ9261C**

Appellant represented by:	**Shri Sanjeev V Joshi, CA**
Respondent represented by:	**Shri Surendra Kumar Meena (SR DR)**

Date of hearing: **02-09-2026**
Date of pronouncement: **17-09-2026**

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 20.03.2026 passed by the Ld. Additional/Joint Commissioner of Income-Tax, [herein after shall be referred as Ld. CIT(A)] for Assessment Year 2025-26, raising following grounds:-

"1. The learned First Appellate Authority (the learned AA) erred in confirming the intimation u/s. 143(1) dated 29/01/2026 issued by the Learned CPC raising a demand of Rs. 1,41,480/-.

2. The learned AA erred in holding that the appellant had opted out of the new tax regime as the appellant had filed Form No. 10-IEA opting out of new tax regime though in the return of income, the appellant had clearly mentioned that the appellant is not opting out of new tax regime.

3. The learned AA erred in not disposing of ground of appeal no.2 raised before it which reads as under: The CPC erred in passing Intimation u/s. 143(1) dated 29/01/2026 without giving prior intimation to the appellant as mandated u/s. 143(1)/154(3)

4. The learned AA ought to have held that the Intimation u/s. 143(1) issued without giving prior intimation to the appellant is illegal and bad in law as held in:

1. Rallis India Ltd. Vs. CPC-Bombay High Court-Writ petition No. 37314 of 2025-AY 2022-23

2. Varunendra Deekshit vs. CPC (ITA No. 988/Pune/2025) Pune ITAT-A.Y. 2020-21 and

3. Hamdard Laboratories india vs. Dy. CIT (ITA No. 8826/Del/2025) A.Y. 2023-24

5. Without prejudice to the above grounds of appeal, the learned CPC, after having held that the appellant has opted out of the new tax regine, ought to have held that the appellant is entitled to deduction under chapter VI-A i.e. u/s 80C Rs. 1,50,000, u/s 800-50000 & u/s 80TTB Rs. 50000."

2. Briefly stated, facts of the case are that the assessee filed its return of income for the year under consideration on 16th September 2025 declaring total income of Rs.33,88,170/-. In the return of income filed in prescribed form of the ITR-3, in Clause A(19)(b) of Part A, the assessee reported not to wish to opt out of the new tax regime for the current assessment year.

3. The return was processed under Section 143(1) of the Income Tax Act, 1961 (in short 'the Act') on 29th January 2026. But while processing, the CPC taken into consideration the Form No. 10-IEA for opting out of the option of new scheme of assessment under Section 115BAC, which was filed by the assessee on 31st August 2025. Accordingly, a demand of Rs.1,41,480/- was raised. The rectification request filed by the assessee thereon on 11th

February 2026 was also rejected by the learned CPC vide order under Section 154 dated 17th February 2026. Aggrieved with the intimation under Section 143(1) dated 29th January 2026, the assessee filed appeal before the learned CIT(A).

4. The learned CIT(A) noted that when the assessee himself opted out of the new tax regime by filing Form 10-IEA, the claim made in the return of income was tantamount to incorrect claim and therefore learned CPC was justified in making the adjustment.

5. Before us, the assessee has assailed the finding of the learned CIT(A) on three grounds.

6. As far as first ground is concerned, it was submitted that assessee in the return of income clearly had mentioned that assessee was opting out of the new tax regime and therefore learned CPC should have followed the option given in the return of income rather than in the Form No. 10-IEA. The learned counsel in this respect relied on the decision of the Co-ordinate Bench of Pune Tribunal in the case of **Akshay Nitin Malu vs. Income Tax Officer in ITA No. 1651/PUN/2024 for Assessment Year 2022-23.** Before us, the learned counsel also filed a copy of the acknowledgment of said Form No. 10-IEA filed for the year under consideration on 31st August 2025 and also filed a page of the return of income indicating Clause A(19)(b) where assessee has ticked the box for 'No' against the option, namely 'Do you wish to opt out of new tax regime for current assessment year?'.

6.1 We have heard rival submissions of the parties and perused the relevant material on record. In the case, assessee in the Assessment Year 2024-25 i.e. immediately prior assessment year, opted for the new tax regime. Thereafter, for the assessment year under consideration, the assessee filed Form No. 10-IEA for opting out of the new tax regime and to tax under the old tax regime. Said form was filed on 31st August 2025. Thereafter, when the assessee filed return of income on 16th September 2025, the assessee ticked the box that he did not wish to opt out of the new tax regime.

6.2 However, under the provisions of Section 115BAC, the assessee can exercise option for opting new tax regime by way of filing Form No. 10-IEA. In case of assessee having income from business or profession, such an option exercised in any previous year could be withdrawn only in the subsequent years. Therefore, the question before us is whether the assessee can exercise the option of not opting out of the new regime otherwise than by way of filing Form No. 10-IEA.

6.3 In the case, assessee has already exercised option for opting new tax regime in the Assessment Year 2024-25 and then assessee exercised for withdrawing the same in the current Assessment Year 2025-26 and accordingly said option was accepted on the basis of the form filed on 31st August 2025.

6.4 Now, the assessee in the return of income again ticks the box not to wish out of the new tax regime. In our opinion, once a specific form has been prescribed for opting out of the new tax regime, the assessee cannot be permitted to choose for the new

tax regime otherwise than filing said form under the provisions of the Act.

6.5 The reliance placed in the case of the **Akshar Nitin Malu (Supra)** is distinguishable. In the said case, the assessee filed Form No. 10-IE for opting out of the new regime of the taxation. The assessee filed return of income on 20th July 2022 under the old regime of the taxation, but the CPC determined the total income under the new regime of the taxation. In such circumstances, the Tribunal directed to the Assessing Officer not to force for the new regime of the taxation when assessee has opted for the old regime in the return of income filed as well as in the Form 10-IE.

6.6 But in the instant case, facts are different. In the Form 10-IE filed, assessee is opting out of new tax regime and choosing old tax regime. But in the return of income, wrong box has been ticked. Accordingly, the contention of the assessee is rejected. The ground number 2 of the assessee is accordingly dismissed.

7. In ground number 3 and 4, the assessee has raised the issue that learned CPC while passing the order under section 143(1) dated 29.01.2026 did not issue prior intimation to the assessee as mandated under section 143(1) of the Act. In this respect, the assessee was asked to produce the relevant details from the Income Tax portal to substantiate that no such intimation was issued either by way of the mail or by way of the physical letter. But no such information was filed by the assessee to substantiate that such mail, such intimation, such prior intimation was not received by him.

7.1 Before us, the learned counsel for the assessee relied on the decision of the Hon'ble High Court of the Bombay in the case of **Rallis India Limited Vs. Central Processing Centre and others in Writ Petition No. 37314 of 2025 dated 19th January 2026**. But in the said case, the department in their affidavit in reply accepted the fact that no notice or proposed adjustment was issued to the said assessee. And therefore, in those facts, the Hon'ble High Court held that processing the return and making adjustment was in breach of the principle of the natural justice and accordingly, said intimation order was quashed and set aside. The facts of the **Rallis India Limited *(Supra)*** being different from the assessee, same is not applied over the facts of the instant case. Accordingly, the ground numbers 3 and 4 of the appeal of the assessee are dismissed.

8. In ground number 5, the assessee has made an alternative plea that if on the basis of the Form 10-IE it is held that assessee has opted out of the new tax regime, then assessee should be allowed the deduction eligible under the old tax regime. In our opinion, there is a merit in the submission of the assessee. If CPC is holding that assessee has opted out of the new tax regime and old tax regime of this is applicable, then the deduction entitled under the old tax regime should be allowed to the assessee. Accordingly, we set aside the order of the learned CIT(A) and restore the matter to the Assessing Officer for limited claim of alternative request of the assessee to allow the claim of the deduction eligible under the old tax of the regime. The ground number 4 of the appeal of the assessee is accordingly allowed.

9. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 17/09/2026.

Sd/-	**Sd/-**
(SIDDHARTHA NAUTIYAL)	**(OM PRAKASH KANT)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Mumbai;
Dated: 17/09/2026
M. Ranganath Vittal , Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai