

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D. B. Civil Writ (P.I.L.) Petition No. 21774/2018

The Rajasthan Tax Consultants Association, Having its registered address at B-145/B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur in the State of Rajasthan through its Secretary Shri Vinay Kumar Jolly, S/o Shri Raj Kumar Jolly.

----Petitioner

Versus

1. Union of India, through its Secretary, Department of Revenue, Ministry of Finance, Government of India, North Block, New Delhi 110001

2. Central Board Of Direct Taxes, through its Chairman, Department of Revenue, Ministry of Finance, Government Of India, New Delhi 110001

----Respondents



For Petitioner(s)

: Mr. Siddharth Ranka with Mr. M.I. Iqbal, Mr. Saurabh Harsh.

For Respondent(s)

: Mr. R.D. Rastogi, Addl. Solicitor General assisted by Mr. Chandra Shekhar Sinha.

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR**

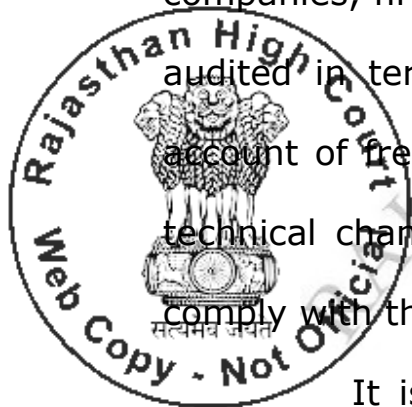
Order

01/10/2018

This public interest litigation has been filed by the Rajasthan Tax Consultants Association, Jaipur inter alia with the prayer that the respondents-Union of India and Central Board of Direct Taxes (for short 'CBDT') may be directed to extend the due date for filing Tax Audit Reports and Income Tax Returns.

In the course of arguments, learned counsel for the petitioner submitted that Respondent No. 2-CBDT pursuant to the powers vested in it under the Income Tax Act, 1961 (for short 'the Act') has been continuously making random alterations/modifications in the "From No. 3CD" and also in the

“Utilities” and “Schemas” that are essential for e-filing of Tax Audit Reports (for short ‘TARs’) and Income Tax Returns (for short ‘ITRs’), which are mandatorily required to be filed by the assesseees’ in accordance with the provisions of Section 44AB of the Act read with Rule 6G of the Income Tax Rules, 1962 (for short ‘the Rules’). The most affected category of the taxpayers are the assesseees’ including companies, firms and individuals, whose accounts are required to be audited in terms of Section 44AB of the Act. They suffered on account of frequent amendment in the reporting formats and other technical changes, which leads to consequent reduction of time to comply with the formalities as provided in the Act.



It is argued that the Institute of Chartered Accountants filed a representation before Respondent No. 2, CBDT on 17.09.2018 to extend the due date of submission of TARs and ITRs. All India Federation of Tax Practitioners, Mumbai also submitted similar representation to Respondent No. 2 on 20.09.2018. The respondents vide notification dated 20.07.2018 introduced substantial changes in the Form 3CD made effective for TARs furnished from 20.08.2018 and relevant for the assessment year 2018-19. However, some of the changes proposed by the aforesaid notification were deferred for next assessment year vide Circular dated 17.08.2018. It is argued that amendments in the Form 3CD has made these forms far more comprehensive and detailed one. It has put substantial onus and accountability on the Chartered Accountants to verify and provide minute of the details of the respective assessee. It is argued that due to system failures and late introduction of ‘Schema’ / ‘Utility’, due date of filing ITRs for assesseees’ who were not required to get their books of accounts audited was extended by Respondent No. 2-CBDT from 31.07.2018

to 31.08.2018. Hence, Chartered Accountants are left with effectively only 30 days to finalise and comply with the TARs. The quality of tax audit was effectively compromised, in view of the plethora of information sought and the short span of 72 days being provided as against 183 days contemplated under the statute. Learned counsel for the petitioner has relied upon the judgments in Vishal Garg and Others Vs. Union of India & Another, 2015 SCC OnLine P&H 5343; All Gujarat Federation of Tax Consultants Vs. Central Board of Direct Taxes and Another, 2015 SCC OnLine Guj 6220; All Gujarat Federation of Tax Consultants Vs. Central Board of Direct Taxes, 2014 SCC OnLine Guj 11148; Avinash Gupta Vs. Union of India & Others, 2015 SCC OnLine Del 12295 to argue that in similar circumstances, various High Courts in those cases have mandated the respondents to extend the due date to file TAR and ITR. Reference is also made to the various orders passed by the CBDT in variety of circumstances covering different periods extending the last date for filing of TARs and ITRs. It is also contended that for those income tax payees, whose accounts are not required to be audited, date of filing ITR has been extended by Respondent No. 2 from 31.07.2018 to 31.08.2018 without levy of any interest, but in the case of audited accounts, date has been extended vide notification dated 24.09.2018 only for 15 days with no extension of due date for the purpose of Explanation 1 to Section 234A of the Act and assessee shall remain liable to interest or else the respondents would be charging interest not only for 15 days but for the entire period of one month. The present situation that has arisen, on account of which the date has been extended, is attributable to the respondents and therefore no interest should be charged.



Mr. R.D. Rastogi, learned Additional Solicitor General appearing on behalf of the respondents submitted that CBDT has already in the past and in this case also considered the matter for extension of the date to a reasonable extent. If any grievance further remains, the petitioner should be required to approach Respondent No. 2-CBDT by filing representation which looking to the genuine difficulties and hardships of the taxpayers as also the Chartered Accountants shall consider the same in accordance with



Having regard to the submissions aforesaid as also cited judgment, orders and taking into consideration the fact that CBDT has already extended the date for filing TARs and ITRs by those assesseees whose accounts are not required to be audited for a month without levy of any interest, we deem it appropriate to direct Respondent No. 2, CBDT to consider the representation of the petitioner-Association and take a decision on both the aspects i.e. extension of date by another 15 days and extension of due date for the purpose of Explanation 1 to Section 234A of the Act for waiver of interest and decide the same by passing speaking order preferably before 10.10.2018.

With the aforesaid observation and direction, writ petition is disposed of.

A copy of this order be provided to Mr. R.D. Rastogi, learned Additional Solicitor General for onward transmission and compliance.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J