**CWP-28440-2025 (O&M)**



130-b **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

1. **CWP-28440-2025**
**Date of Decision: October 29, 2025**

**Ashwini Kumar** ..... Petitioner

**Versus**

**Central Board of Direct Taxes and another** ..... Respondents

2. **CWP-29804-2025**

**Jalandhar Income Tax Bar Association** ..... Petitioner

**Versus**

**Union of India and others** ..... Respondents

3. **CWP-28685-2025**

**Taxation Bar Association, Pathankot** ..... Petitioner

**Versus**

**Union of India and others** ..... Respondents

4. **CWP-29131-2025**

**Income Tax Practitioners** ..... Petitioner

**Versus**

**Union of India and others** ..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**
**HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Amit Kaushik, Advocate
for the petitioner (through VC) in CWP-28440-2025.

Mr. Salil Kapoor, Advocate for the petitioner in CWP-29804-2025 & CWP-29131-2025.

**CWP-28440-2025 (O&M)**

Mr. Arjun Dev, Advocate for
Mr. Vivek K. Thakur, Advocate for the petitioner in CWP-28685-2025

Mr. Dheeraj Jain, Senior Advocate with
Ms. Shreyanshi Verma, Advocate for UOI.

Ms. Urvashi Dhugga, Senior Standing counsel for UOI in CWP-28685-2025.

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**LISA GILL, J.**

1. This order shall dispose of four writ petitions i.e. CWP Nos. 28685, 28440, 29131 and 29804 of 2025, which are taken up together at request and with consent of learned counsel for parties.

2. Petitioners seek a direction to respondents to extend the due date for filing of tax audit reports for a reasonable period from 30.09.2025 and as a necessary corollary to further extend the due date for filing tax returns. Petitioner in CWP No. 29131 of 2025 also seeks extension of deadline for renewal of registration under Section 12 of Income Tax Act, 1961 (for short 'the Act').

3. Learned counsel for petitioners submitted that audit reports and tax returns are mandatorily to be e-filled. Forms of e-filing of audit report and tax returns were made available effectively by the Department only in August, 2025, thereby leading to considerable reduction of time period available to petitioners for filing tax audit reports. Certain changes were carried out in respect to tax audit reports vide notification dated 28.03.2025, however, e-filing utility was made available on 14.08.2025. Department itself acknowledged substantial changes and time required for system readiness when it extended due

date for filing of tax returns in certain categories of persons other than Companies, Firms and individuals, whose accounts are not required to be audited (non-audit cases) from 31.07.2025 to 15.09.2025, as per press release dated 27.05.2025. Facts and circumstances are, thus, a cause of genuine hardship to assessees whose accounts are required to be audited in terms of Section 44AB of the Act. Reference was made to order dated 29.09.2015 passed by this High Court in CWP-19770-2015 wherein due date for e-filing of returns had been extended, for which CBDT was directed to issue notification/instructions under Section 119 of the Act.

4. At this stage, it is relevant to refer to Section 139 (1) and Explanation 2 Clause (a) to Section 139 (1) of the Act, which read as under:-

> **139 (1)** Every person-
> (a) being a company [or a firm]; or
> (b) being a person other than a company [or a firm], if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall on or before the due date, furnish a return of income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such particular as may be prescribed :
> Provided that a person referred to in clause (b), who is not required to furnish a return under this sub-section and residing in such area as may be specified by the Board in this behalf by notification in the Official Gazette, and who [during the previous year incurs an expenditure of fifty thousand rupees or more towards consumption of electricity or] or at any time during the previous year fulfills any one of the following conditions, namely:-
> (i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or
> (ii) is the owner or the lessee of a motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not; or
> (iii) [***]

**CWP-28440-2025 (O&M)**

(iv) has incurred expenditure for himself or any other person on travel to any foreign country; or
(v) is the holder of a credit card, not being an "add-on" card, issued by any bank or institution; or
(vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more,
shall furnish a return, of his income during any previous year ending before the 1st day of April, 2005, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :"

xx xx xx xx xx

**Explanation 2**.—In this sub-section, "due date" means,—
(a) where the assessee [other than an assessee referred to in clause (aa) is—
(i) a company; or
(ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or
(iii) a [***] partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force [or the spouse of such partner if the provisions of section 5A applies to such spouse], the [31st day of October] of the assessment year."

5. Section 44AB of the Act reads as under:-

"**44AB.** Every person,—
(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year:
Provided that in the case of a person whose—

(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and
(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment,

this clause shall have effect as if for the words "one crore rupees", the words "ten crore rupees" had been substituted

Provided further that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash; or

(b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year; or
(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or
(d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or
(e) carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year, get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:
Provided that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:
Provided that this section shall not apply to a person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA:
Provided further that this section shall not apply to the person, who derives income of the nature referred to in section 44B or section 44BBA, on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later :
Provided also that in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.
Explanation.—For the purposes of this section,—
(i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;

> (ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means date one month prior to the due date for furnishing the return of income under sub-section (1) of section 139."

6. It was brought to our notice on 26.09.2025 by learned counsel for Union of India that specified date for assessees referred to in clause (a) of Explanation 2 to sub-Section (1) of Section 139 of the Act for furnishing of report of audit under provisions of the Act for Financial Year 2024-25 (Assessment Year 2025-26) has been extended from 30.09.2025 to 31.10.2025. Learned counsel for petitioners, however, urged that last date for submission of tax return as well as date of renewal of registration of 12A of the Act should also be extended. Matter was adjourned to 30.09.2025 on which date, following order was passed:-

> " Learned counsel for respondent no.1. submits that clarification in respect to furnishing of audit report under Section 12-B of the Income Tax Act, 1961 (for short Act, 1961) has been received. He refers to copy of e-mail dated 29.09.2025, received from Dr. Castro Jayaprakash, Under Secretary, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, North Block, New Delhi, wherein it is specifically stated that extension of specified date provided by CBDT Circular number 14/2025 from 30.09.2025 to 31.10.2025 also applies to Trusts/non profit organizations for furnishing audit report under Section 12-A of Act, 1961. In respect to the question of renewal of registration under Section 12-A of Act, 1961, it is mentioned in said communication as
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> > "i) Application in Form No.10AB under clause (ii) of section 12A of the Act for renewal of earlier registration has to be submitted by these registered entities at least six months prior to the expiry of the period for which the existing registration

continues to remain valid. (refer section 12A(1)(ac) are reproduced in Annexure 1).

ii) It is pertinent to mention here that the existing registration granted to these entities in respect of application submitted under clause (1) of section 12A(1)(ac) was valid for the period of five years from Assessment Year 2022-23 to Assessment Year 2026-2027. The last date for making an application in Form No.10AB (as per Rule 17A of the Income-tax Rules, 1962) seeking renewal of existing registration whose validity going to expire by 31st March 2025, falls on 30th September, 2025 for all such entities by virtue of time limit specified under sub-clause (ii) of clause (ac) of section 12A(1) of the Act. Therefore, there is no direct link between the prescribed time limit upto which an application in Form 10AB is required to be made, and the specified date/due date for filing audit reports/ITRs for AY 2025-26.

iii) As per Rule 17A of the Income-tax Rules, 1962 (reproduced at Annexure 1), the documents required to be submitted inter-alia include self-certified copies of annual financial statements or tax audit reports (if applicable in some cases) of the Trust for the years, prior to the financial year in which the application is made, for which the accounts are made up. The annual financial statements or tax audit reports are needed only up to three such prior years, provided the Trust was in existence during such years. In other words, the law does not mandate submission of audited annual financial statements or tax audit reports at the time of filing application, in respect of those prior years for which the accounts have yet not been audited. Thus, for instance, if the application for renewal of registration in Form 10AB is filed on 30th September 2025, the relevant Rule stipulates filing of provisional financial statements only for the immediately preceding year i.e. Financial Year 2024-25, if the accounts have not been audited. (Similar position for renewal of registration u/s 80G of the Act)

iv) As regards ITRs, the relevant Rule does not mandate submission of copies of ITRs of any prior year, along with the application seeking registration in Form10AB.

v) To sum up, there is no mandatory requirement in law to submit the audit reports or audited financial statements, along with the application in Form 10AB, for latest prior year for which the audit is not yet completed. Therefore, the application for renewal of registration under section 12A, or renewal of approval under section 80G, in Form 10AB, which are due to be submitted by 30th September 2025, can be submitted on the basis of provisional annual financial statements for the Financial Year 2024-25.

vi) The data shows that there has been a marked increase in filing of applications in Form 10AB, after the specified date for filing the Audit Reports was extended by the CBDT recently (refer Annexure 2).

vii) In view of the above discussion, it is clarified that there is no anomaly created by extending specified date for furnishing audit report for financial year 2024-25 (relevant to assessment year 2025-26). Therefore, the concern raised by the petitioner is based on an incorrect.

Copy of communication dated 29.09.2025 is taken on record, subject to just exceptions.

Learned counsel for respondent no.1 further submits that question of extension of last date for submission of tax returns is still under consideration.

At his request, adjourned to 15.10.2025.

Photocopy of this order be placed on the files of above mentioned connected cases."

7. Writ petitions were adjourned to 28.10.2025 at request of learned counsel for Union of India. It is brought to our notice that in the interregnum, High Court of Gujarat vide decision dated 13.10.2025 passed in R/Special Civil Applications Nos. 13533, 13582 & 13589 of 2025 (Income Tax Bar Association and another vs. Union of India and others) directed respondent - CBDT to issue appropriate circular, exercising power under Section 119 of the Act, to extend the due date for filing of return upto 30.11.2025 for the assessees as mentioned above. Learned counsel for respondent - UOI candidly conceded that decision dated 13.10.2025 is not subject to any challenge. In view thereof, learned counsel for respondent was asked to seek instructions as to whether necessary circular has been issued. It was, however, brought to our notice on 28.10.2025 that the matter is still under consideration and present writ petitions were adjourned for today.

8. Even as on today, learned counsel for Union of India submits that necessary circular in terms of decision dated 13.10.2025 has not yet been issued.

**CWP-28440-2025 (O&M)**

Reference is made to e-mail dated 29.10.2025 received in the office of learned counsel from Under Secretary, Ministry of Finance, Department of Revenue, CBDT, wherein it is stated as under:-

> " In this regard, I am directed to inform that there is a regular filing of ITRs and Tax audit reports for AY 2025-26 till 29.10.2025 and filing statistics as on 29.10.2025 is enclosed for your perusal and necessary action. Further, I am directed to inform that a proposal regarding extension of due date for filing of ITRs in the case of auditable assessees for AY 2025-26 is under submission for early decision."

9. This tendency of respondent to wait till the last moment has been duly noted and commented upon by High Court of Gujarat in order dated 13.10.2025 passed in R/Special Civil Applications Nos. 13533, 13582 & 13589 of 2025 (Income Tax Bar Association and another vs. Union of India and others) as under:-

> " However, as held by this Court in case of **All Gujarat Federation of Tax Consultants v. Central Board of Direct Taxes** rendered in Special Civil Application No. 12656 of 2014 dated 22.09.2024 and on analysis of the provisions of the Act as amended by the Finance Act, 2020 providing period of one month between the date of uploading of the audit report and due date of filing of filing of return as per Section 139(1) of the Act, the concern shown by the respondent no. 2 CBDT in the affidavit-in-reply for closely monitoring the functioning of E-filing portal is without any basis as statutorily there has to be a prior period of one month between the date of uploading the audit report being the "specified date" and "due date" of filing of the return. Respondent no.2 -CBDT therefore would not be justified to wait till end of OCTOBER,2025 for issuing circular to extend the "due date"."

10. Thereafter, it has been held as under by High Court of Gujarat in abovesaid matters:-

> "22. We, therefore, again reiterate the decision of this Court in case of All Gujarat Federation of Tax Consultants v. Central Board of Direct Taxes (supra). As the respondent no. 2 CBDT has not issued any Circular while exercising its power under Section 119 of the Act to extend the "due date" for filing the return of income for the assessees covered by Explanation (a) to Section 139 (1) of

> the Act to 30th November,2025, when the "specified date" is extended from 30.09.2025 to 31.10.2025, a consequential Circular to extend the "due date" to 30.11.2025 as per the provisions of Explanation (ii) to Section 44AB read with Section Explanation (a) to Section 139 (1) of the Act is required to be issued. If 'due date' for filing return of income under Section 139(1) of the Act is not extended by the respondent no. 2 - CBDT then the Explanation (ii) to Section 44AB of the Act shall be rendered negatory and the "specified date" defined therein would as per the extended date by the CBDT and not as per the statutory provision being one month to the due date of filing of the return . The present situation would restore the pre amended provision of filing audit report and return of income together contrary to existing provisions of the Act.
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> 23. It appears that the respondent no. 2 - CBDT has always tendency to extend the "due date" for filing the return on the verge of completion of the period of due date after monitoring E-filing portal so that the last date rush of filing the return may be avoided. However, in the facts and circumstances of the case, the respondent no. 2 – CBDT ought to have extended the "due date" as a consequence of extending the "specified date" as per Explanation (ii) to Section 44AB of the Act, being one month prior to the due date of filing of the return of income.
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> 24. In the aforesaid circumstances, and having regard to the provisions of Explanation (ii) of Section 44AB of the Act, we direct the respondent no. 2 CBDT to issue Circular exercising power under sections 119 of the Act to extend the "due date" of filing of return up to 30$^{th}$ November,2025 for the assessees who are required to file audit report as per clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act or requiring to file the report of audit under the provisions of the Act for the Financial Year 2024-25 (Assessment Year 2025-26)."

10. It is relevant to note at this juncture that repeated adjournments have been granted at fervent request of learned counsel for UOI on the premise that proposal regarding extension of due date for filing of Income Tax Returns in the case of auditable assessees for Assessment year 2025-26 is under submission for early decision. Position is no different even today despite factum of specific and categoric order dated 13.10.2025 passed by High Court of

Gujarat, which has admittedly been attained finality. We find no ground whatsoever to further adjourn these writ petitions as has been suggested.

11. Keeping in view the facts and circumstances as above, all the four writ petitions are disposed of while directing respondent – CBDT to issue necessary circular in exercise of power under Section 119 of the Act to extend the due date for filing of returns by assessees required to file audit report as per clause (a) of Explanation 2 to sub-Section (1) of Section 139 of the Act or required to file report of audit under provisions of the Act for Financial Year 2024-2025 (Assessment Year 2025-26) to 30.11.2025. Pending application(s), if any, stand(s), disposed of accordingly.

**(LISA GILL)**
**JUDGE**

**(MEENAKSHI I. MEHTA)**
**JUDGE**

**October 29, 2025**
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No