IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 591 of 2022

With
R/SPECIAL CIVIL APPLICATION NO. 586 of 2022

==
THE SOUTHERN GUJARAT INCOME TAX BAR ASSOCIATION, SURAT
Versus
UNION OF INDIA & 1 other(s)
==
Appearance:
MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1
MR.VISHAL J DAVE(6515) for the Petitioner(s) No. 1
NIPUN SINGHVI(9653) for the Petitioner(s) No. 1
M R BHATT & CO.(5953) for the Respondent(s) No. 2
MR DEVANG VYAS(2794) for the Respondent(s) No. 1
==

CORAM:**HONOURABLE MR. JUSTICE J.B.PARDIWALA**
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 21/01/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. Since the issues raised in both the captioned writ applications are the same, those were taken up for hearing analogously and are being disposed of by this common order.

1.1 For the sake of convenience, the Special Civil Application No.591 of 2022 filed by the Southern Gujarat Income Tax Bar Association, Surat is treated as the lead matter.

2. By this writ application under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

> *"(a) Your Lordships may be pleased to pass a Writ of Mandamus or any other appropriate Writ, Order or direction, directing the*

Respondent No. "1" and/or "2" to extend the due date of filing of Tax Audit Report and the Income Tax Returns for the assessment year 2021-2022 till March 31, 2022;

(b) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents not to levy interest under section 234A till the revised due dates provided vide Circular 17/2021 dated 09.09.2021;

(c) Your Lordships may be pleased to pass a Writ of Mandamus or any other appropriate Writ, Order or direction to issue appropriate directions to authorities for accepting the TAR and/ or ITR in physical form till the New Income Tax Portal stabilizes and becomes glitch free;

(d) Your Lordships may be pleased to pass a Writ of Mandamus or any other appropriate Writ, Order or direction to not invoke Section 271B for late filing of the audit report and the physical filing be sufficient compliance of the Section;

(e) Pending admission, hearing and final disposal of this Petition, Your Lordships may be pleased to direct respondents to allow filing of TAR/ITR in physical form to jurisdictional authorities;

(f) Your Lordships may be pleased to grant any other relief or reliefs' as this Hon'ble Court may deem just, fit and expedient be granted in favour of the Petitioner."

3. We need not delve much into the facts giving rise to this litigation as our order passed in this very matter dated 12.01.2022 would make the picture abundantly clear. The order dated 12.01.2022 reads thus:

"1 Since the issues raised in both the captioned writ applications are the same, those were taken up for hearing analogously.

2 For the sake of convenience, we treat the Special Civil Application No.591 of 2022 as the lead matter.

3 This writ application has been filed by the Southern Gujarat Income Tax Bar Association, Surat, through its Secretary, seeking the following reliefs:

> *"(a) Your Lordships may be pleased to pass a writ of mandamus or any other appropriate writ, order or direction, directing the respondent No.1 and /or 2 to extend the due date of filing of Tax Audit Report and the Income Tax Returns for the assessment year 2021-2022 till March 31, 2022.*
>
> *(b) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents not to levy interest under section 234A till the revised due dates*

> *provided vide circular 17/2021 dated 09.09.2021.*
>
> *(c) Your Lordships may be pleased to pass a writ of mandamus or any other appropriate writ, order or direction to issue appropraite directions to authorities for accepting the TAR and/or ITR in physical form till the New Income Tax Portal stabilizes and becomes glitch free;*
>
> *(d) Your Lordships may be pleased to pass a writ of mandamus or any other appropriate writ, order or direction to not invoke section 271B for late filing of the audit report and the physical filing be sufficient compliance of the Section;*
>
> *(e) Pending admission, hearing and final disposal of this petition, Your Lordships may be pleased to direct respondents to allow filing of TAR / ITR in physical form to jurisdictional authorities;*
>
> *(f) Your Lordships may be pleased to grant any other relief or reliefs' as this Hon'ble Court may deem just, fit and expedient be granted in favour of the petitioner."*

4 We have heard Mr. Tushar Hemani, the learned Senior Counsel assisted by Mr. Avinash Poddar, Mr. Nipun Singhvi, the learned counsel appearing for the writ applicants and Mr. Devang Vyas, the learned Additional Solicitor General of India appearing for the respondents on an advance copy served upon him.

5 This litigation has something to do with extension of due date of filing of Tax Audit Report and the Income Tax Returns for the assessment year 2021-2022 and levy of interest under Section 234A of the Income Tax Act, 1961 (for short, "the Act, 1961").

6 We had an occasion to deal with one such litigation yesterday in the form of the Special Civil Application No.272 of 2022. We passed the following order in the said matter dated 11th January 2022:

> *"1. We have heard Mr. Avinash Poddar and Mr. Nikul Singhavi, the learned counsel appearing for the writ applicants, Mr. M.R. Bhatt, the learned senior counsel appearing for the respondent No.2 and Mr. Devang Vyas, the learned Additional Solicitor General of India appearing for the respondent No.1 – Union of India.*
>
> *2. We have been able to understand to some extent the difficulties, which are being experienced by the assessee in uploading the audit report for the purpose of filing the its income tax return. Our attention has also been drawn to the Circular No.17/2021 issued by the Ministry of Finance Department of Revenue, CBDT dated 09.09.2021 with respect to extension of the time limit for filing income tax returns and various reports of audit for the A.Y. 2021-22. Prima facie, it appears that the writ applicants are aggrieved by the clarification 1 in the Circular. Clarification 1 reads thus:*

> *"**Clarification 1**: It is clarified that the extension of the dates as referred to in clauses (9), (12) and (13) of Circular No.9/2021 dated 20.05.2021 and as referred to in clauses (1), (4) and (5) of this Circular shall not apply to Explanation 1 to section 234A of the Act in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (I) to (vi) of sub-section (1) of that section exceeds one lakh rupees."*

3. The learned counsel appearing for the writ applicants pointed out that for the purpose of uploading the audit report, the assessee has to generate the Unique Document Identification Number (for short "the UDIN"). This has been made mandatory from 01.07.2019 for all audit. The grievance voiced by the learned counsel appearing for the writ applicants is that on account of technical glitches in the Portal, the Chartered Accountants are finding it very difficult to upload the audit report. In other words, even after generating the UDIN on account of some technical problems in the Portal, the audit reports are not being uploaded. Once the audit report is not uploaded and the return is not filed in time, the some would entail interest under Sections 234A and 234B respectively, late fees under Section 234F and penalty under Section 271B of the Act respectively.

4. Mr. M.R. Bhatt, the learned senior counsel would submit that the apprehension expressed by the writ applicants in the aforesaid regard is not well founded. Mr. Bhatt, the learned senior counsel would like to file a detailed reply explaining the correct position. At this stage, we may only say that if there are any technical problems with the Portal so far as uploading of the audit report is concerned, the same should be attended and looked into by the Authority concerned at the earliest.

5. Mr. Poddar, the learned counsel made a request that the deadline of 15.01.2022 for the purpose of filing the audit report may be extended to 15.02.2022. We are not inclined to go into this controversy at this point of time. The issues of penalty, interest etc. would arise when the final order of assessment is passed. Even for the purpose of penalty under Section 271B, it is necessary to issue a notice to the assessee. If the assessee has not been in a position to file his return in time on account of his inability to upload the audit report on account of technical glitches in the Portal, he can always point out all such circumstances beyond his control when he is called upon to show cause as to why penalty should not be imposed.

6. However, with all the aforesaid, we once again impress upon the respondent to attend to the technical glitches, which are being experienced in the Portal at the earliest. The Portal is something which is within the control of the respondent and if there are any technical problems in the same, it is only the respondents, who can take care of such problems. At this stage, Mr. Devang Vyas, the learned

Additional Solicitor General of India received information that CBDT has issued a Circular No.01/2022 dated 11.01.2022 extending the timeline for filing the income tax return and various reports of audit for the A.Y. 2021-22. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 30th September, 2021, in the case of assessees referred in clause (a) of Explanation 2 to subsection (1) of Section 139 of the Act, as extended to 31st October, 2021 and 15th January, 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 20222. The due date of furnishing of Report of audit under any provision of the Act for the Previous Year 2020-21 which was 31st October, 2021, in the case of assessees referred in clause (aa) of Explanation 2 to sub-section (1) of Section 139 of the Act, is hereby extended to 15th February, 2022.

7. Post this matter on 08.02.2022 to enable the respondents to file their counter. One copy of the counter shall be furnished to the learned counsel appearing for the writ applicants well in advance. The further progress in the matter with regard to the technical glitches shall be reported to us on the next date of hearing.

One copy each of this order shall be furnished at the earliest to Mr. M.R. Bhatt, the learned senior counsel and Mr. Devang Vyas, the learned Additional Solicitor General of India for its onwards communication."

7 In view of the aforesaid, the time period for filing of the Tax Audit Report and the Income Tax Returns has been extended upto 15th February 2022. We once again take notice of the circular No.1 of 2022, which came to be issued by the CBDT dated 11th January 2022. We deem fit to reproduce the entire circular as under:

"Circular No.01/22

F.No.225/49/2021/ITA-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
****

New Delhi, dated 11th January 2022

Subject : Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22-reg.

On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act,1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, provides relaxation in respect of the following compliances:

1. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 30 th September 2021, in the case of assessees referred in clause (a) of Explanation 2 to subsection (1) of section 139 of the Act, as extended to 31 st October 2021 and 15 th January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;

2. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 31 st October, 2021, in the case of assessees referred in clause (aa) of Explanation 2 to subsection (1) of section 139 of the Act, is hereby extended to 15th February, 2022;

3. The due date of furnishing of Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which was 31 st October 2021, as extended to 30 th November 2021 and 31 st January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th February, 2022;

4. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31 st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30 th November 2021 and 15 th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022:

5. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 30 th November 2021 under sub-section (1) of section 139 of the Act, as extended to 31 st December 2021 and 28 th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to 15th March, 2022.

Clarification 1: *It is clarified that this extension shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.*

Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in sub-section (2) of Section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under circular No.9/2021, Circular No.17/2021 and this circular) provided in that Act, shall be deemed to be the advance tax.

Sd/-
(Ravinder Maini)
Director to the Government of India"

8 We take notice of the fact that although the time period has been extended upto 15th February 2022, yet the Clarification 1 in the circular would indicate that the extension would not apply to Explanation 1 to Section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-Section (1) of Section 234A if it exceeds one lakh rupees.

9 Mr. Hemani, the learned Senior Counsel made one further request that having regard to the technical glitches in the portal, the assessees may be permitted to file TAR / ITR in the physical form to the jurisdictional authority. According to Mr. Hemani, it should not happen that although the time period has been extended upto 15th February 2022, yet on account of the technical glitches in the portal, the assessees are not able to make good the extended period.

10 In the aforesaid context, we request Mr. Devang Vyas, the learned Additional Solicitor General of India to speak to the highest authority concerned and try to ascertain whether the department would be agreeable to accept the filing of the TAR / ITR in the physical form. We request the authority concerned to take a practical view of the problems which the assessees are facing as on date on account of the technical glitches in the portal. The authority should not overlook this fact and try to solve the problems or rather ease the difficulties which the assessees are facing.

11 We appreciate the decision taken by the CBDT to extend the time period upto 15thFebruary 2022, but the assessees should be in a position to make the best of this extended time period. Mr. Hemani is right to a certain extent that if the technical glitches are going to continue, then even extension of further three months would not solve the problems.

12 Let Notice be issued to the respondents, returnable on 17th January 2022.

13 We request Mr. Vyas to discuss this matter at the earliest with the highest authority concerned and revert to us by the returnable date. One copy of this order shall be furnished to Mr. Vyas today itself for its onward communication. We permit service of notice to the respondents by Speed Post R.P.A.D. as well as by E-mail."

4. We have heard Mr. Tushar Hemani, the learned Senior Counsel assisted by Dr. Avinash Poddar and Mr. Nipun Singhvi, the learned counsel appearing for the writ applicant, Mr. M.R. Bhatt, the learned Senior Counsel assisted by Mr. Karan Sangani, the learned counsel, appearing for the respondent No.2 – Central Board of Direct Taxes and Mr. Devang Vyas, the learned Additional Solicitor General of India appearing for the

Union of India.

5. Manifold contentions were raised by Mr. Hemani, the learned Senior Counsel appearing on behalf of the writ applicant as regards manifold reliefs prayed for in the present litigation. One of the reliefs prayed for was to extend the time period for filing the Tax Audit Reports and the Income Tax Returns. The second relief which has been prayed for is to permit the assesses to file their TAR/ITR in physical form till the new Income Tax portal is able to take care of all the technical glitches. The writ applicant has also prayed for an appropriate writ, order or directions to the respondents not to invoke Section 271B for late filing of the Audit Report and the Physical filing should be construed as sufficient compliance of the Section.

6. After the order dated 12.01.2022 referred to above, the matter was taken up for hearing on 17.01.2022. On 17.01.2022, Mr. Vyas and Mr. Bhatt, both together made themselves very clear that it is not feasible to permit the assesses to file their Income Tax Returns or Tax Audit Reports in a manual form. According to both the learned Counsel, the system itself would not permit or accept the same for the purpose of the assessment of such Returns. Having regard to such stance of the respondents, we called upon Mr. Vyas and Mr. Bhatt to file an affidavit, duly affirmed by the highest authority, assuring that if there are any technical glitches experienced or any other difficulties faced by the assesses while filing their Returns or Tax Audit Reports, those would be definitely taken care of at the earliest so that the assesses may not have to face the legal consequences of any delay in

uploading the Returns/Tax Audit Reports.

7. Today, when the matter was taken up for hearing, Mr. Bhatt, the learned Senior Counsel appearing for the respondent No.2 – CBDT, has produced an affidavit filed on behalf of the CBDT, duly affirmed by Shri Jagannath Bidyadhar Mohapatra, the Chairman of the Central Board of Direct Taxes, inter-alia stating as under:

> *I, Jagannath Bidyadhar Mohapatra, Chairman, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India, aged 59 years, S/o Shri B.J.B. Mohapatra, for and on behalf of Union of India (Respondent No. 1) and Central Board of Direct Taxes (Respondent No. 2) in the above matter, hereby solemnly affirm as under:*
>
> *1. It is submitted that the present affidavit is filed pursuant to the oral directions of this Hon'ble Court given on 18.01.2022.*
>
> *2. The Central Board of Direct Taxes, hereinafter referred to as 'the Board', reiterates its position, which has been kindly taken note of by this Hon'ble Court, that filing of Tax Audit Report (TAR) and/or Income Tax Return (ITR) either in physical form or through specified e-mail id, is not in conformity with the existing structure for the following reasons:*
>
> *i) It is submitted that filing of ITR and TAR has to be done in the electronic format on e-filing portal. Over 6.01 crore ITRs for AY 21-22 and nearly 13.7 lakh various types of TARs have already been filed electronically. The filing of ITR and associated TAR is only the first step in the entire procedure for processing and assessment. Without the availability of data in the prescribed digital format, the ITR cannot be processed and refunds, if any, and intimations cannot be issued.*
>
> *(ii) There is no existing mechanism to digitize paper ITRs and such data cannot be used for processing or issue of refunds.*
>
> *(iii) Further, the e-filed TARs are used to crosscheck data with ITRs during processing to identify mismatches and for risk assessment.*
>
> *(iv) All this is done in an automated manner without any significant human intervention. Therefore, even ITRs filed through e-mail would not be compatible with this automated process.*

Any change in this already stable procedure would be extremely disruptive to the Department as well as cause severe inconvenience to the taxpayer eventually.

3. *It is humbly submitted that Tax Audit Reports in various forms have been successfully filed by the taxpayers, despite some technical glitches appearing in some cases which are resolved on regular basis. In this context the following data, in the Table below, is submitted for kind perusal of this Hon'ble Court, which shows that 13,67,338 TARs have been filed successfully till 18.01.2022.*

TABLE

FY 21-22	3CA-3CD	3CB-3CD	29B	29C	3CEB	10B	10BB	Total
Till 31.12.2021	50,436	4,71,085	9,553	428	481	26,741	570	5,59,294
01-Jan-22	1,211	12,436	304	20	1	812	11	14,795
02-Jan-22	631	7,766	136	7	1	371	5	8,917
03-Jan-22	3,244	27,666	790	22	3	1,980	34	33,739
04-Jan-22	4,866	37,341	1,106	39	4	2,854	51	46,261
05-Jan-22	5,663	43,433	1,233	49	57	3,430	84	53,949
06-Jan-22	6,461	49,303	1,550	49	108	3,874	62	61,407
07-Jan-22	5,488	43,645	1,426	40	94	4,058	93	54,844
08-Jan-22	6,741	61,939	1,419	55	80	4,369	98	74,701
09-Jan-22	4246	50,814	681	29	47	2,504	59	58,380
10-Jan-22	10137	84,842	1,784	64	214	5,958	155	1,03,154
11-Jan-22	10191	80,020	1,667	84	217	6,355	141	98,675
12-18-Jan-22 (after extension)	18616	1,62,535	5,347	165	848	11,444	267	1,99,222
Total	127931	11,32,825	26,996	1,051	2,155	74,750	1,630	13,67,338

The daily statistics as given in the Table above shows that there has been an increase in filing of TAR (Form 3CA-3CD and Form 3CB-3CD) for Financial Year 2021-22 in the few days prior to the due date of 15th January, 2022, before CBDT issued a circular (No.1/2022) on 11th January, 2022 extending the due date to 15th Feb 2022. Filing of TAR is picking up again and nearly 2 Lakh TARs have been filed from 12th to 18th Jan 2022. This indicates that filing of TAR has been progressing smoothly. With the extension of the due date, it is expected that the tax professionals will be able to complete their filings smoothly.

3.1 *It may also be submitted that filing of ITR remained smooth as is evident from the data given in the Table below:*

TABLE

	ITR-1	ITR-2	ITR-3	ITR-4	ITR-5	ITR-6	ITR-7	Grand Total (Date Wise)
Before 14.12.21	2,33,03,192	36,41,756	41,85,472	1,01,66,182	4,31,225	1,83,572	34,661	4,20,29,921
14-Dec-21	4,13,951	1,27,970	1,84,837	3,58,359	23,306	9,235	2,093	11,19,751
15-Dec-21	4,14,769	1,30,352	1,94,633	3,96,049	22,069	8,123	2,032	11,68,027
16-Dec-	3,14,904	93,835	1,38,504	3,09,940	14,697	4,632	1,209	8,77,721

21								
17-Dec-21	6,19,573	1,72,565	2,37,990	4,79,721	27,136	9,869	2,977	15,49,831
18-Dec-21	7,24,459	2,09,691	3,02,518	6,01,871	35,084	11,993	3,461	18,89,057
19-Dec-21	8,54,136	2,59,633	3,76,717	7,74,354	42,921	12,250	4,242	23,24,253
20-Dec-21	11,61,082	3,51,445	5,50,070	11,41,651	65,652	15,753	6,045	32,91,698
21-Dec-21	13,81,273	4,91,489	8,50,494	17,71,443	1,04,187	2,764	10,158	46,11,808
Till 31.12.2021	2,91,87,339	54,78,736	70,21,235	1,59,99,570	7,66,257	2,58,191	66,878	5,88,62,067
1-18Jan 22	2,57,022	56,825	4,97,629	2,39,543	1,73,394	1,06,545	37,249	12,82,216
Total	2,94,44,361	55,35,561	75,18,864	1,62,39,113	9,39,651	3,64,736	1,04,127	6,01,44,283

4. *With regard to redressal of grievances in respect of filing of statutory forms, it is submitted that presently taxpayers approach integrated helpdesk via calls, online grievance submission and emails (designated email id efilingwebmanager@incometax.gov.in and efilinghelpdesk@incometax.gov.in) to seek resolution to their grievances. The grievance setup is supervised by a team of Departmental officers headed by a Joint Director of Income Tax. If the issues reported are not resolved at the first level, then they are examined by backend team consisting of functional and technical personnel in each of the above grievance channels. Based on the resolution provided by the backend team including changes, if any required, in the software etc, the taxpayer is contacted by making outbound calls and based on the confirmation of the resolution, all such tickets are closed by sending the final email communication.*

5. *It is further submitted that the portal software is complex involving many functionalities and interlinkages. Problems faced by taxpayers may be of different nature and complexity. Some problems may be addressed and resolved immediately where guidance has to be given to taxpayers. If the issue reported is new and has to be analysed or requires multiple changes or involves process change or issues that need clarification at higher departmental levels then the resolution may take additional time. After any software change is made, the change has to be tested to ensure that existing functionality already in use by lakhs of taxpayers are not disturbed. Therefore, the resolution time is significantly dependent on the nature of the technical or taxpayer specific issue reported.*

4.1 *The portal has many linkages and all have to be up and working from the departmental side as well as the taxpayer side. The band width on taxpayer side, the quality of connectivity and functioning of the lease lines also play significant role in the entire process of uploading Tax Audit Report and Income Tax Return. In case of any difficulty, the helplines are there to provide assistance to the taxpayers. Moreover, in case of any assistance in the form of technical* *infrastructure sought by the tax payer, the Aayakar Seva Kendras (ASK Centers) are at the service of the taxpayers.*

6. *The Hon'ble Court is assured that a team of Departmental officers will also supervise a special team of helpdesk, technical, functional personnel from the Managed Service Provider (MSP) for the project, to ensure that any grievance reported or technical issue identified is addressed at the earliest and to ensure that the taxpayer is facilitated in the filing process.*

7. *Further, this Hon'ble Court is assured that the following additional mechanism including a dedicated email for this purpose (given below) will be made available for issues related to filing of Tax Audit Reports to facilitate its timely filing.*

Source	*Details*	*Action*
Email id	*TAR.helpdesk@incometax.gov.in*	*This email id is dedicated to assist the filing of Tax Audit Report. A team of 6 members (which can be increased) will be dedicated to examine and resolve the emails received at this email id.*
Helpdesk Phone number	*(1) 1800 103 0025 (2) 1800 419 0025 (3) +91-80-46122000 (4) +91-80-61464700*	*Helpdesk team has been instructed to forward the issues of the Tax Audit report to the dedicated team for this purpose for close monitoring to ensure timely assistance.*

The grievances received on the dedicated e-mail ID will be attended to within the timeline suggested by this Hon'ble Court.

8. *In addition to the administrative mechanism detailed above, it is submitted that there is legal framework in place in the form of section 119(2)(b) and section 273B of the Income-tax Act which will obviate any genuine hardship faced by any taxpayer.*

DEPONENT

VERIFICATION

Verified at New Delhi on this 20th day of January, 2022 that the contents of the above affidavit are true and correct to the best of my knowledge and official records and nothing material has been concealed therefrom.

DEPONENT"

8. In today's hearing through Video Conference, Mr. Y.K. Singh, DGIT (Systems) and Mr. Krishnamurthy, Additional Director General of Income Tax, also joined in the discussion. We had the advantage of hearing Mr. Singh as well as Mr. Krishnamurthy. Mr. Singh and Mr. Krishnamurthy have assured

this Court that all necessary steps shall be taken to ensure that the assesses are able to upload their Income Tax Returns/Tax Audit Reports online smoothly and without any difficulties. They have also assured that in the event of any technical glitch, the same shall be attended at the earliest and taken care of as explained in the affidavit filed today.

9. Having regard to the stance of the CBDT as it emerges from the affidavit, we are convinced that no further adjudication is required in the present litigation. We appreciate the efforts put in by the CBDT to ensure that the assesses do not have to face any hardships or difficulties on account of the technical glitches in the portal.

10. We take notice of one pertinent feature emerging from the affidavit and i.e. the E-mail ID, which has been created to assist the filing of Tax Audit Report. A team of six members or if need be more are to examine and resolve the E-mails received at this E-mail ID. Our suggestion to Mr. Singh as well as to Mr. Krishnamurthy is that one such E-mail ID may also be created for the Income Tax Returns. Our suggestion has been graciously accepted by Mr. Singh and Mr. Krishnamurthy. They have assured that the needful shall be done in this regard also.

11. In the overall view of the matter, we are convinced that with the cooperation of one and all, we have been able to resolve the controversy as regards the technical glitches in the Income Tax Portal.

12. At this stage, Mr. Hemani, the learned Senior Counsel submitted that by and large all issues can be said to have been taken care of with view of what has been stated in the affidavit

except the issue as regards the levy of interest under Section 234A of the Income Tax Act.

13. We do not intend to look into the above controversy in the present litigation as we are informed that one writ application as regards Section 234A is already pending before this High Court. This issue shall be looked into as and when the pending writ application is taken up for hearing by this Court.

14. With the aforesaid, we close both the writ applications and dispose of the same accordingly. The affidavit, which has been filed today on behalf of the respondents Nos.1 and 2 shall be taken on record.

15. We are once again thankful to Mr. Singh as well as Mr. Krishanmurthy for joining this Video Conference and assuring us to do their best so as to ease the problems and difficulties of the assesses. We are also thankful to Mr. Bhatt and Mr. Devang Vyas for seriously taking up all the issues with the CBDT.

16. The connected writ application also stands disposed of in the aforesaid terms.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE,J)

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