

**Gujarat HC: CBDT to take an appropriate decision for extension of the due date of filing ITR and TAR by 12.01.2021**

The Hon'ble High Court, Gujarat in the *All Gujarat Federation of Tax Consultants v. Union of India [R/Special Civil Application No. 13653 of 2020 dated January 8, 2021]* directed CBDT to take an appropriate decision for extension of the due date of filing income tax return ("ITR") and Tax audit report ("TAR") by January 12, 2021.

**Facts:**

All Gujarat Federation of Tax Consultants ("**the Petitioner**") is Trust formed and registered in accordance with the provisions of the Bombay Public Trust Act, 1950 having members of various professions from State of Gujarat engaged in the field of practicing taxation.

The Petitioner submitted that having regard to the Covid-19 pandemic situation, the Central Board of Direct Taxes ("**CBDT**" or "**the Respondent**") extended the due date for filing the tax audit report from September 30, 2020 to October 31, 2020 in the case of all those assesseees who are required to get their books of account audited.

The Petitioner prayed to issue a writ of mandamus to the Union of India, Ministry of Finance, to ask the CBDT to exercise its powers vested in it under Section 119 of the Income Tax Act, 1961 ("**Income Tax Act**") by extending the due date of October 31, 2020 at least for 3 months i.e. up to January, 31 2021 for the purpose of filing ITR and TAR in case of assesseees whose accounts are required to be audited.

**Petitioner's submissions:**

- Due to Covid-19 and directives for work places from the Central Government Home Ministry regarding "Work for Home", "Staggering of work / Business hours" and "reduced workforce" it is impossible for the Tax Practitioners to complete the Audit work to issue a certificate required under Section 44AB of the Income Tax Act within the extended due date of October 31, 2020.
- The data released by the Respondent for 2019 reflect that as many as 55% of the ITR and TAR were filed outside of office hours showing the sheer burden of workload upon the tax practitioners to work overtime to complete the assignment.
- The Ministry of Law and Justice has in fact recognized the reality of the situation and extended the time limits (except otherwise specified) of the specified Acts to March 31, 2021 which falls during the period from March 30, 2020 to December 31, 2020 vide the Taxation and Others Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 ("**Taxation and Other Laws Act**").

- Therefore, a meagre extension of one month in case of the filing of return of income under Section 139 of the Income Tax Act is violative of Article 14 and Article 19(1)(g) of the Constitution of India being manifestly arbitrary, discriminatory and unreasonable.
- The utilities for e- filing of returns being available only belatedly curtails the time available for filing the ITR. Further, the amendment in rules and disclosure requirements as late as on October 1, 2020 has effectively given only 30 days (as opposed to extended 214 days) to the Chartered Accounts to furnish the TAR. Furthermore, the belated issuance of the ITR forms have also curtailed the effective time period.

**Issue:**

Whether extension of due date of filing ITR is required.

**Held:**

The Hon'ble High Court, Gujarat *in R/Special Civil Application No. 13653 of 2020 dated January 8, 2021* held as under:

- Directed the Respondents to immediately look into the issue and take an appropriate decision at the earliest in accordance with law. Further, stated that while taking an appropriate decision, the Union shall bear in mind the observations made by the High Court, Gujarat in *All Gujarat Federation of Tax Consultants v. Central Board of Direct Taxes [Special Civil Application No.12571 and 12656 of 2014 decided on September 22, 2014]*, *All Gujarat Federation of Tax Consultants v. Central Board of Direct Taxes [Special Civil Application No.15075 of 2015 decided on September 29, 2015]* and *Vaghjibhai S. Bishnoi v. Income Tax Officer and another [Special Civil Application No. 6726 of 2013 July 9, 2013]* that the powers given to the CBDT are beneficial in nature to be exercised for proper administration of fiscal law so that undue hardship may not be caused to the taxpayers.
- Clarified that the purpose is of just, proper and efficient management of the work of assessment and the public interest.
- Further, added that the time period for the officials of the tax department has been extended up to March 31, 2021 vide Taxation and Other Laws Act having regard to the current Covid-19 pandemic situation has to be kept in mind while making the decision.
- Decision to be taken by January 12, 2021 and matter to be heard on January 13, 2021.

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