

THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

ON THE 15TH DAY OF JANUARY, 2021

BEFORE:

HON'BLE SHRI JUSTICE RAGHVENDRA SINGH
CHAUHAN, C.J.

AND

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI, J.

WRIT PETITION (PIL) NO. 09 OF 2021

BETWEEN:

The Dehradun Chartered Accountants Society

.....Petitioner.

(By Mr. Piyush Garg, learned counsel).

AND:

1. Union of India, through its Secretary,
Department of Revenue, Ministry of Finance,
Government of India.

(By Mr. Rakesh Thapliyal, learned Assistant
Solicitor General with Mr. D.C.S. Rawat, learned
Standing Counsel).

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

(By Mr. Hari Mohan Bhatia, learned counsel).

.....Respondents.

This writ petition coming on for hearing this day,
Hon'ble Shri Justice Raghvendra Singh Chauhan, C.J.
delivered the following judgment:

JUDGMENT

The Dehradun Chartered Accountants Society, the petitioner, has filed this Public Interest Litigation (PIL) with the following prayer:-

"(i) Issue a writ, order or direction in the nature of mandamus, directing the respondent no.1 and/or 2 to extend the due date of filing the Tax Audit Report and Income Tax Return for the assessment year 2021-21, both for tax audit assessee and for non-tax audit assessee for a reasonable time, atleast till March 31, 2021".

2. According to Mr. Piyush Garg, the learned counsel for the petitioner, due to nationwide COVID-19 pandemic, the income tax assessees have not been able to file their Income Tax Return on the dates specified by the Government. Keeping in mind the hardship being faced by the income tax assessees, repeatedly, the Government had extended the dates for filing the Income Tax Return by the assessee. However, presently, the dates specified by the Government are 10.01.2021 for the non-tax assessee, and 15.01.2021 for filing the Tax Audit Reports to the tax assessed, and 15.02.2021 for filing the Income Tax Return. Moreover, despite the fact that the Chartered Accountants Society of Uttarakhand and the other Chartered Accountants Societies, throughout the country, have filed representations before the respondents, the respondents have, so far, not agreed to extend the date for filing the Income Tax Return. Hence, the present petition before this Court.

3. On the other hand, Mr. Hari Mohan Bhatia, the learned counsel for the respondent no.2, the Revenue, submits that an identical issue has been raised before the Hon'ble High Court of Gujarat at Ahmedabad in R/Special Civil Application No.13653 of 2020. Even in that case, representations were filed; the issue was whether the Court could issue a mandamus to the respondents for extension of the date or not? By order dated 13.01.2021, a learned Division Bench of the Hon'ble High Court of Gujarat has dismissed the R/Special Civil Application No.13653 of 2020. Therefore, even the present case is covered by the said decision of the Hon'ble High Court of Gujarat.

4. In rejoinder, Mr. Piyush Garg, the learned counsel for the petitioner, submits that in the last para of the said judgment, the Hon'ble High Court of Gujarat has directed the Central Board of Direct Taxes ('the CBDT' for short) "to consider issuing an appropriate circular taking a lenient view as regards the consequences of late filing of the Tax Audit Reports as provided under Section 271B of the Income Tax Act ('the Act' for short)". Moreover, the learned counsel for the petitioner submits that, while the said judgment is limited only to the consequences which would flow from Section 271B of the Act, there are other provisions which equally have consequences flowing in case the Income Tax Returns are not filed on time and, in case, the required steps are not taken by the Income Tax Assessee. Therefore, he prays that this Court should pass a similar order directing the CBDT to issue an appropriate circular while taking into account the said provisions of the Act. Thus, he seeks an opportunity to file a fresh representation before

the CBDT, and prays that the CBDT should be directed to consider the fresh representation, wherein the grievances of the petitioner would be voiced.

5. Admittedly, the country continues to suffer and to reel under the COVID-19 pandemic. A large number of assesses still find it difficult to even meet their Chartered Accountants and to file their Income Tax Audit Reports and the Income Tax Returns. Therefore, this Court permits the petitioner to submit a fresh representation, voicing all their grievances, with regard to the consequences which would flow from different provisions of the Act. The CBDT is directed to leniently consider the said representation after giving an opportunity of hearing to the petitioner and to pass a reasoned order thereupon.

6. With the above observations, the petition stands disposed of.

7. Let a certified copy of this order be issued to the learned counsel for the parties, today itself, on payment of the prescribed charges.

(Raghvendra Singh Chauhan, C.J.)

(Manoj Kumar Tiwari, J.)