

**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**EXTRA ORDINARY CIVIL WRIT JURISDICTION**  
**WRIT PETITION (CIVIL) NO. OF 2015**

**IN THE MATTER OF:**

1. Avinash Gupta,  
S/o Shri J.P Gupta,  
A-2/89, LGF, Safderjung Enclave,  
New Delhi 110029
2. Tax Research Foundation,  
(A Society Registered Under the Societies Registration Act),  
M-18, First Floor,  
Lajpat Nagar Part 2,  
Delhi 110024 . . . Petitioners

**VERSUS**

1. Union of India  
Ministry of Finance,  
Department of Revenue,  
North Block  
New Delhi : 110001
2. Central Board of Direct Taxes,  
North Block, Ministry of Finance,  
New Delhi : 110001 . . . Respondents
3. Institute of Chartered Accountants of India  
ICAI Bhawan, Indraprastha Marg,  
New Delhi 110002 ...Performa respondent

**WRIT PETITION UNDER ARTICLE 227 AND 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF ANY WRIT, ORDER OR DIRECTION THEREBY DECLARING THAT THE DECISION OF THE RESPONDENTS No.1 AND 2 VIDE ITS PRESS RELEASE DATED 09.09.2015 AS NULL AND VOID AND IN CONTRAVENTION OF THE PROVISIONS OF PART III OF THE CONSTITUTION OF INDIA, BY VIRTUE OF WHICH, THE RESPONDENTS NO.1 AND 2**

**HAS DENIED TO EXTEND THE DATE FOR FILING OF RETURNS DUE BY 30.09.2015 FOR ASSESSMENT YEAR 2015-2016 FOR CERTAIN CATEGORIES OF ASSESSES INCLUDING COMPANIES, AND FIRMS AND, INDIVIDUALS ENGAGED IN PROPRIETARY BUSINESS/PROFESSION ETC., WHOSE ACCOUNTS ARE REQUIRED TO BE AUDITED IN TERMS OF SECTION 44AB THE INCOME TAX ACT 1961, and/or**

**WRIT PETITION UNDER ARTICLE 226 READ WITH 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIORARI AND/OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION FOR THE PURPOSE OF QUASHING THE SAID PRESS RELEASE DATED 09.09.2015 ISSUED BY RESPONDENTS; AND /OR**

**WRIT PETITION UNDER ARTICLE 227 AND 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS AND/OR ANY APPROPRIATE WRIT, ORDER OR DIRECTION FOR THE PURPOSE OF DIRECTING THE RESPONDENT NO.1AND 2 TO EXTEND THE DATE OF FILING OF RETURNS DUE BY 30<sup>TH</sup> SEPTEMBER FOR ASSESSMENT YEAR 2015-2016 FOR CATEGORIES OF ASSESSES INCLUDING COMPANIES, AND FIRMS AND, INDIVIDUALS ENGAGED IN PROPRIETARY BUSINESS/PROFESSION ETC., WHOSE ACCOUNTS ARE REQUIRED TO BE AUDITED UNDER SECTION 44AB OF THE INCOME TAX ACT, 1961 FROM 30.09.2015 TO 31.12.2015;**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioners being aggrieved is filing the present Writ Petition under Article 227 and 226 of the Constitution of India for issuance of writ, order or direction declaring that the decision of the Respondent No.1 and 2 vide its Press Release Dated 09.09.2015 (hereinafter also referred to as the “said Press Release”) as null and void and in contravention of the provisions of Part III of the Constitution of India, by virtue of which, the

Respondent No.1 and 2 has denied to extend the date for filing of returns due by 30.09.2015 for Assessment Year 2015-2016 for certain categories of Assesses including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited under section 44AB in terms of the Income Tax Act 1961.

That the copy of the Press Release Dated 09.09.2015 issued by Respondents and available at the website of the Press Information Bureau of India (Weblink : <http://pib.nic.in/newsite/ererelease.aspx>) is annexed herewith and marked as **Annexure No. P-1.**

2. That the Petitioner being aggrieved, is further, by virtue of the present Writ Petition under Article 226 & 227 of The Constitution of India, seeking issuance of Writ, order or direction in the nature of Certiorari or any other Writ for the purpose of quashing the said Press Release Dated 09.09.2015 issued by Respondent No.1 and 2 and is further seeking the direction to be made to Respondent No.1 and 2 to extend the date of filing of Returns due by 30<sup>th</sup> September for Assessment Year 2015-2016 for Categories of Assesses Including Companies, and Firms and, Individuals Engaged in Proprietary Business /Profession etc., whose Accounts are required to be Audited under section 44AB of the Income Tax Act, 1961, from 30.09.2015 to 31.12.2015.
3. That it is submitted that the decision of the Respondent No.1 and 2 as mentioned in the said Press Release is inter-alia unreasonable, arbitrary, unjustified and unconstitutional, as the same is causing grave prejudice and harassment, not only to the concerned Tax Payers but also for the Chartered Accountants

fraternity at large, who alone are responsible for conducting the tax audit under section 44AB of The Income Tax Act,1961 and further to file the same alongwith the Income Tax Return in accordance with Law, in as much as in the given facts and circumstances the time left to make compliance of Section 44AB of Income Tax Act has been reduced, as the Respondents much after 01.04.2015, has belatedly notified the Income Tax Forms for respective categories of Tax Payers as well as utility for filing Tax Audit Report.

4. That the most affected category of Tax Payers has been the Assesses including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of section 44AB of the Income Tax Act 1961 and who suffered a delay in notification of forms and consequent reduction of time wherein the delay in notifying the forms by the Respondent No.1 and 2 has reduced the time of filing Income Tax Return by 122 to 128 days respectively.
5. That inter-alia due to the unjust prejudice and harassment being caused on account of the aforesaid reduction in time, attributable to delayed notification of ITR forms, various representations were filed before the Respondent No.1 and 2, inter-alia by The Institute of Chartered Accountants of India (An Autonomous body set under an Act of Parliament) and other professional bodies to extend the specified date u/s 44AB & also the due date u/s 139(1).

However, the Respondent No.1 and 2 without any application of mind and in highly unjust, arbitrary and unconstitutional

manner did not consider the said representations and denied to extend the time for filing the date of Income Tax Return from 30.09.2015 to any further date vide its said Press Release Dated 09.09.2015.

6. It is submitted that being aggrieved from the aforesaid Press Release, the Petitioners herein has filed the present Writ petition, thereby requesting and praying this Hon'ble Court to exercise its extra ordinary Writ jurisdiction for the protection of the fundamental rights and interest of the Petitioners and also the public at large.

It is further submitted that the issue in question in the present Writ petition is in the nature of public interest as the outcome of the present Writ petition will affect the similarly placed persons and Tax Assessee by and large.

7. That the Respondent No. 1 and 2 are the State, within the meaning of Article 12 of The Constitution of India and thus amenable to the Writ jurisdiction.

8. **The brief facts leading to the filing of the present petition are as under:**

i. That the Petitioner No.1, is the citizen of India and is the fellow member of the Institute of Chartered Accountants of India and a senior partner in M/s. APT & Co., Chartered Accountants, having offices at Delhi, Hyderabad, Ahmedabad, Bengaluru, Haryana.

ii. That the Petitioner No.2 is a not for profit organization working on All India basis and doing research in the field of tax for the benefit of Taxpayers and tax professionals,

primarily being Advocates and Chartered Accountants. The main objectives of this organization are inter-alia:

- To promote research on international taxation, direct taxes, VAT, GST, Service Tax, Excise, etc.
- To organize programs and workshops, etc.
- To publish quality books
- To mutually exchange researchers, etc.

In past, it has organized many seminars and workshops for tax professionals to update their knowledge in the field of Direct and Indirect taxes.

That a copy of the certificate of Registration of the Petitioner No.1 is annexed herewith and marked as **Annexure No. P-2.**

iii. It is submitted that the as per Section 139 (1) of the Income Tax Act,1961, the Income Tax Return of every financial year ending on 31<sup>st</sup> March, should be filed by the following dates. These dates as applicable to different categories of Tax Payers are as under:

<b>Sr. No.</b>	<b>Category of Assesse</b>	<b>Date of filing ITR</b>	<b>Time available for filing ITR</b>
1.	Assesses not liable for Audit under Income Tax Act or any other Act.	31 <sup>st</sup> July	122 days
2.	Assesses liable for Audit under Income Tax Act or any other Act (except mentioned in Serial No.3)	30 <sup>th</sup> September	183 days
3.	Assesses covered under transfer pricing regulations	30 <sup>th</sup> November	244 days

iv. That accordingly, as per law, the respective Forms under which the respective categories of Tax Payers are required to file their respective Income Tax Return, has to be duly made available to respective categories of Tax Payers on the very first day of the assessment year, so that every tax payer, duly know the manner/prescribed format in which the Income Tax Return is required to be filed and accordingly have sufficient time to further file the Income Tax Return in the prescribed format.

v. However, to the shock and surprise, the Respondent No.1 and 2 despite knowing well the essence of time in filing Income Tax Returns, under the garb of alleged reforms and ease of doing business, has deliberately failed to notify the prescribed income tax return forms for respective categories of Tax Payers.

vi. Further, the Respondent No.1 and 2 notified the Income Tax Return Forms for all types of Assesses (auditable and non-auditable) at a belated stage, on different dates being as under:

<b>Sr. No.</b>	<b>Forms for the Category of Assessee</b>	<b>Date of Notification of Forms</b>	<b>Date of enabling E-Filing</b>	<b>Delay in release of enabling e-filing utility (Days)</b>
1.	ITR 1 & 4S	23.06.2015	23.06.2015	83
2.	ITR 2 & 2A	23.06.2015	29.06.2015	89
3.	ITR 3,4 & 7	29.07.2015	01.08.2015	122
4.	ITR 5	29.07.2015	02.08.2015	123
5.	ITR 6	29.07.2015	07.08.2015	128

(Source :- [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in))

vii. It is submitted that on account of the said delay on the part of Respondent No.1 and 2 in notifying the said Forms, the Tax Payers of the respective categories has suffered a grave prejudice, as due to the same, the respective Forms were not available to the respective categories of Tax Payers, as on 01.04.2015. It is submitted that on 01.04.2015, the right of every tax payer, duly accrues to know the manner/prescribed format in which the Income Tax Return is required to be filed and the right to further file the Income Tax Return in the prescribed format, which ought to have been made available on 01.04.2015.

Similarly, a right to receive the tax returns and thereby substantial revenues on account of self assessment tax required to be deposited u/s 140A of the Income Tax Act, 1961, also accrues to the respondent No.1 and 2 on every April 1<sup>st</sup> of the assessment year. The unnecessary delay in notification of ITR forms not only had prejudiced the Petitioners but also the Respondent No.1 and 2 in so far so relating to tax collection, the amounts whereof, is used for carrying forward the manifestation of Government of India.

viii. That apparent from the aforesaid chart [as referred in para (vi)], due to the said belated notification of forms, the different categories of tax payers has suffered and prejudiced on account of reduction in time in preparing and filing the Income Tax Return. At this juncture, it would be appropriate to rely upon the ratio of the following judicial pronouncement of Hon'ble Gujarat High Court rendered in

the case of All India Federation of Tax Practitioners v/s Central Board of Direct Taxes, in Special Civil Application No. 12656 of 2014 and Special Civil Application No. 12571 of 2014 dated 22.09.2014 wherein the Hon'ble High Court had made the following observation under similar circumstances, qua similar circumstances last year: -

*“38. We do not have very clear details as to what was the period made available for the receipt of the suggestion and consultation from the stakeholders and what was the extra time consumed by the Law Ministry for the purpose of vetting. However, without going into these details, when it could be noted that this change of utility and non-availability of the new version till 20th August, 2014 is the cause for the issue to have cropped up, the assessee cannot be put to the hardship nor can the professionals be made to rush only because the department chose to change the utility during the mid-year.*

*39. We also note, at this stage, that the three classes of the assessee, who are required to be taken care of: (1) those assessee who have filed their ITR and TAR prior to July, 2014 as the order under section 119 of Act dated 20 th August, 2014 clarified that those who have filed the TAR from 1 st April, 2014 to 21st July, 2014 in a pre-revised form, shall be treated as valid TAR under section 44AB of the Act. However, for those assessee whose ITR and TAR were underway and those who have not yet prepared them, it is undisputed that the availability of the time period is reduced remarkably from 180 days to 37 days*

*40. ....*

*41. In such circumstances, the impact of any extension of the due date, if at this stage, requires serious consideration as well.*

*According to the Revenue, this would automatically extend the date of filing of the self-assessment, and therefore, the payment of self-assessment tax to be made by the tax payers would be further delayed by the period of two months, which would cause prejudice to the collection of the tax, which in the last year was nearly to the tune of Rs. 11,000 crores (rounded off)..”*

- ix. That it is pertinent to mention here that while notifying the Income Tax Forms for Assesses not liable for Audit under Income Tax Act, the Respondents while duly acknowledging the fact of reduction in time for filing ITR, suo-motu, extended the date of filing ITR for the said category initially by 31 days i.e 31.08.2015 from 31.07.2015and further extended the said date by another 7 days i.e upto 07.09.2015. The purported extension of the said date is attributable to failure of e-filing portal of the respondent no. 2. It is further contended that due date for furnishing the ITR for non section 44AB cases was extended by the respondents on the basis of the petition of the Institute of Chartered Accountants of India, other professional bodies and stake holders. However, similar such request of the Institute for extension of due date of furnishing the TAR has been turned down vide impugned press release, while it is likely that failure of e-filing portal may continue in peak time, even for returns falling due to be filed by 30.09.2015.
- x. In the interregnum, the Ministry of Corporate Affairs came out with various notifications/clarifications in the new Companies Act, 2013, which has direct implications on the filing of Income Tax Return and the Audit of the Companies under Income Tax Act, 1961. It is also pertinent to mention

that the provisions of the said enactment are being made applicable for the first time, while preparing the Annual Accounts of the Corporate Entities.

xi. Further, under these vague situation and circumstances, the most affected category of Tax Payers has been the Assesses including Companies, and Firms and, Individuals and HUF's, Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of the Income Tax Act 1961 and who suffered a delay in notification of forms and consequent reduction of time wherein the delay in notifying the forms by the Respondents has reduced the time of filing Income Tax Return by 122 to 128 days respectively.

It is contended that apart from other, some of the apparent fallouts of the reduced time being made available for the tax audit would be

- (i) No revised return under sections 139(4) and (5) would be permissible, if there is a delay in filing the return of income,
- (ii) Carried forward losses would also not be permissible,
- (iii) Deduction(s) under Chapter VIA of the Act would also not be available,
- (iv) The availability of benefits under sections 10A(8), 10AA and 10B of the Act also would be lost, etc to name a few.

xii. That one of the main objectives of the computerization programme of IT Department as reflected in the judgment of Vaghjibhai S. Bishnoi v. Income Tax Officer and another reported as [2013] 36 taxmann.com 371 (Gujarat), is to improve the efficiency and effectiveness of the tax

administration and to ensure better enforcement of tax laws by ushering tax payer friendly regime. If the very computerization has caused genuine hardship to one and all concerned, the respondents, ought to have paid heed to the repeated requests of all concerned in exercise of its statutory powers. It is contended that by virtue of the impugned press release dated 09.09.2015, the respondent have arbitrariness.

xiii. That while the 'Due Date' u/s 139(1) as well as 'Specified Date' u/s 44AB has been statutorily specified, yet the Respondents are habitual, year on year, in delaying the notification of ITR forms and other forms & utility for Tax Audits and are then, extending these dates for filling the Income Tax Returns. This is leading to 'an adversial tax regime' to the tax practitioner and tax professional, including the Chartered Accountants. Such an adversial tax regime is not only prejudicial to the interest of the economy but also shatters the confidence of a bonafide tax payer in the respondents, in so far as a tax payer who is intending to make compliance of his tax obligations, such being filing of his ITR, on very first day of the assessment year, is unable to do so on account of non availability of these forms.

xiv. That even more the statistics extracted from the E-filing portal of the Income Tax department, reveals almost 73% of the substantial returns, without considering the increase in section 44AB cases for F.Y. 2014-15 and F.Y. 2013-14, and amenable to audits u/s 44AB and falling due to be filed on

or by 30.09.2015, are yet pending as on today. The detail so extracted is as under: -

<b>ITR Forms</b>	<b>E-filed returns during FY 2014-15</b>	<b>Filing Till 31/08/2015</b>	<b>Pending returns till date</b>
ITR 4	9,343,539	2,713,724	71%
ITR 5	1,065,650	254,994	76%
ITR 6	752,070	45,179	94%
ITR 7	168,017	41,905	75%
<b>TOTAL</b>	<b>11,329,276</b>	<b>3,055,802</b>	<b>73%</b>

(Source :- [www.Incometaxindiaefiling.gov.in](http://www.Incometaxindiaefiling.gov.in) dated 10.9.2015)

xv. Accordingly, inter-alia due to the unjust prejudice and harassment being caused on account of the aforesaid reduction in time, various representations were filed before the Respondents inter-alia by Institute of Chartered Accountants of India. However, the Respondents without any application of mind and in highly unjust, arbitrary and unconstitutional manner did not consider the said representations and denied to extend the time for filing the date of Income Tax Return from 30.09.2015 to any further date vide its said Press Release Dated 09.09.2015.

Copy of the representation dated 10.07.2015 filed, before the Respondents by the Institute of Chartered Accountant of India is annexed herewith and marked as **ANNEXURE P**

**3.** It is stated that just for the sake of brevity the other representations filed before the respondents in this regard are not being annexed to, though, the multiplicity of the same are duly referred and admitted by respondents in the impugned press release.

xvi. It is submitted that being aggrieved from the aforesaid Press Release, the Petitioners herein has filed the present writ petition, thereby requesting and praying this Hon'ble Court to exercise its extra ordinary writ jurisdiction for the protection of the fundamental rights and interest of the Petitioners and also the public at large. It is further submitted that the issue in question in the present writ petition is in the nature of public interest as the outcome of the present writ petition will affect the similarly placed persons.

xvii. That the Petitioner No.1 being a practicing Chartered Accountant is being prejudiced and harassed on account of the aforesaid conduct of the Respondent No.1 and 2. Further, the fellow members of the Chartered Accountants fraternity and also the ultimate Tax Payer subject to audit u/s 44AB of The Income Tax Act, 1961 are equally facing unjust hardship, prejudice and harassment.

9. That being aggrieved by the aforesaid impugned Press Release and decision of the Respondents the Petitioners prefers the present petition inter-alia amongst following grounds :

### **GROUNDS**

A. Because the decision of the Respondent No.1 and 2 vide its Press Release Dated 09.09.2015 by virtue of which, the Respondents has denied to extend the date for filing of returns due by 30.09.2015 for Assessment Year 2015-2016 for certain categories of Assesses including Companies, and Firms and,

Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of section 44AB of the Income Tax Act 1961, is unreasonable, unjust, arbitrary, illegal and unconstitutional and that the same is inter-alia, in violation and contravention to Article 14, and Article 19 (1) (g) of the Constitution of India, as the same is infringing the fundamental rights of equality, trade and profession which is guaranteed under the Constitution of India.

- B. Because the Respondent No.1 and 2 ought to have extended the date of filing of Returns due by 30<sup>th</sup> September for Assessment Year 2015-2016 for Categories of Assesses Including Companies, and Firms and, Individuals Engaged in Proprietary Business /Profession etc., whose Accounts are required to be Audited u/s 44AB of The Income Tax Act, 1961 from 30.09.2015 to 31.12.2015, on the account of belated notification of the Income Tax Form with the exorbitant delay.
- C. Because the decision of the Respondent No.1 and 2 as mentioned in the said Press Release is inter-alia unreasonable, arbitrary, unjustified and unconstitutional, as the same is causing grave prejudice and harassment, not only to the concerned Tax Payers but also for the Chartered Accountants community at large, who are responsible for conducting the tax audit and further to file the same alongwith the Income Tax Return in accordance with Law, in as much as in the given facts and circumstances the time left to make compliance of Section 44 AB of Income Tax Act has been reduced, as the Respondents much after 01.04.2015, has belatedly notified the Income Tax Forms for respective categories of Tax Payers.

D. Because the Tax Payer as well as the Respondents expect from the Chartered Accountant a 100% compliance with zero tolerance while make compliances under the Income Tax Act, however it is not possible to justify the role to the full extent in just 23 days, as the Income Tax Return for the Assesses/Tax Payers not liable for Audit, were being filed till 07.09.2015, in terms of the period of filing ITR being extended by the Respondents on account of delay in notification of ITR Forms.

E. Because the most affected category of Tax Payers has been the Assesses including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of the Income Tax Act 1961 and who suffered a delay in notification of forms and consequent reduction of time wherein the delay in notifying the forms by the Respondents has reduced the time of filing Income Tax Return by 122 to 128 days respectively.

F. Because the Respondent No.1 and 2 has acted against the constitutional Right of Equality under Article 14 of the Constitution inter-alia in as much as the Respondents suo-motu has though given a benefit of extension of time to the Assesses/Tax Payers not liable for Audit till 07.09.2015 (though as per law the last date is 31.07.2015). However, similar such benefit has not been given to Assesses/Tax Payers liable for Audit u/s 44AB.

G. Because inter-alia due to the unjust prejudice and harassment being caused on account of the aforesaid reduction in time, various representations were filed before the Respondents inter-

alia by Institute of Chartered Accountants of India. However, the Respondents without any application of mind and in highly unjust, arbitrary and unconstitutional manner did not consider the said representations and denied to extend the time for filing the date of Income Tax Return from 30.09.2015 to any further date vide its said Press Release Dated 09.09.2015.

H. Because as per Section 139 (1) of the Income Tax Act,1961, the Income Tax Return of every financial year ending on 31<sup>st</sup> March, should be filed in the assessment year by following dates of different categories of Tax Payers:

<b>Sr. No.</b>	<b>Category of Assessee</b>	<b>Date of filing ITR</b>	<b>Time available for filing ITR</b>
1.	Assesses not liable for Audit under Income Tax Act or any other Act.	31 <sup>st</sup> July	122 days
2.	Assesses liable for Audit under Income Tax Act or any other Act (except mentioned in Serial No.3)	30 <sup>th</sup> September	183 days
3.	Assesses covered under transfer pricing regulations	30 <sup>th</sup> November	244 days

That accordingly, as per law, the respective Forms under which the respective categories of Tax Payers are required to file their respective Income Tax Return, has to be duly made available to respective categories of Tax Payers on the very first day of the assessment year, so that every tax payer, duly know the manner/prescribed format in which the Income Tax Return is required to be filed and accordingly have sufficient time to further file the Income Tax Return in the prescribed format.

I. Because the Respondent No.1 and 2 despite knowing well the essence of time in filing Income Tax Returns, under the garb of

alleged reforms and ease of doing business has deliberately failed to notify the prescribed income tax return forms for respective categories of Tax Payers.

J. Because the Respondent No.1 and 2 notified the Income Tax Return Forms for all types of Assesses (auditable and non-auditable) at a belated stage, on different dates being as under:

<b>Sr. No.</b>	<b>Forms for the Category of Assesse</b>	<b>Date of Notification of Forms</b>	<b>Date of enabling E-Filing</b>	<b>Reduction in Time (Days)</b>
1.	ITR 1 & 4S	23.06.2015	23.06.2015	83
2.	ITR 2 & 2A	23.06.2015	29.06.2015	89
3.	ITR 3,4 & 7	29.07.2015	01.08.2015	122
4.	ITR 5	29.07.2015	02.08.2015	123
5.	ITR 6	29.07.2015	07.08.2015	128

It is submitted that on account of the said delay on the part of Respondents in notifying the said Forms, the Tax Payers of the respective categories has suffered a grave prejudice, as due to the same, the respective Forms were not available to the respective categories of Tax Payers, as on 01.04.2015. It is submitted that on 01.04.2015, the right of every tax payer, duly accrues to know the manner/prescribed format in which the Income Tax Return is required to be filed and the right to further file the Income Tax Return in the prescribed format, which ought to have been made available on 01.04.2015. That as is apparent from the aforesaid chart, due to the said belated notification of forms, the different categories of tax payers have suffered and prejudiced on account of reduction in time in preparing and filing the Income Tax Return.

- K. Because while notifying the Income Tax Forms for Assesses not liable for Audit under Income Tax Act, the Respondents acknowledging the fact of reduction in time for filing ITR for 81 days, suo-motu extended the date of filing ITR for the said category initially by 31 days i.e 31.08.2015 and further extended the said date by another 7 days i.e 07.09.2015.
- L. Because the Ministry of Corporate Affairs came out with various notifications/clarifications in the new Companies Act, 2013, which has direct implications on the filing of Income Tax Return and the Audit of the Companies under Income Tax Act, 1961. It is also pertinent to mention that the provisions of the said enactment are being made applicable for the first time, while preparing the Annual Accounts of the Corporate Entities.

Further, in this vague situation and circumstances, the most affected category of Tax Payers has been the Assesses including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of the Income Tax Act 1961 and who suffered a delay in notification of forms and consequent reduction of time wherein the delay in notifying the forms by the Respondents has reduced the time of filing Income Tax Return by 122 to 128 days respectively.
- M. Because the constitutional and legal rights, privileges and liberties of the Petitioner and also of the citizens of India and public at large cannot be jeopardized and/or affected, just because of the delay solely caused at the instance of the Respondent No.1 and 2 in notifying the Income Tax Forms.

N. Because the Petitioner craves leave of this Hon'ble Court to submit other grounds at the time of hearing of the instant Writ Petition. It is submitted that due to the extreme urgency, certain other material points would have been inadvertently missed by the Petitioners herein and that the same may be incorporated at alter stage.

10. That the Petitioner has not filed any such writ petition previously either before this Hon'ble court or Hon'ble Supreme court.

11. That there is no other efficacious, alternative and speedy remedy available with the Petitioner except to approach this Hon'ble High Court under Article 226 & 227 of the Constitution of India.

**PRAYER**

In view of the facts and grounds stated herein above the Petitioner herein prays that this Hon'ble Court may be pleased to:-

- a. Issue appropriate Writ, Order or Direction, thereby declaring the decision of the Respondent No.1 and 2 vide its Press Release Dated 09.09.2015 as null and void and in contravention of the provisions of Part III of the Constitution of India, by virtue of which, the Respondent No.1 and 2 has not extended the date for filing of returns due by 30.09.2015 for Assessment Year 2015-2016 for certain categories of Assesses including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited in terms of the Income Tax Act 1961; and/or
- b. Issue Writ, Order or Direction in the nature of Certiorari and/or any other appropriate Writ, Order or Direction for the purpose of

quashing the said Press Release Dated 09.09.2015 issued by Respondent No.1 and 2; and /or

- c. Issue Writ, Order or Direction in the nature of mandamus and/or any other appropriate Writ, Order or Direction, thereby directing the Respondent No.1 and 2 to extend the date of filing of Returns due by 30<sup>th</sup> September for Assessment Year 2015-2016 for Categories of Assesses Including Companies, and Firms and, Individuals Engaged in Proprietary Business/Profession etc., whose Accounts are required to be Audited as per Income Tax Act, 1961 from 30.09.2015 to 31.12.2015; and/or
- d. Pass any other order and/or direction, as this Hon'ble Court may deem fit proper under the facts and circumstances of the present case and in the interest of Justice.

Petitioner

Through

(Manish Jain)

Advocate for the Petitioner

**“MAP CORPORATE LEGAL, Law Offices,**

C-586, (LGF), Defence Colony, New Delhi

Chamber No.605, Delhi High Court, Delhi

Ph: 011-46558610, 9891422415

Delhi

Dated: \_\_\_\_/09/2015