

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. CIVIL WRIT (P.I.L.) PETITION No. /2020

THE RAJASTHAN TAX CONSULTANTS ASSOCIATION,
JAIPUR

... PETITIONER

Versus

UNION OF INDIA & ANOTHER

... RESPONDENTS

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THROUGH THEIR COUNSELS

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

D.B. CIVIL WRIT (P.I.L.) PETITION NO. OF 2020

THE RAJASTHAN TAX CONSULTANTS ASSOCIATION, JAIPUR
.....PETITIONER

VERSUS
UNION OF INDIA & ANOTHER
RESPONDENTS

BRIEF SYNOPSIS

	<p>That the facts leading to this Public Interest Litigation are that due to Global Pandemic situation caused by COVID-19 and lockdown imposed in relation thereto, the Respondent No. 1 & Respondent No. 2 in public interest, pursuant to the powers vested vide notification dated 24.06.2020 has extended the due date of filing of income-tax returns under the provisions of Income Tax Act, 1961 (hereinafter referred to as the "Act") for assessee's whose books were required to be audited to 30th November 2020 and the time period for furnishing Tax Audit Report to 31st October 2020;</p> <p>That while the country has been unlocked gradually, the spread and severity of the Corona virus has not been reduced and the peak was witnessed in the month of September 2020. Amidst this, several restrictions are still in place in various States and movement is still restricted. Commuting via public buses and/or other public transport is restricted and not fully operational. The numbers of reported cases of COVID-19 are still increasing and there is a fear among the people of getting infected due to which they prefer not travelling at all or restrict it to the vicinity of their homes for their necessity. Due to this, several industries and private offices have still not resumed functioning at all or fully. This also includes the offices of the Chartered Accountants and Tax</p>
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	<p>Practitioners. Due to this, the details required for carrying on tax audit and filing the return of income are not being received promptly and thus the audits cannot be efficiently performed. Also travelling to the place of audit is very difficult for the professionals and their staff. Several Chartered Accountants and Tax Practitioners themselves have also been infected and have not been able to work for minimum of 14 days. Also, visiting any audit place all the more exposes them to the virus making them prone infection. Further, the senior citizens including senior professionals and senior assessee's are advised to stay at home. These hindrances are making it very difficult for the assessee's, the Chartered Accountants and the Tax Practitioners to comply with even the extended due dates.</p>
	<p>That due to the current pandemic situation, the last date of holding AGM for corporates has been extended to 31st December, 2020 by Ministry of Company Affairs. Based on this, the statutory audit can be concluded even beyond 30th November, 2020. The tax audit can be conducted only post completion of statutory audit, post which only the income tax return can be filed by the Company. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after the filing of Transfer Pricing Report in Form No. 3CEB. One may note that since the date of AGM is extended, Annual Returns by the companies will be filed only subsequently. This will delay in getting database for the purpose of comparables for the Transfer Pricing audits. Adequate time must be provided to comply with the audit and return filing timelines in order to maintain the quality of work.</p>
	<p>That the utilities for the income tax return were made available only June'20 onwards instead of April'20. Usually, the income tax returns are notified in the month of April, but due to the</p>

	<p>pandemic, the release of the returns also have been delayed on an average by 4 months. Meanwhile, amendment to Income Tax Rules and Forms vide Income-tax (22nd Amendment) Rules, 2020 by Notification No. G. S. R. 610(E) dated 1st October, 2020, has been amended. All reports (including reports ready for signature) after 1st October, 2020 needs to be accordingly updated in new form. These amendments of new forms will further require time for the assessee's and professionals to carry out the changes for the proper compliance.</p> <p>That pursuant to the amendment to section 153 of the Income Tax Act, 1961 for the AYs commencing on 01-04-2018, the due date for completion of assessment proceedings is 18 months from the end of the AY i.e. September 2020. The same has been extended to March 2021. We are of considered opinion that when the regular assessment proceedings itself is difficult in these pandemic times, then self-assessment / fresh tax audit / such other primary compliances which by nature are more laborious are also equally difficult to complete in time.</p> <p>That it is relevant to note that various relaxations provided via Ordinance 2020 in terms of extension of statutory timelines, reduction of TDS and interest rates, waiver of penalty, etc. have now been incorporated in Taxation and Other Laws (Relaxation & Amendment of Certain Provisions) Act, 2020, and the due date stands extended.</p> <p>That the due date for filing of Annual Return GSTR-9 and Reconciliation Statement GSTR-9C for the FY 2018-2019, was also extended to 31st October 2020 which also clashes with the present due date of 31st October 2020 for filing of tax audit reports. These date clashes would actually add further pressure on the CA practitioners in timely completion of work.</p>
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	<p>That it is a fact that substantial numbers of CA practitioners in India are small/mid-sized practitioners. In this segment of CA firms, even a single Covid-19 infected case would warrant closing down of the entire office and sending the entire staff for getting quarantined and self-isolation. This abysmal situation is further aggravated due to identified covid-19 positive cases at the client's place which would be a concomitant leading to impossibility of performance of audit functions.</p> <p>That the aforesaid actions has adversely affected all assessee's, who fall within the ambit of section 44AB of the Act and have to file their Income-tax returns after getting the books of accounts audited and shall lead to the assessee's and their Chartered Accountants and Tax Consultants with unprecedented costs and into a situation of unprecedented chaos, confusion and litigation.</p> <p>That the most affected category of tax payers are the assessee's whose Accounts are required to be Audited in terms of section 44AB of the Act for the reasons aforesaid.</p> <p>That several representations and requests have been filed by various associations including the petitioner whose members comprises of Advocates, Chartered Accountants & Tax Practitioners throughout India, highlighting the grievances and reasons for taking a sympathetic view of extending the date, however, the Respondents, have till date, not responded to any of the representations filed with them which have aggravated confusion and chaos.</p> <p>That it is submitted that being aggrieved the petitioner herein has filed the present Public Interest Petition, thereby requesting and praying this Hon'ble Court to exercise its extra ordinary Writ jurisdiction for the protection of</p>
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	<p>the fundamental rights and interest of the Petitioner, its members and also the public at large. It is further submitted that the issue in question in the present petition is in the nature of public interest as the outcome of the present petition will affect the similarly placed assessee's throughout India.</p> <p>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</p>																		
	<p>Representations filed by various reputed Institutes & Associations throughout India including by the petitioner association, requesting extension of due date of furnishing of Audit Report, etc. from the Respondents which are available on public domain:</p> <table border="1" data-bbox="505 1236 1450 2464"> <thead> <tr> <th data-bbox="505 1236 628 1290">SNo.</th><th data-bbox="628 1236 848 1290">Dated</th><th data-bbox="848 1236 1450 1290">Made by</th></tr> </thead> <tbody> <tr> <td data-bbox="505 1290 628 1464">1.</td><td data-bbox="628 1290 848 1464">06.08.2020</td><td data-bbox="848 1290 1450 1464">C.V.O. Chartered & Cost Accountants' Association, Mumbai</td></tr> <tr> <td data-bbox="505 1464 628 1639">2.</td><td data-bbox="628 1464 848 1639">04.09.2020</td><td data-bbox="848 1464 1450 1639">All India Federation of Tax Practitioners, Mumbai (Direct Tax Representation Committee)</td></tr> <tr> <td data-bbox="505 1639 628 1814">3.</td><td data-bbox="628 1639 848 1814">05.09.2020</td><td data-bbox="848 1639 1450 1814">National Association of Tax Professionals (Haryana – Chapter)</td></tr> <tr> <td data-bbox="505 1814 628 1881">4.</td><td data-bbox="628 1814 848 1881">07.09.2020</td><td data-bbox="848 1814 1450 1881">Tax Bar Association, Kota</td></tr> <tr> <td data-bbox="505 1881 628 2464">5.</td><td data-bbox="628 1881 848 2464">23.09.2020</td><td data-bbox="848 1881 1450 2464">Lucknow Chartered Accountants Society (Lucknow), Bombay Chartered Accountants' Society (Mumbai), Chartered Accountants Association (Ahmedabad), Chartered Accountants Association (Surat) and Karnataka State Chartered Accountants Association (Bangalore)</td></tr> </tbody> </table>	SNo.	Dated	Made by	1.	06.08.2020	C.V.O. Chartered & Cost Accountants' Association, Mumbai	2.	04.09.2020	All India Federation of Tax Practitioners, Mumbai (Direct Tax Representation Committee)	3.	05.09.2020	National Association of Tax Professionals (Haryana – Chapter)	4.	07.09.2020	Tax Bar Association, Kota	5.	23.09.2020	Lucknow Chartered Accountants Society (Lucknow), Bombay Chartered Accountants' Society (Mumbai), Chartered Accountants Association (Ahmedabad), Chartered Accountants Association (Surat) and Karnataka State Chartered Accountants Association (Bangalore)
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	6.	07.10.2020	Chamber of Tax Consultants, Mumbai
	7.	08.10.2020	Tax Bar Association, Alwar
	8.	08.10.2020	The Rajasthan Tax Consultants Association, Jaipur
	9.	10.10.2020	Tax Bar Association, Jodhpur
	10.	10.10.2020	Udaipur Tax Bar Association, Udaipur
	11.	12.10.2020	All Gujarat Federation of Tax Consultants, Ahmedabad
	12.	12.10.2020	Tax Consultants Association, Jaipur
	13.	13.10.2020	Tax Practitioners Association, Indore
	14.	13.10.2020	All India Federation of Tax Practitioners, Mumbai (Central Zone)
	<p>That in assessment year 2018-2019, the Respondent No. 2 vide its order dated 24.09.2018 had suo-motu extended the date of filing of ITR & TAR till 15th October 2018 from 30th September 2018. On intervention by the petitioner herein the Hon'ble Rajasthan High Court considering the backdrop and hardship involved in D.B. Civil Writ (PIL) No. 21774/2018 dated 01.10.2018 was pleased to direct as under:</p> <p><i>Mr. R.D. Rastogi, learned Additional Solicitor General appearing on behalf of the respondents submitted that CBDT has already in the past and in this case also considered the matter for extension of the date to a reasonable extent. If any grievance further remains, the petitioner should be required to approach Respondent No. 2-CBDT by filing representation which looking to the genuine difficulties and hardships of the taxpayers as also the Chartered Accountants shall consider the same in accordance with law.</i></p>		

	<p><i>Having regard to the submissions aforesaid as also cited judgments, orders and taking into consideration the fact that CBDT has already extended the date for filing TARs and ITRs by those assessees whose accounts are not required to be audited for a month without levy of any interest, we deem it appropriate to direct Respondent No. 2, CBDT to consider the representation of the petitioner-Association and take a decision on both the aspects i.e. extension of date by another 15 days and extension of due date for the purpose of Explanation 1 to Section 234A of the Act for waiver of interest and decide the same by passing speaking order preferably before 10.10.2018. With the aforesaid observation and direction, writ petition is disposed of. A copy of this order be provided to Mr. R.D. Rastogi, learned Additional Solicitor General for onward transmission and compliance.</i></p> <p>That on the basis of directions passed by the Hon'ble Rajasthan High Court the Respondent No. 2 vide its order dated 08.10.2018 had ultimately extended the date of filing of ITR & TAR till 31st October 2018. Copy of order dated 01.10.2018 passed by the Hon'ble Rajasthan High Court and order dated 08.10.2018 is enclosed herewith and is marked as Annexure 6 & 7 respectively.</p> <p>That in assessment year 2019-2020, the petitioner herein filed a Public Interest Litigation seeking extension of due date of filing of Tax Audit Report. The Hon'ble Rajasthan High Court issued notices and thereafter the Respondent No. 2 suo-motu extended the due date till 31st October vide its order dated 26.09.2019. The Hon'ble High Court accordingly in D.B. Civil Writ (PIL) No. 16691/2019 dated 27.09.2019 was pleased to observe as under:</p>
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	<p><i>Learned counsel for the petitioner seeks permission of this Court to withdraw this writ petition as the grievance raised by the petitioner-Rajasthan Tax Consultants Association has been remedied by the Central Board of Direct Taxes.</i></p> <p><i>Permission is granted.</i></p> <p><i>Writ petition is dismissed as withdrawn.</i></p> <p>Copy of order dated 27.09.2019 passed by the Hon'ble Rajasthan High Court is enclosed herewith and is marked as Annexure 8.</p> <p>Chartered Accountants are specializing in the areas of direct taxes, indirect taxes, financial services, information technology, insurance sector, joint ventures, mutual funds, exchange risk management, risk and assurance services, environment / energy / quality audits, investment counseling, corporate structuring and foreign collaborations, etc., etc. and each service areas' have to be given their proper time and attention, as even a small mistake can prove hazardous not only for the Chartered Accountant but also for the assessee's.</p>
	<p>Hon'ble Delhi High Court in the case of Avinash Gupta v. Union of India {WP (C) 9032/2015, Dated-21.09.2015} had directed CBDT that <i>with effect from assessment year 2016-17, ensure that income tax returns/utility software for filing TAR to be filed along be available as on 1st April of the assessment year unless there is a valid reason therefor and which should be recorded in writing by the Board, without waiting for any representations to be made.</i> It was further directed that the <i>CBDT, while doing so, shall also take a decision whether owing thereto any extension of the due date is required to be prescribed and accordingly notify the public.</i></p> <p>The Respondent No. 2 had admitted before the Hon'ble Punjab and Haryana High Court in the</p>

case of Vishal Garg & Ors. v. Union of India & Anr. {CWP 19770-2015 dated-15.09.2015} as under: *that since returns in ITRs 4, 5 and 6 were mandatorily required to be e-filed, no assessee's in these categories could have filed their returns of income before they were made available.* The Hon'ble High Court opined that *the CBDT has not only to see the public interest for so doing but also for avoiding the genuine hardship in any particular case or class of cases powers u/s 119 can be exercised.* The Hon'ble High Court observed that *it was not disputed that the forms were not available on the very first day of the assessment year as required. The Revenue could not furnish any satisfactory explanation or justification for not prescribing Forms 4, 5 and 6 prior to 1st, 2nd and 7th August, 2015 respectively.* The Hon'ble High Court rejected the plea of the department that *there were only minor changes in the forms as not justified and extended the dates holding that the period required for e-filing of the return was not reasonable.*

In a writ filed by All Gujarat Federation of Tax Consultant v. CBDT {Special Civil Application No. 15075 Of 2015, dated 15.09.2015} before the Hon'ble Gujarat High Court, the CBDT argued that due date should not be extended just for the benefit of those who have remained lax till now for no valid reason in discharging their legal obligations.

However, the Hon'ble High Court noted that: *despite the fact that ordinarily the ITR Forms which should be prescribed and made available before the 1st of April of the assessment year, had in fact, been made available only on 7th August, 2015 and the assessee's were given only seven weeks to file their tax returns.*

The Hon'ble High Court pointed out that: *therefore, laxity, if any, evidently was on the part of the CBDT which was responsible for the*

	<p><i>delay in making the utility for E-Filing the return being made available to the assessee's.</i></p> <p>The Hon'ble High Court further commented that: <i>when the default lies at the end of the CBDT, some grace could have been shown by the Board instead of taking a stand that such a trend may not be encouraged. Had it not been for the laxity on the part of the respondents in providing the utilities, there would not have been any cause for the petitioners to seek extension of the due date for filing tax returns.</i></p> <p>The Hon'ble High Court ordered CBDT to issue notification under section 119 extending the due date for e-filing of the income tax returns.</p> <p>Hon'ble Gujarat High Court in All Gujarat Federation of Tax Consultant v. CBDT {SCA 12656/2014} has noted: <i>Here, we notice that subsequent to the representation made on 21st August 2014, the CBDT could have responded to such representation by either acceding or refusing to the request of extending the period of filing of ITR and making it extendable up to 30th November 2014. Ordinarily, in such circumstances, the Court would direct the authority to consider the representation and pass a specific order. In wake of the constraints of time, as the due date of the filing of the return is expiring on 30th September, 2014 and when the respondent Board has chosen not to respond to the same, but, later on by offering the comments before this Court in writing in no uncertain terms, it has termed such a request impermissible and has chosen to refuse the same on the ground that all the grievance made by the petitioners are not sustainable. Therefore, considering the larger cause of public good and keeping in mind the requirement of promotion of justice, we chose to exercise the writ of mandamus directing the CBDT to extend the date of filing of return of income to 30th November, 2014, which is due date for filing of</i></p>
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	<i>the TAR, as provided in the Notification dated 20th August, 2014..</i>
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:: RELIEF ::

It is, therefore, most humbly and respectfully prayed as under:

To direct the Respondents to decide the representation of the petitioner extending the extension of Tax Audit Report and Income-tax Return and to direct the Respondent No. "1" and/or "2" to extend the due date of filing of Tax Audit Report and Income-tax Return for the assessment year 2020-2021 till December 31, 2020;

HENCE THIS WRIT (P.I.L.) PETITION

(Siddharth Ranka/N.K. Baid/Muzaffar Iqbal/
Saurav Harsh/Sajal Kanoongo)
Advocates

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. CIVIL WRIT (P.I.L.) PETITION No. /2020

THE RAJASTHAN TAX CONSULTANTS ASSOCIATION,
HAVING ITS REGISTERED ADDRESS AT B-145/B,
KALYAN PATH, MANGAL MARG, BAPU NAGAR, JAIPUR
IN THE STATE OF RAJASTHAN THROUGH ITS
SECRETARY SHRI VINAY KUMAR JOLLY, ADVOCATE,
S/O SHRI RAJ KUMAR JOLLY

... PETITIONER

Versus

1. UNION OF INDIA, THROUGH ITS SECRETARY,
DEPARTMENT OF REVENUE, MINISTRY OF
FINANCE, GOVERNMENT OF INDIA, NORTH
BLOCK, NEW DELHI 110001

2. CENTRAL BOARD OF DIRECT TAXES, THROUGH
ITS CHAIRMAN, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, GOVERNMENT OF INDIA,
NEW DELHI 110001

... RESPONDENTS

IN THE MATTER OF D.B. CIVIL WRIT (PUBLIC
INTEREST LITIGATION) PETITION UNDER ARTICLE 14,
19(1)(G) AND 226 OF THE CONSTITUTION OF INDIA
READ WITH CHAPTER XXII-A, RULES 385A TO 385R OF
THE RULES OF HIGH COURT OF JUDICATURE FOR
RAJASTHAN RULES, 1952

AND

IN THE MATTER OF SECTION 44AB READ WITH
SECTION 139 READ WITH SECTION 119 OF THE
INCOME TAX ACT, 1961 READ WITH RULE 6G OF THE
INCOME-TAX RULES READ WITH FORM 3CD, FORM 3CA
AND FORM 3CB

AND

IN THE MATTER OF EXTENSION OF DUE DATE OF
FILING OF TAX AUDIT REPORT AND INCOME-TAX
RETURN FOR THE ASSESSMENT YEAR 2020-2021, I.E.,
FINANCIAL YEAR 2019-2020 FOR CATEGORIES OF
ASSEESSEES WHOSE ACCOUNTS ARE REQUIRED TO BE
AUDITED

TO,

THE HON'BLE THE CHIEF JUSTICE OF RAJASTHAN
HIGH COURT AND HIS LORDSHIPS' OTHER
COMPANION JUDGES OF THE RAJASTHAN HIGH COURT
OF JUDICATURE FOR RAJASTHAN, BENCH AT JAIPUR.

MAY IT PLEASE YOUR LORDSHIPS,

The Humble petitioner, above named, most respectfully
begs to submit this Public Interest Petition as under:

1. THE PARTICULARS OF THE CAUSE/ORDER
AGAINST WHICH THE PETITION IS MADE:

A. That the facts leading to this Public Interest
Litigation are that due to Global Pandemic
situation caused by COVID-19 and lockdown
imposed in relation thereto, the Respondent
No. 1 & Respondent No. 2 in public interest,
pursuant to the powers vested vide
notification dated 24.06.2020 has extended

the due date of filing of income-tax returns under the provisions of Income Tax Act, 1961 (hereinafter referred to as the "Act") for assessee's whose books were required to be audited to 30th November 2020 and the time period for furnishing Tax Audit Report to 31st October 2020.

B. That while the country has been unlocked gradually, the spread and severity of the Corona virus has not been reduced and the peak was witnessed in the month of September 2020. Amidst this, several restrictions are still in place in various States and movement is still restricted. Commuting via public buses and/or other public transport is restricted and not fully operational. The numbers of reported cases of COVID-19 are still increasing and there is a fear among the people of getting infected due to which they prefer not travelling at all or restrict it to the vicinity of their homes for their necessity. Due to this, several industries and private

offices have still not resumed functioning at all or fully. This also includes the offices of the Chartered Accountants and Tax Practitioners. Due to this, the details required for carrying on tax audit and filing the return of income are not being received promptly and thus the audits cannot be efficiently performed. Also travelling to the place of audit is very difficult for the professionals and their staff. Several Chartered Accountants and Tax Practitioners themselves have also been infected and have not been able to work for minimum of 14 days. Also, visiting any audit place all the more exposes them to the virus making them prone to infection. Further, the senior citizens including senior professionals and senior assessee's are advised to stay at home. These hindrances are making it very difficult for the assessee's, the Chartered Accountants and the Tax Practitioners to comply with even the extended due dates.

C. That due to the current pandemic situation, the last date of holding AGM for corporates has been extended to 31st December, 2020 by Ministry of Company Affairs. Based on this, the statutory audit can be concluded even beyond 30th November, 2020. The tax audit can be conducted only post completion of statutory audit, post which only the income tax return can be filed by the Company. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after the filing of Transfer Pricing Report in Form No. 3CEB. One may note that since the date of AGM is extended, Annual Returns by the companies will be filed only subsequently. This will delay in getting database for the purpose of comparables for the Transfer Pricing audits. Adequate time must be provided to comply with the audit and return filing timelines in order to maintain the quality of work.

D. That the utilities for the income tax return were made available only June'20 onwards instead of April'20. Usually, the income tax returns are notified in the month of April, but due to the pandemic, the release of the returns also have been delayed on an average by 4 months. Meanwhile, amendment to Income Tax Rules and Forms vide Income-tax (22nd Amendment) Rules, 2020 by Notification No. G. S. R. 610(E) dated 1st October, 2020, has been amended. All reports (including reports ready for signature) after 1st October, 2020 needs to be accordingly updated in new form. These amendments of new forms will further require time for the assessee's and professionals to carry out the changes for the proper compliance. Following is the chart showing the release date and the latest update date:

SNo.	Income Tax Return	Schema Release Date	Schema Updation Date	Utility Updation Date
1	ITR 1	June 2, 2020	June 15, 2020	July 8, 2020
2	ITR 2	June 26, 2020	September 11, 2020	September 11, 2020
3	ITR 3	July 31, 2020	August 29, 2020	September 4, 2020
4	ITR 4	June 5, 2020	July 8, 2020	August 12, 2020
5	ITR 5	August 25, 2020	-	August 25, 2020
6	ITR 6	September 22, 2020		October 1, 2020 (Excel Utility) Java Utility not Released
7	ITR 7	September 3, 2020	-	September 3, 2020

E. That pursuant to the amendment to section 153 of the Income Tax Act, 1961 for the AYs commencing on 01-04-2018, the due date for completion of assessment proceedings is 18 months from the end of the AY i.e. September 2020. The same has been extended to March 2021. We are of considered opinion that when the regular assessment proceedings itself is difficult in these pandemic times, then self-assessment / fresh tax audit / such other primary compliances which by nature are more laborious are also equally difficult to complete in time.

F. That it is relevant to note that various relaxations provided via Ordinance 2020 in terms of extension of statutory timelines, reduction of TDS and interest rates, waiver of penalty, etc. have now been incorporated in Taxation and Other Laws (Relaxation & Amendment of Certain Provisions) Act, 2020, and the due date stands extended.

G. That the due date for filing of Annual Return GSTR-9 and Reconciliation Statement GSTR-9C for the FY 2018-2019, was also extended to 31st October 2020 which also clashes with the present due date of 31st October 2020 for filing of tax audit reports. These date clashes would actually add further pressure on the CA practitioners in timely completion of work.

H. That it is a fact that substantial numbers of CA practitioners in India are small/mid-sized practitioners. In this segment of CA firms, even a single Covid-19 infected case would

warrant closing down of the entire office and sending the entire staff for getting quarantined and self-isolation. This abysmal situation is further aggravated due to identified covid-19 positive cases at the client's place which would be a concomitant leading to impossibility of performance of audit functions.

- I. That the aforesaid actions has adversely affected all assessee's, who fall within the ambit of section 44AB of the Act and have to file their Income-tax returns after getting the books of accounts audited and shall lead to the assessee's and their Chartered Accountants and Tax Consultants with unprecedented costs and into a situation of unprecedented chaos, confusion and litigation.
- J. That the most affected category of tax payers are the assessee's whose Accounts are required to be Audited in terms of section 44AB of the Act for the reasons aforesaid.

K. That several representations and requests have been filed by various associations including the petitioner whose members comprises of Advocates, Chartered Accountants & Tax Practitioners throughout India, highlighting the grievances and reasons for taking a sympathetic view of extending the date, however, the Respondents, have till date, not responded to any of the representations filed with them which have aggravated confusion and chaos.

L. That it is submitted that being aggrieved the petitioner herein has filed the present Public Interest 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 Petitioner, its members and also the public at large. It is further submitted that the issue in question in the present petition is in the nature of public

interest as the outcome of the present petition will affect the similarly placed assessee's throughout India.

M. 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.

2. PARTICULARS OF THE PETITIONER:

A. That the humble petitioner is a voluntary registered association comprising of more than 2000 members and is duly registered under the Rajasthan Non-Trading Companies Act, 1960. Members of the petitioner association comprises of tax professionals consisting of Advocates, Chartered Accountants, Company Secretary, Tax Consultants engaged in the field of taxation. The petitioner from time to time takes up the issues concerning its members and also the functioning of officers with the tax

administration. The petitioner association is organizing regular educational activities for the benefit of the members and public at large and also taking up the matter relating to the problems being faced by the members before appropriate authorities relating to Direct & Indirect taxes.

B. That in the present matter, the members of the association are aggrieved on account of non-extension of due date of filing of Tax Audit Report in Form 3CD, due date of which is 31st October 2020. Representation and Memorandum had been submitted to the Respondents several times but no action or response has been received and hence the Petitioner Association has no other option but to file the Public Interest Litigation. As there was no action being taken therefore the petitioner association decided in its executive meeting held on 16.10.2020 held by Circular motion to file Public Interest Litigation before the Hon'ble Rajasthan High Court, Bench at

Jaipur and accordingly passed a resolution authorizing the filing of Public Interest Litigation and also authorizing its General Secretary Mr. Vinay Kumar Jolly, Advocate on behalf of the Association. Hence Mr. Vinay Kumar Jolly, General Secretary of the petitioner association is competent to file this Public Interest Litigation. Copy of registration certificate of the petitioner, Copy of Memorandum and Articles of Association of the petitioner and the Copy of the resolution of the Executive committee meeting held on 16.10.2020 is enclosed and marked as **Annexure 1, Annexure 2 & Annexure 3** respectively.

C. That no other civil, revenue, criminal litigation in any capacity, before any authority, court or tribunal has been filed against the petitioner or by the petitioner. However, the petitioner has been filing Public Interest Litigations espousing the cause of its members.

3. DECLARATION AND UNDERTAKING OF THE PETITIONERS:

The humble petitioner humbly declares and undertakes as follows:

- A. That the present petition is being filed by way of Public Interest Litigation and the petitioner do not have any personal interest in the matter. The petitioner is an Apex Association of tax practitioners whose more than 2000 members comprises of Advocates, Chartered Accountants, Company Secretary & Tax Consultants in the State of Rajasthan and is filing this petition in the larger interest of the members of the Association and on behalf of assessee's who are required to get their books of accounts audited and file income-tax return thereafter.
- B. That the Petitioner is a registered Association and the General Secretary of the Association is filing this Public Interest Litigation on behalf of the Association as per the resolution

passed in the Executive committee meeting of the Association. The petitioner Association or/and the Authorized Signatory are having no personal interest in the Public Interest Litigation. The petitioner association or the Authorized Signatory are not members of any political party nor have fought any political election.

- C. That the conduct of the Respondents in not extending the due date of filing of Tax Audit Report in Form 3CD, due date of which is 31st October 2020 is not correct and appropriate for the reasons afore-mentioned and are contrary to the provisions of Income Tax Act and directions of various Hon'ble High Court issued from time to time.

- D. That the entire litigation cost including the Advocate fee and other charges are being borne by the Petitioner Association and the permanent account number of the Petitioner Association is AAAAR2496Q. No charges are borne by any individual.

E. That a thorough enquiry and research has been conducted in the matter raised through this Public Interest Litigation. The relevant material in respect of such research is as under:

- (i) Section 139 of the Act prescribes the last date of filing of ITR after getting the books of accounts audited from the Chartered Accountants u/s. 44AB of the Act as 30th September, which was extended by the Respondents due to COVID-19 to 31st October;
- (ii) Chartered Accountants after auditing the books of accounts of the assessee's furnish Form No. 3CA/3CB along-with Form No. 3CD as prescribed under the Rules;
- (iii) Representations filed by various reputed Institutes & Associations throughout India including by the petitioner

association, requesting extension of due date of furnishing of Audit Report, etc. from the Respondents which are available on public domain:

SNo.	Dated	Made by
1.	06.08.2020	C.V.O. Chartered & Cost Accountants' Association, Mumbai
2.	04.09.2020	All India Federation of Tax Practitioners, Mumbai (Direct Tax Representation Committee)
3.	05.09.2020	National Association of Tax Professionals (Haryana – Chapter)
4.	07.09.2020	Tax Bar Association, Kota
5.	23.09.2020	Lucknow Chartered Accountants Society (Lucknow), Bombay Chartered Accountants' Society (Mumbai), Chartered Accountants Association (Ahmedabad), Chartered Accountants Association (Surat) and Karnataka State Chartered Accountants Association (Bangalore)
6.	07.10.2020	Chamber of Tax Consultants, Mumbai
7.	08.10.2020	Tax Bar Association, Alwar
8.	08.10.2020	The Rajasthan Tax Consultants Association, Jaipur
9.	10.10.2020	Tax Bar Association, Jodhpur
10.	10.10.2020	Udaipur Tax Bar Association, Udaipur

11.	12.10.2020	All Gujarat Federation of Tax Consultants, Ahmedabad
12.	12.10.2020	Tax Consultants Association, Jaipur
13.	13.10.2020	Tax Practitioners Association, Indore
14.	13.10.2020	All India Federation of Tax Practitioners, Mumbai (Central Zone)
15.	14.10.2020	Tax Bar Association, Bhilwara
	15.10.2020	Karnataka State Chartered Accountants Association (Bangalore)

Copy of representation filed by the petitioner is enclosed herewith and is marked as **Annexure 4**. Copies of representation filed by the various other institutes/associations are enclosed herewith and are collectively marked as **Annexure 5**;

(iv) Judgment's passed on the issue earlier involving extension of due date of furnishing of Income-tax Returns by the Hon'ble Rajasthan High Court, Hon'ble Gujarat High Court, Hon'ble Delhi High Court, Hon'ble Punjab & Haryana High

Court, Hon'ble Bombay High Court,
Hon'ble Karnataka High Court, Hon'ble
Orissa High Court.

F. That to the best of petitioner's association knowledge and research the issues raised herein were not dealt with or decided earlier for the year under consideration and that a similar or identical petition was not filed earlier by them for the year under consideration.

G. That the petitioner association has understood that in the course of hearing of this petition, the Hon'ble Court may require any security to be furnished towards costs or any other charges and the petitioner association shall comply with such requirements/demands, if any.

4. FACTS IN BRIEF, CONSTITUTING THE CAUSE:

A. That the facts leading to the present Petition are set-out in greater detail here-under:

Section 139 of the Act

For ready reference and convenience, section 139(1), 139(6A), 139(9) of the Act are reproduced as hereunder:

Return of income.

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 his 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 other particulars 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] at any time during the previous year fulfills any one of the following conditions, namely :—

- (i), or*
- (ii), or*
- (iii) [***]*
- (iv), or*
- (v), or*
- (vi),*

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:

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or

classes of persons to whom the provisions of the first proviso shall not apply:

Provided also that every company [or a firm] shall furnish on or before the due date the return in respect of its income or loss in every previous year:

[Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed:

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act

[Provided also that every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, 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, without giving effect to the provisions of clause 38 of section 10 or section 10A or section 10B or section 10BA or Chapter VI-A exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his 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 other particulars as may be prescribed.]

Explanation 1.—For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

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 working 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, the [30th day of September] of the assessment year;

[(aa) in the case of an assessee [who] is required to furnish a report referred to in section 92E, the 30th day of November of the assessment year;]

(b) in the case of a person other than a company, referred to in the first proviso to this sub-section, the

31st day of October of the assessment year;

(c) in the case of any other assessee, the 31st day of July of the assessment year.

Explanation 3.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.]

Explanation 4.—For the purposes of this section "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

Explanation 5.—For the purposes of this section "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary

*(6A) Without prejudice to the provisions of sub-section (6), the prescribed form of the returns referred to [in [***] this section, and in clause (i) of sub-section*

(1) of section 142] shall, in the case of an assessee engaged in any business or profession, also require him to furnish [the report of any audit [referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, a copy of such report together with proof of furnishing the report], the] particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and, if he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.]

[(9) Where the [Assessing] Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or

within such further period which, on an application made in this behalf, the [Assessing] Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return :

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the [Assessing] Officer may condone the delay and treat the return as a valid return.

Explanation.—For the purposes of this sub-section, a return of income shall be regarded as defective unless all the following conditions are fulfilled, namely :—

(a)

[(aa),;]

(b)

[(bb) the return is accompanied by the report of the audit referred to in section 44AB, or, where the

report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report;]

(c)

(d)

(e)

(f)

B. Section 139(1) of the Act, requires every person to furnish their respective ITR, in the prescribed form, on or prior to the due-date prescribed in the statute;

C. The 'due-date', as set out in the Explanation 2 to Section 139(1) of the Act, applicable to the present case, is 30th September of the relevant assessment year (*which was extended to 31st October for the year under consideration*);

D. Further, Section 139(6A) of the Act, in addition to the filing of the ITR in the prescribed form, also inter alia mandates the furnishing of a TAR as stipulated in Section 44AB of the Act.

E. Further Explanation (bb) of Section 139(9) provides that the Income Tax Return furnished by the assessee shall be treated defective if the return is not accompanied by the report of Audit referred to in section 44AB or where the report has been furnished prior to the furnishing of return by no furnishing copy of such report together with proof of furnishing the report.

Section 44AB of the Act

For ready reference and convenience, section 44AB of the Act is reproduced as hereunder:

[Audit of accounts of certain persons carrying on business or profession.

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 [***]; 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 [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 [the due date for furnishing the return of income under sub-section (1) of section 139].]]

F. Section 44AB of the Act was introduced with effect from 01.04.1985, inter alia with the following objective, which is reflective from the Circular No. 387 dated 06.07.1984 issued by the Respondent No. 2, at the time of introduction of the aforesaid Section. The relevant extract of the aforesaid Circular is provided herein:

17.2A proper audit for tax purposes would ensure that the books of accounts and other records are properly maintained, that they faithfully reflect the income of the taxpayer and claims for deduction are correctly made by him. Such audit would also help in checking fraudulent practices. It can also facilitate the administration of tax laws by a proper presentation of the accounts before the tax authorities and considerably saving the time of assessing officers in carrying

out routine verifications, like checking correctness of totals and verifying whether purchases and sales are properly vouched or not. The time of the assessing officers thus saved could be utilized for attending to more important investigational aspects of a case.

G. Section 44AB of the Act, in relation to the category of assessee's specified therein, therefore, requires such assessee's to get the accounts of such previous year audited by a Chartered Accountant, before the 'specified date' and furnish by that date, the TAR in the prescribed form duly signed and verified by such Chartered Accountant and setting forth such particulars as have been prescribed in such form, and the failure to furnish such TAR, *inter alia*, attracts a penalty in accordance with the provisions of Section 271B of the Act;

H. Explanation (2) to the aforesaid Section, states that the 'specified date' in relation to the accounts of the assessee of the previous

year relevant to an assessment year, means the due-date for furnishing the return under Section 139(1) of the Act (which in the present case is 30th September, 2019).

Rule 6G of the Rules

For ready reference and convenience, rule 6G of the Rules is reproduced as hereunder:

[Report of audit of accounts to be furnished under section 44AB.

6G. (1) The report of audit of the accounts of a person required to be furnished under section 44AB shall,—

(a) in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

(b) in the case of a person who carries on business or profession, but not being a person referred to in clause (a), be in Form No. 3CB.

(2) The particulars which are required to be furnished under section 44AB shall be in Form No. 3CD.]

- I. The aforesaid Rule 6G of the Rules inter alia stipulates the submission of TAR in Form 3CA, 3CB or 3CD, based on the type of the assessee;
- J. The aforesaid Forms, i.e., Form 3CA, 3CB or 3CD, have undergone several changes, alterations and modifications, time and again;
- K. Amendments introduced in the Income-tax Returns has made these returns far more comprehensive and detailed and has put substantial onus and accountability on the Chartered Accountant to verify and provide minutest of the details of the respective assessee.
- L. The quality of Tax Audit was effectively getting compromised, in view of the plethora of information sought and in light of adverse situation prevailing due to COVID-19.

Section 271J of the Act

For ready reference and convenience, section 271J of the Act is reproduced as hereunder:

Penalty for furnishing incorrect information in reports or certificates.

271J. Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

- (a) "accountant" means an accountant referred to in the *Explanation below* sub-section (2) of section 288;
- (b) "merchant banker" means Category I merchant banker registered with the *Securities and Exchange Board of India*

established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(c) "registered valuer" means a person defined in clause (oaa) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

M. Section 271J of the Act provides for levy of penalty of Rs. 10,000/- for any incorrect information submitted by a Chartered Accountant.

N. Respondent No. 2, vide its Notification dated 01.05.2013, has made it mandatory for the assessee's, to electronically file such TAR relevant for the A.Y. 2013-14 and onwards.

O. The various schemas & utilities required for filing various returns of income which were notified subsequent to 1st April 2020 are as per following table:

SNo.	Income Tax Return	Schema Release Date	Schema Updation Date	Utility Updation Date
1	ITR 1	June 2, 2020	June 15, 2020	July 8, 2020
2	ITR 2	June 26, 2020	September 11, 2020	September 11, 2020

3	ITR 3	July 31, 2020	August 29, 2020	September 4, 2020
4	ITR 4	June 5, 2020	July 8, 2020	August 12, 2020
5	ITR 5	August 25, 2020	-	August 25, 2020
6	ITR 6	September 22, 2020		October 1, 2020 (Excel Utility) Java Utility not Released
7	ITR 7	September 3, 2020	-	September 3, 2020

P. The TAR can only be filed electronically, which requires an appropriate 'Utility' / 'Schema' to be made available by the Respondent No. 2, to the assessee's. However, the Respondent No. 2 continues to make frequent changes to the 'Utilities' / 'schema', thereby adding the compliance formalities.

Q. That it may also be highlighted here that the finalisation of statutory and tax audit also includes compilation and reconciliation of GST data. Many errors had been made in annual return filed by the dealers which is now under audit and reconciliation of the turnover, GST paid, ITC availed/utilised etc. with GST returns is long and time-consuming process.

R. Consequently, several representations were made to the Respondent No. 2 by various associations and institutes seeking extension of the 'due-date' for filing the ITR and TAR including by the petitioner (**Annexure 4 & 5**), but of no avail and response.

S. That in assessment year 2018-2019, the Respondent No. 2 vide its order dated 24.09.2018 had suo-motu extended the date of filing of ITR & TAR till 15th October 2018 from 30th September 2018. On intervention by the petitioner herein the Hon'ble Rajasthan High Court considering the backdrop and hardship involved in **D.B. Civil Writ (PIL) No. 21774/2018** dated 01.10.2018 was pleased to direct as under:

Mr. R.D. Rastogi, learned Additional Solicitor General appearing on behalf of the respondents submitted that CBDT has already in the past and in this case also considered the matter for extension of the date to a reasonable extent. If any grievance

further remains, the petitioner should be required to approach Respondent No. 2-CBDT by filing representation which looking to the genuine difficulties and hardships of the taxpayers as also the Chartered Accountants shall consider the same in accordance with law.

Having regard to the submissions aforesaid as also cited judgments, orders and taking into consideration the fact that CBDT has already extended the date for filing TARs and ITRs by those assessees whose accounts are not required to be audited for a month without levy of any interest, we deem it appropriate to direct Respondent No. 2, CBDT to consider the representation of the petitioner-Association and take a decision on both the aspects i.e. extension of date by another 15 days and extension of due date for the purpose of Explanation 1 to Section 234A of the Act for waiver of interest and decide the same by passing speaking order preferably before 10.10.2018. With the aforesaid observation and direction, writ petition is disposed of. A copy of this order be provided to Mr. R.D. Rastogi, learned Additional Solicitor General for onward transmission and compliance.

That on the basis of directions passed by the Hon'ble Rajasthan High Court the Respondent No. 2 vide its order dated 08.10.2018 had ultimately extended the date of filing of ITR & TAR till 31st October 2018. Copy of order dated 01.10.2018 passed by the Hon'ble Rajasthan High Court and order dated 08.10.2018 is enclosed herewith and is marked as **Annexure 6 & 7** respectively.

T. That in assessment year 2019-2020, the petitioner herein filed a Public Interest Litigation seeking extension of due date of filing of Tax Audit Report. The Hon'ble Rajasthan High Court issued notices and thereafter the Respondent No. 2 suo-motu extended the due date till 31st October vide its order dated 26.09.2019. The Hon'ble High Court accordingly in **D.B. Civil Writ (PIL) No. 16691/2019** dated 27.09.2019 was pleased to observe as under:

Learned counsel for the petitioner seeks permission of this Court to withdraw this writ petition as the grievance raised by the

petitioner-Rajasthan Tax Consultants Association has been remedied by the Central Board of Direct Taxes.

Permission is granted.

Writ petition is dismissed as withdrawn.

Copy of order dated 27.09.2019 passed by the Hon'ble Rajasthan High Court is enclosed herewith and is marked as Annexure 8.

U. Chartered Accountants are specializing in the areas of direct taxes, indirect taxes, financial services, information technology, insurance sector, joint ventures, mutual funds, exchange risk management, risk and assurance services, environment / energy / quality audits, investment counseling, corporate structuring and foreign collaborations, etc., etc. and each service areas' have to be given their proper time and attention, as even a small mistake can prove hazardous not only for the Chartered Accountant but also for the assessee's.

V. It is submitted that some of the apparent fallouts of belated filing of the TAR & ITR 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 exemptions would not be available;
- (v) Penalty upto Rs. 1,50,000/- for non-filing of Audit Report.

W. Hon'ble Delhi High Court in the case of *Avinash Gupta v. Union of India {WP (C) 9032/2015, Dated-21.09.2015}* had directed

CBDT that *with effect from assessment year 2016-17, ensure that income tax returns/utility software for filing TAR to be filed along be available as on 1st April of the assessment year unless there is a valid reason therefor and which should be recorded in writing by the Board, without waiting for any representations to be made.* It was further directed that the *CBDT, while doing so, shall also take a decision whether owing thereto any extension of the due date is required to be prescribed and accordingly notify the public.*

X. The Respondent No. 2 had admitted before the Hon'ble Punjab and Haryana High Court in the case of Vishal Garg & Ors. v. Union of India & Anr. {CWP 19770-2015 dated-15.09.2015} as under: *that since returns in ITRs 4, 5 and 6 were mandatorily required to be e-filed, no assessee's in these categories could have filed their returns of income before they were made available.* The

Hon'ble High Court opined that *the CBDT has not only to see the public interest for so doing but also for avoiding the genuine hardship in any particular case or class of cases powers u/s 119 can be exercised.* The Hon'ble High Court observed that *it was not disputed that the forms were not available on the very first day of the assessment year as required. The Revenue could not furnish any satisfactory explanation or justification for not prescribing Forms 4, 5 and 6 prior to 1st, 2nd and 7th August, 2015 respectively.* The Hon'ble High Court rejected the plea of the department that *there were only minor changes in the forms as not justified and extended the dates holding that the period required for e-filing of the return was not reasonable.*

Y. In a writ filed by All Gujarat Federation of Tax Consultant v. CBDT {Special Civil Application No. 15075 Of 2015, dated 15.09.2015} before the Hon'ble Gujarat High

Court, the *CBDT argued that due date should not be extended just for the benefit of those who have remained lax till now for no valid reason in discharging their legal obligations.*

However, the Hon'ble High Court noted that: *despite the fact that ordinarily the ITR Forms which should be prescribed and made available before the 1st of April of the assessment year, had in fact, been made available only on 7th August, 2015 and the assessee's were given only seven weeks to file their tax returns.*

The Hon'ble High Court pointed out that: *therefore, laxity, if any, evidently was on the part of the CBDT which was responsible for the delay in making the utility for E-Filing the return being made available to the assessee's.*

The Hon'ble High Court further commented that: *when the default lies at the end of the CBDT, some grace could have been shown by the Board instead of taking a stand that such*

a trend may not be encouraged. Had it not been for the laxity on the part of the respondents in providing the utilities, there would not have been any cause for the petitioners to seek extension of the due date for filing tax returns.

The Hon'ble High Court ordered CBDT to issue notification under section 119 extending the due date for e-filing of the income tax returns.

Z. Hon'ble Gujarat High Court in **All Gujarat Federation of Tax Consultant v. CBDT {SCA 12656/2014}** has noted: *Here, we notice that subsequent to the representation made on 21st August 2014, the CBDT could have responded to such representation by either acceding or refusing to the request of extending the period of filing of ITR and making it extendable up to 30th November 2014. Ordinarily, in such circumstances, the Court would direct the authority to consider*

the representation and pass a specific order. In wake of the constraints of time, as the due date of the filing of the return is expiring on 30th September, 2014 and when the respondent Board has chosen not to respond to the same, but, later on by offering the comments before this Court in writing in no uncertain terms, it has termed such a request impermissible and has chosen to refuse the same on the ground that all the grievance made by the petitioners are not sustainable. Therefore, considering the larger cause of public good and keeping in mind the requirement of promotion of justice, we chose to exercise the writ of mandamus directing the CBDT to extend the date of filing of return of income to 30th November, 2014, which is due date for filing of the TAR, as provided in the Notification dated 20th August, 2014.

AA. Under similar circumstances various other directions and order have been passed by Hon'ble Madras High Court in **All India Federation of Tax Practitioners v. CBDT** {WP No. 25443/2014}. Hon'ble Bombay High Court in **Chamber of Tax Consultants & Others v. CBDT** {WP No. (L) 2492/2014}.

5. SOURCE OF INFORMATION:

The petitioner association received various complaints from its members, continuous feedback was received from the members of the association and other local associations about the problems in the finalizing of TAT & filing of ITR in Audit Cases. The information is available on public domain on internet. The information available has been cross-checked.

6. NATURE AND EXTENT OF INJURY CAUSED/APPREHENDED:

The Public Interest Litigation is being filed by the petitioner association for the inconsistency and the discrepancy and illegal and improper working of the respondents and also the changes brought in by the Respondent No. 2 in the reporting format during the current year leading to reduced time for compliance and the problem being faced by the assessee's at large and also the Professionals i.e. the Chartered Accountants which are the members of the Association. Professionals and assessee's cannot be made to suffer because of the inconsistencies of the Respondents. Further due to COVID-19, the working has become complicated and difficult. The non-extension will affect all the assessee's requiring to get their books of accounts audited. The respondents' inaction reeks of high handedness approach ignoring the binding decisions given by various Hon'ble High Courts.

7. ANY REPRESENTATION ETC. MADE:

The petitioner association and also various other institutes & association of repute have repeatedly

filed representations with the Respondents copies whereof have been enclosed with this petition and marked as **Annexure 4 & Annexure 5** respectively.

8. G R O U N D S

A. **BECAUSE** the Respondent No. 1 and 2, by not extending the due-date for filing the TAR & ITR fail to take into consideration the fact that the said TAR requires a Chartered Accountant to vouch for the veracity of the details provided therein (*and an erroneous certification potentially holds the Chartered Accountant liable for appropriate legal actions including levy of penalty being initiated against him*), pursuant to which the tax liability is computed. Therefore, action of the Respondent No. 2 of not extending the due-date for filing the TAR & ITR is unfair, illegal and contrary to the scheme of the Act, but also smacks of the high-handed and arbitrary manner in which decisions are taken by the Respondent No. 2.

B. **BECAUSE** the actions / inactions of the Respondent No. 2 directly impinge upon the rights of the Chartered Accountants and the duties fastened upon them under the statute therefore require an immediate corrective action.

C. **BECAUSE** the actions / inactions of the Respondent No. 2 ignore the prevalent ground reality due to COVID-19 and the circumstances under which books of accounts are required to be Audited.

D. **BECAUSE** COVID-19 has disrupted existing working systems, the economy is healing itself and the assessee's require sympathetic views from the Government.

E. **BECAUSE** the actions / inactions of the Respondent No. 2 effectively ignores the earlier judgments & orders passed by Hon'ble Rajasthan High Court, Hon'ble Delhi High Court, Hon'ble Gujarat High Court & Hon'ble Punjab & Haryana High Court and is of an unprecedented nature.

F. **BECAUSE** the present in-action of the Respondents in ignoring the representations filed by various institutes & association is perverse and unlawful.

G. **BECAUSE** filing of an ITR without proper verification of records by way of TAR, may lead to situation wherein data may need to be altered, thereby requiring a rectification under section 154 of the Act and or the revised returns are to be filed. This will only lead to a multiplicity of proceedings, making life miserable for the assessee and the Chartered Accountants.

H. **BECAUSE** the details which are sought to be furnished in the new TAR is time consuming and the TAR would form the very substratum of an ITR and the consequent computation of tax liability.

I. **BECAUSE**, in case the date of filing TAR & ITR is not extended then it will lead to huge confusion and chaos.

J. **BECAUSE** the Tax Audit of accounts of an assessee, is a detailed and time-consuming exercise, wherein the Chartered Accountant is required to vouch for and certify the correctness of the details provided in the TAR. It may be noted that, it is only after such thorough audit of an assessee is carried out, that a computation of the actual tax liability of an assessee can take place and an ITR can be filed. The entire scheme of the Act (Section 139 read with Section 44AB of the Act) is weaved based on the aforesaid 'fundamental principle'. Arbitrary alteration of such mandatorily required details causes a genuine hardship upon the assessee's and principles of natural justice only mandate that such introduction be made in a systematic manner.

K. **BECAUSE** it is settled law that consistency in tax laws is the need of the hour and such complications (*which are beyond the control of the professionals & assessee's*) especially qua compliances, only adds to the woes of a person

and acts as a barrier to the promotion of efficient tax compliances.

- L. **BECAUSE** keeping the aforesaid time frames in mind, the Chartered Accountants schedule their audits for the assessee's, in a manner to meet with the aforesaid timelines. However, due to COVID-19, entire planning has failed.
- M. **BECAUSE** action/inaction of the Respondent No. 2 is therefore violative of Article 14, Article 19(1)(g) & Article 265 of the Constitution of India and the same ought to be rectified immediately.
- N. **BECAUSE** the Respondent No. 2 ought to have decided the representations filed before it by various stakeholders for extending the due-date for filing the TAR & ITR.
- O. **BECAUSE** the petitioner places reliance upon detailed reasons spelt out in the representations filed by various stakeholders for extending the due-date for filing the TAR & ITR and which for the sake of inconvenience is not being repeated.

P. BECAUSE the petitioners seek permission to add, alter, amend, and modify any one or more ground at before hearing.

9. DELAY IF ANY, IN FILING THE PETITION AND EXPLANATION:

There is no delay or default or inaction or negligence on the part of the humble petitioner association.

10. RELIEF:

It is, therefore, most humbly and respectfully prayed as under:-

(i) That this Hon'ble Court may be pleased to issue 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 Income-tax Return for the assessment year 2020-2021 till December 31, 2020;

- (ii) That this Hon'ble Court may be pleased to grant interim / ad-interim reliefs in terms of prayer clause above;
- (iii) For costs of this Petition and Orders thereon;
- (iv) For such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case.

11. INTERIM RELIEF:

During the pendency of this Public Interest Petition it is most humbly prayed as under:

- (i) To direct the Respondents to decide the representation of the petitioner extending the extension of Tax Audit Report and Income-tax Return and to direct the Respondent No. "1" and/or "2" to extend the due date of filing of Tax Audit Report and Income-tax Return for the assessment year 2020-2021 till December 31, 2020;

(ii) Any other relief as this Hon'ble Court may deem fit may be granted.

12. CAVEAT:-

That no notice has been received of lodging a caveat by the opposite parties.

AND FOR THIS KINDNESS, THE
PETITIONER AS INDUTY BOUND SHALL
EVER PRAY

YOUR LORDSHIPS' HUMBLE PETITIONER

THROUGH THEIR COUNSELS

(SIDDHARTH RANKA/N.K. BAID/
MUZAFFAR IQBAL/SAURAV HARSH/SAJAL KANOONGO)

Advocates

Jaipur

October , 2020

Notes:

1. That no such writ petition has been filed prior to this.
2. This has been typed in my office by my personal typist.
3. That P.F. Notices and extra set will be submitted in time.
4. That since pie papers are not readily available it is typed on stout papers.
5. That this is D.B. PIL writ petition as the interest of public is involved herein.

Jaipur

October , 2020

COUNSELS FOR THE PETITIONER

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH: JAIPUR

D.B. CIVIL WRIT (P.I.L.) PETITION No. /2020

THE RAJASTHAN TAX CONSULTANTS ASSOCIATION,
JAIPUR

... PETITIONER

Versus

UNION OF INDIA & ANOTHER

... RESPONDENTS

AFFIDAVIT IN SUPPORT OF THE WRIT PETITION

I, Vinay Kumar Jolly S/o Sh. Raj Kumar Jolly, aged 61 years, General Secretary of The Rajasthan Tax Consultants Association having its office at B-145-B, Mangal Marg, Bapu Nagar, Jaipur, do hereby take oath and state as under:

1. That I am the General Secretary of Petitioner Association and as such am fully conversant with the facts and circumstances of the case.
2. That the annexed writ petition has been drafted by my Counsel under my instructions and I have understood the contents of same.
3. That the contents of annexed Public Interest Litigation (Writ Petition) are true and correct to the best of my knowledge and the submissions made therein are believed to be true and correct on the basis of legal advice tendered to me by the counsels.

DEPONENT

VERIFICATION

I, the above-named deponent do hereby verify that the contents of aforesaid affidavit Para 1 to 3 are true and correct to my personal knowledge. Nothing material has been concealed and no part of it is false. SO HELP ME GOD.

DEPONENT



Government of Rajasthan

**OFFICE OF THE REGISTRAR, NON-TRADING
COMPANIES, RAJASTHAN, JAIPUR**

Certificate of Incorporation

820 / 2013

No.

I hereby certify that

M/S -
दी राजस्थान टैक्स कन्सलटेंट्स एसोसियेशन
पर राजाहकार भवन, बी-145 / बी, कल्याण पथ, मंगल मार्ग
बापू नगर, जयपुर-302015

is this day incorporated under the Rajasthan Non-Trading
Companies Act, 1960 (13 of 1960).

Given under my hand at Jaipur this

दस दिसम्बर दो हजार तेरह

.....
रजिस्ट्रार
राजस्थान नोन-ट्रेडिंग कंपनीज
जयपुर

REGISTRAR

Rajasthan Non-Trading Companies, Rajasthan, Jaipur

For The Rajasthan Tax Consultants Association

Shyamal
President / Secretary

Treasurer

राजस्थान का नाम 8 नवंबर 2013
पंजीयन नम्बर 820
पंजीयन का दिनांक 10/12/13

21

ANNEXURE 2

The RAJASTHAN TAX CONSULTANTS ASSOCIATION

MEMORANDUM OF ASSOCIATION

राजस्थान कानूनी विभाग
जापुर

Name : The name of the Association shall be RAJASTHAN TAX CONSULTANTS ASSOCIATION.

- Registered Office : The Registered Office of the Association shall be situated at B-145/B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur-302015 and the activities of the Association shall be confined to the State of Rajasthan.
- Objects : The aims and object of the Association are :

- To promote and encourage friendly feelings, fraternity, unity and co-operation amongst the members and to inculcate feelings of brotherhood in them;
- to provide an effective forum for the discussion of the matters pertaining to the tax laws and their administration, for the collection and dissemination of information relating thereto and for the development of better understanding and co-operation amongst the members, tax administration, tax payers and all other concerned;
- to render help and provide facilities to the extent possible, to the members in the discharge of their professional duties, including furnishing information and opinion about specific matters and queries raised by them;
- to render financial and other help to the needy members and their families;
- to affiliate or associate with national and international associations having similar objects;
- to participate by sending representatives or delegates, in conferences and similar gatherings for the discussion of matters of interest to the members and all other concerned or for the promotion or achievement of the objects of the Association.
- to acquire, take on lease/give on lease, receive, hold manage and maintain or dispose of properties of any kind and accept donations for the furtherance of the objects of the Association;
- to arrange for acquisition, construction, maintenance of Guest House for the members;
- to organize Refresher Courses, group discussions, study circles, seminars, symposia, talk, lectures, etc. on subjects of interest to the members and all other concerned;



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- to hold conventions or conferences or study tours or lectures on matters of interest to the members and all other concerned;
- to produce and publish Journals, books pamphlets, leaflets and magazines or any periodicals;

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राजिस्ट्रार

राजस्थान नोन-ट्रेडिंग कानून जग्गुर

Consultants Association

President

Secretary

For Registration To

For Registration To

22

संस्था का नाम..... 22/10/2010 तिथि
 पंजीयन का नाम..... 820
 पंजीयन का दिनांक..... 15/12/13

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रजिस्टरार नाम परीक्षा
जयपुर



- to establish and maintain Library, Reading Room for the benefit of the members;
- to accept and give donations;
- to amalgamate with and to amalgamate other Associations having similar objects;
- to organize and participate in games and sports meeting arranged by the Association or the Taxation Departments;
- to assist rightfully the tax payers against illegal impositions and to represent for their cause before the Government Board Committee Commission officials etc.
- to endeavour for upholding the privileges, honour, dignity, prestige, independence, unity and solidarity of the members.
- to set up a code of professional conduct, discipline and etiquette for the consultants;
- to take loans for achieving objects of the Association;
- to do any or all things that may be necessary, incidental or conducive to the achievement or furtherance of the objects of the association.
- The assets and property of the Association will only be utilized for promotion of the Association in accordance with the Memorandum of Association and no part of it will be distributed amongst the members as a share.
- No member of the Association or of its Executive Committee will be appointed on salary in the Association. Further, no members of the association will be paid any remuneration except interest on money lent to the Association, rent of premises let out to the Association and out of pocket expenses incurred by them for the work of the Association.
- The liability of the members will be limited.
- In the event of dissolution of the Association, Everyone who will be its member at that time or who will not have completed full one year ceasing its membership takes the responsibility to contribute such amount to the funds of the Association for discharging its liabilities and for closure proceedings according to the needs of the Association, which will not exceed a sum Rs. 50/- (Rupees fifty only)

In the event of dissolution of the Association any money or property left after discharging all the obligation will not be distributed among the members but will be handed over to such other associations or association having similar objects as members may decide or in its absence as the High Court or any other subordinate Court having proper jurisdiction may decide.

- The management of the affairs of the Association shall vest in the Executive Committee which shall consist of not less than eleven and not more than fifty five members, inclusive of the office bearers and at present comprises of the following office bearers and the members of the Executive Committee



ATTEST

NOTARY

STHAN JAIPUR

50/-

For, Notary

For, Notary

association
Rajratan Non-Trading Company
Notary

Notary
M. Patel

परिवर्तन का नाम 4 अक्टूबर 2013
पंजीयन नं. 820
पंजीयन का दिन 10/10/13
रजिस्ट्रर
राजस्थान कार्यपालिका



THE RAJASTHAN TAX CONSULTANTS ASSOCIATION प्रतिलिपि

ARTICLES OF ASSOCIATION

- **Name** : The name of the Association shall be **RAJASTHAN TAX CONSULTANTS ASSOCIATION**.
- **Registered Office** : The Registered Office of the Association shall be situated at B-145/B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur-302015 and the activities of the Association shall be confined to the State of Rajasthan.
- **Objects** : The object of the Association are set out in its memorandum of Association and may be altered, amended, extended, varied or abridged in accordance with the provisions of Rajasthan Non-Trading Companies Act.
- **Introductory** : This Association is voluntary Association of Advocate, Chartered Accountant and other engaged in the practice of laws of the Central and /or the State Governments relating to taxes, who associate together for their common good and for the laudable objects set forth in the Memorandum of Association. It has no machinery to enforce itself except for the moral binding on the part of the members to strictly adhere to the Articles of Association, with a feeling of Brotherhood and a motto of "service above self". It is simply a means to a combined action for common good.
- **Membership** : The Association shall consist of :
 - **PATRON** : Any adult person who is eligible to practice tax laws may become a patron on payment of a lump-sum subscription of Rs. 10,000/- only.
 - **LIFE MEMBER** : Any adult person who is eligible to practice tax laws may become a Life Member on payment of a lump sum subscription of Rs. 2100/- only.
 - **ANNUAL MEMBER** : Any adult who is eligible to practice tax laws may become an Ordinary Member on payment of Annual Subscription of Rs. 500/-.
 - **ASSOCIATE MEMBER** : Every Association Constituted of Tax Consultants will be entitled to become member of the association on payment of Rs. 2100/- For the purpose of this clause Tax Consultants mean Tax Advocate/Practising Chartered Accountant/Tax Practitioners.



ARTICLES

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- **Subscription** : All subscription for each and every year shall be payable in advance, and in no case later than the 30th June of the year to which the subscription relates. The Patrons, Life Members and Honorary Members shall not be required to pay annual subscription.

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A Member who does not pay subscription a stipulated hereinabove shall not be entitled to participate in election. However, the Executive Committee may at its

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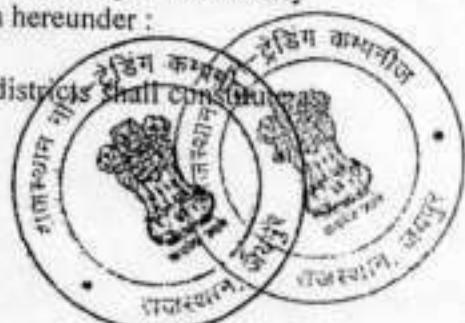
- is convicted of an offence under the Indian Penal Code involving moral turpitude.
- Executive Committee:

The Executive Committee shall mean committee created by the General Body for the management and conduct of the affairs of the association. It shall consist of elected and co-opted member totaling to 55 numbers.

The General Body at its Annual General Meeting shall elect 48 members from the following constituencies. The candidate, proposer and seconder of the candidate should be from the same constituency. Constituency and number of seats reserved for each district is given hereunder:

JAIPUR CONSTITUENCY : Members from the following districts shall constitute the
Jaipur Constituency :

i)	Jaipur	7
ii)	Ajmer	2
iii)	Alwar	2
iv)	Bharatpur	1
v)	Sikar	1
vi)	Jhunjhunu	1
vii)	Tonk	1
viii)	Dausa	1
ix)	Dholpur	1
Total		17



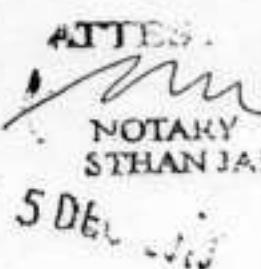
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राजस्थान नोन-ट्रेडिंग कम्पनीज
जयपुर



- **JODHPUR CONSTITUENCY :** Members from the following districts shall constitute as Jodhpur Constituency :

Total Population of Jodhpur Constituency :	
i)	Jodhpur
ii)	Pali
iii)	Sirohi
iv)	Barmer
v)	Jaisalmer
vi)	Jalore
vii)	Nagaur
	Total
	10



- UDAIPUR CONSTITUENCY : Members from the following districts shall constitute as Udaipur Constituency :

i) Udaipur 2
ii) Chittor 1

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 पंजीयन नमार ८२०
 पंजीयन का दिनांक १०/१२/७३

Udaipur Constituencies

v) Treasurer


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 राजस्थान गोपनीय कामनीज



As far as practicable the General Secretary and Treasurer shall be elected from the place where President is elected. (This suggestion is in the interest of smooth working of the Association.



The elected members of the Executive Committee above shall be eligible to be elected as President, General Secretary and Treasurer of the Association.

VI). The Executive Committee shall have the power to fill any vacancy as and when it is necessary to do so. The validity of the composition of the Executive Committee shall be not be called in question merely on the ground that any vacancy has been caused or has remain to be filled or that the strength of its membership has fallen below fifty five.


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VII). The management and control of the affairs and funds of the Association shall be vested in the Executive Committee, who shall have power to sanction all expenditures for carrying on the activities of Association. However, the day to day management shall be looked after by the office bearers

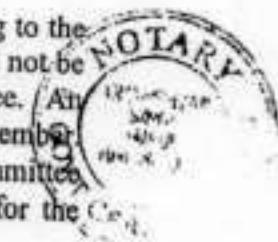
VIII) A resolution in writing signed by all or 2/3rd majority of the members of the Executive Committee shall be valid and effectual as if the same had been passed at meeting of the Executive Committee

IX). A member of the Executive Committee shall cease to be a member of the Committee after due notice if he fails to attend three consecutive meetings of the Association without reasonable cause and without intimation to the Executive Committee.

X) A member from whom any amount of money or/and any account is owing to the Association for a period more than three months without reasonable cause shall not be eligible to become or continue as member of the Executive Committee. An Opportunity to show cause shall be given to such member.

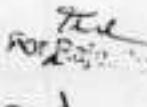
XI) Every Executive Committee shall hold office till the new Executive Committee is elected in the next Annual General Meeting where in Elections are held for the Executive Committee of the Association

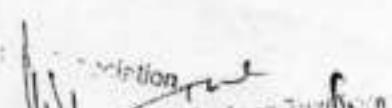
XII) Nominee of the Association Member shall be the special invitee to the Executive Committee Meetings. However such member shall have no voting right

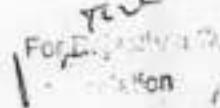


10. Power and duties of the Executive Committee:


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 पंजीयन नम्बर ८२२
 पंजीयन का दिनांक १०/१२/१३

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In particular and without prejudice to the generality of the powers vested by this Constitution, the Executive Committee will have the following powers :



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- o Organise, create and recognize Association in the State in order to unify Tax Consultants in suitable and effective forums;
- o to appoint organizers for carrying out the purpose of clause (i) hereof;
- o To admit members to the Association;
- o To recognize a Local, Regional, State or Zonal Association;
- o To remove, terminate members from the Roll of members;
- o To purchase, take on lease or otherwise acquire, sell exchange, lease or otherwise dispose of any property rights or privileges, movable or immovable, of whatever nature which privileges, movable or immovable, of whatever nature which the Association is authorized to purchase or acquire for such price and on such terms and conditions as it may think fit;
- o To institute, conduct, defend, compound or abandon any legal proceeding by or against the Association or otherwise concerning the affairs of the association.
- o To make and give receipts or release or issue discharges for money payable to the Association and for the Claims and demands of the Association.
- o To invest and deal with any of the money of the Association not immediately required for the purpose there of upon such securities and in such manner as it may think fit and from time to time vary or realize such investments and in particular without prejudice to the said generality to place such money or deposit with any Bank or Banks.
- o To set aside sums of the Association for the purpose of constructing or acquiring an building or to create any fund for a special purpose;
- o To enter into all such negotiations and contracts and rescind and vary all such contract and execute and to do all such acts, deeds and things in the name and on behalf of the Association as it may consider expedient for or in relation to any of the matter aforesaid or otherwise for the purpose of the Association.
- o To maintain proper books of accounts and get the same audited by a Chartered Accountant duly appointed by the General Body from time to time.
- o To do such acts and things as are incidental or conducive to the attainment of the above power or any one or more of them and to the objects of the Association;
- o To take loan and to open and operate bank account or accounts in the name of the Association.
- o To prepare Annual Reports of the activities of the Association, Accounts of Income & Expenditure, and Balance Sheet and

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प्राप्त का नाम राजिस्ट्रार
पंजीयन नम्बर 820
पंजीयन का दिनांक 10/12/13

राजिस्ट्रार
राजस्थान कार्यालय



- o other Statements, if any, including budget and place the same for the approval of the General Body in the Ordinary Meeting
- o To convene the Ordinary and Special meetings to the General Body and to prepare Agenda for its consideration;
- o To frame Rules and Regulations for the conduct and management of the affairs of the Association and also the prescribe Forms, Registers etc. for that purpose;
- o To issue orders, directives, instructions, circulars, etc. in the performance of its functions;
- o To hold seminars, conference, refresher-courses, debates, symposia or lectures etc. and to publish journals, books and such other literature as it may deem fit or furtherance of the objects and activities of the Association.
- o To do all other things necessary or conducive to carry out the directives of the General Body and the programmes laid down by it.

11. Proceedings of Meeting of the Executive Committee: Ten days notice of every meeting of Executive Committee shall be given in writing to every member at his address intimated by him to the Association for the purpose. In urgent cases meeting may be convened at a shorter notice ;

- o The quorum of the meeting of the Executive Committee Shall be nine and if the quorum is not present within half an hour of the time of the meeting, the members present, the number of which shall not be less than six shall form quorum and proceed with the Agenda of the meeting.
- o Question arising in any meeting of the Executive Committee shall be decided by a majority of Votes. In case of any equality of votes the President shall have a second or casting vote.
- o The President shall be entitled to preside at every meeting of the Executive Committee. If there be no President at the time or if at any meeting he is not present and willing, shall take the chair, in the absence of the President then any one of Vice Presidents, if present and/or the Vice-President, the members of Executive Committee present may choose one of the Members present to be the Chairman of the meeting.

ATTESTED: *M* **NOTARY** *STHAN JAIPUR* The Executive Committee shall meet at least once in three months and may meet as often earlier as may be desirable. As far as practicable meeting of the Executive shall be held at various district headquarters of the State.

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राजिस्ट्रार
राजस्थान कार्यालय
नान-देवेडिंग जयपुर

50

12. Appointment of Committees:

The Executive Committee may appoint for any special purpose, Committee or Committees as it thinks fit. The Executive Committee, may appoint a convener or/and members of such Committee who may not be a Member of the Executive Committee. Any Committee so formed shall confirm to any directions, that may, from time to time, be issued by the Executive Committee.

For Registration

संसदीय कानून विभाग
पंजीयन नम्बर..... ८२०
पंजीयन का दिनांक..... १०/१२/१३

रजिस्ट्रार
नोन-प्रेस्टिग कम्पनीज



सत्य प्रतिलिपि

रजिस्ट्रार
नोन-प्रेस्टिग कम्पनीज



13. Minutes of the Meetings.

The Executive Committee shall cause proper minutes to be maintained of all proceedings of the General body meeting and the meeting of the Executive Committee and other Committee and other Committees appointed as aforesaid.

14. Notices:

A notice may be given by the Association to the members either personally or by sending it by sending it by ordinary post to their registered address intimated for the purpose. Where a notice shall be deemed to be effected by properly addressing, preparing and posting a letter containing the notice and unless the contrary is proved, the service of the notice shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

15. General Meetings:

- **Annual General Meeting:** A general meeting of Association shall be held every year on or before 31st December to adopt and pass audited accounts of previous year submitted by the Executive Committee. Such meeting shall be annual called annual General Meeting. Further, each alternate general meeting shall also have a business to elect the new Executive Committee in place of retiring Executive Committee.
- **Extra-Ordinary General Meeting:** The General Secretary shall at the instance of the President or at the request of at least 31 members of the Association, call a General Meeting of the Association to transact any special business relating to the affairs of the Association. Such meeting shall be called Extra-Ordinary General Meeting.
- **Notice of Meeting:** At least twenty one day's prior notice in writing of a meeting shall be given to the members by the General Secretary. A notice issued by circulation to all the members shall be as effective as a Notice sent to each member individually.
- **Quorum:** The quorum necessary before the general meeting can proceed to business shall be at least 1/3 of the total membership or 31 members, whichever is lower present at the meeting. In the case of absence of quorum the meeting shall stand adjourned to the same day, time and place in the next week, and further if the quorum is not present even at the adjourned meeting, the members present at the meeting shall form the quorum.

Provided that the want of quorum in the requisitioned extra-ordinary General Meeting shall mean the cancellation of the meeting.

5. Voter: Every member personally present at the meeting shall have one vote. No member shall vote at a meeting by proxy.

For Registration

For publication

For Rajo

संस्था का नाम: #230.5615/1 ता।
पंजीयन नंमर: ८२९
पंजीयन का दिनांक: १५/१२/१३

रजिस्ट्रर
राजनीति नोन-ट्रिटी काम्पनी



6 When a member not entitled to vote: No member in whom any amount of money is owing to the Association on the date of the General Meeting shall be entitled to vote on any matter at such meeting.

7 Who may preside at the meetings: The President of the Association shall preside over all the meetings of the General Body of the Association, or in his absence any one of the Vice-Presidents, and if neither of them is present at the members present may elect one of themselves to preside over the meetings.

8 Matter how decided: Any matter put before the General Meeting shall, ~~unless~~ decided unanimously, be decided by majority of votes taken, and in the ~~case of~~ equality of votes, the President shall have a second or the casting vote.

16. Accounts:

- o **Who will maintain accounts:** The Treasurer of the Association shall keep proper and regular books of accounts wherein shall be entered all the transactions effecting the funds of the Association.
- o **Funds how invested:** The funds of the Association (Except for such sum as may be needed for day to day expenses, which may be kept in cash by the Treasurer, but which in no case shall exceed Rs. 5000/- at any time) shall be kept deposited in a bank account or accounts of the Association. Such Bank account shall be operated by Joint signature of the office bearers as resolved by the Executive Committee.
- o **Who will sanction expenditure:** The Treasurer shall not make any payment to any unless sanctioned in writing by the President or General Secretary. It shall be the responsibility of the President or General Sectors to Scrutinize the payment voucher before the sanctions.
- o **Power of expenditure:** The President or General Secretary shall be entitled to incur or sanction any expenditure for the purpose of the Association upto Rs.5000 at a time, if such expenditure is not of the nature of recurring expenditure. Any other expenditure shall be sanctioned by the Executive Committee. The Secretary shall be entitled to incur or sanction any expenditure upto Rs. 5000 at a time.

Statement of Accounts: The accounts of the Association shall close every year on 31st March. The Treasurer shall close the books of accounts, draw up the yearly income and expenditure account and Balance Sheet, and shall submit the same before the Executive Committee, who after adopting the same send **राजनीति नोन-ट्रिटी काम्पनी** the Auditors of the Association for the yearly audit.

17. Audit: 5 DEC 2013

- o **Auditors:** The General Body in the Annual General Meeting shall appoint Chartered Accountants or a firm of Chartered Accountants as Auditors of the Association for the ensuing year, and the accounts of the Association of the

For Registration

1. The Secretary

For Registration

2. The Auditor

रजिस्ट्रर
राजनीति नोन-ट्रिटी काम्पनी
जयपुर

Year shall be audited and certificate by the Auditors of the Associations before the same it put up before the General Body in Annual General Meeting.

- o The Auditor shall be appointed in accordance with the provisions of the Companies Act.

18. General:

- o The authority of the Association shall in all matters be supreme and binding on the Executive Committee or any Sub-Committee.
- o Amendment in Memorandum: Any alteration or amendment in the Memorandum and /articles may be made in accordance with the provisions of the law in force for the time being.
- o Seal: The Association shall have the emblem of its own as its official seal which shall be affixed on documents which are deemed necessary by the Executive Committee.
- Suits: In the event of any dispute between the Association and outside agency, the General Secretary of the Association shall sue and be sued only at Jaipur.

19. Dissolution :

In Case of Dissolution of the Association the remaining assets shall be handed over to some Association or Trust having similar aims and objectives.

For Rajasthani T. C.
PRESIDENT

For Rajasthani T. C.
GENERAL SECRETARY

For Rajasthani T. C.
TREASURER



NOTARY PUBLIC
5 DECEMBER 2013



राजस्थान का नाम: राजस्थान
पंजीयन संख्या: ४२०
पंजीयन का दिनांक १०/१२/१३

स्त्र्य प्रतिलिपि

रजिस्ट्रार
राजस्थान नोन-प्रेडिंग कम्पनीज
जयपुर

रजिस्ट्रार
राजस्थान नोन-प्रेडिंग कम्पनीज
जयपुर

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT

[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-5, ITR-6, ITR-7 filed and verified electronically]

Assessment Year
2019-20

PERSONAL INFORMATION AND THE ACKNOWLEDGEMENT NUMBER	Name THE RAJASTHAN TAX CONSULTANTS ASSOCIATION			PAN AAALAR2496Q	
	Flat/Door/Block No B-145/B	Name Of Premises/Building/Village		Form Number ITR-5	
	Road/Street/Post Office KALYAN PATH, MANGAL MARG	Area/Locality BAPU NAGAR			
	Town/City/District JAIPUR	State RAJASTHAN	Pin/ZipCode 302015		Status AOP/BOI 139(1)-On or before due date
	Assessing Officer Details (Ward/Circle) ITO WD 6(2), JPR				
	e-filing Acknowledgement Number 241027900311019				
	1	Gross total income		1	0
	2	Total Deductions under Chapter-VI-A		2	0
	3	Total Income		3	0
3a	Deemed Total Income under AMT/MAT		3a	0	
3b	Current Year loss, if any		3b	0	
4	Net tax payable		4	0	
5	Interest and Fee Payable		5	0	
6	Total tax, interest and Fee payable		6	0	
7	Taxes Paid	a Advance Tax 7a	0		
b TDS 7b		116582			
c TCS 7c		0			
d Self Assessment Tax 7d		0			
e Total Taxes Paid (7a+7b+7c +7d)		7e 116582			
8	Tax Payable (6-7e)		8	0	
9	Refund (7e-6)		9	116580	
10	Exempt Income	Agriculture 0	10	214699	
Others		214699			

Income Tax Return submitted electronically on 31-10-2019 15:39:43 from IP address 110.227.155.166 and verified by

VINAY KUMAR JOLLY having PAN AAUPJ9853G on 25-11-2019 17:11:30 from IP address

110.227.155.166 using Electronic Verification Code PAETLFERGI generated through Aadhaar OTP

mode.

DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

**THE RAJASTHAN TAX CONSULTANTS' ASSOCIATION****Kar Salahkar Bhawan**

B-145/B, Kalyan Path, Mangal Marg, Bapu Nagar, JAIPUR-302015

President**C.A. Satish Kumar Gupta**

H-1/35, 11nd Floor ,Ram Vihar
Opp. G.P.O., M.I. Road, Jaipur
Tel. : 0141-2371432, 2361436 (O) 2392645 (R)
Mob. : 9828012935
E-mail : satishgupta1004@gmail.com

General Secretary**Vinay Kumar Jolly, Advocate**

11nd Floor, Dhula House
Bapu Bazar, JAIPUR
Tel. : 0141-2571300 (O) 2521300 (R)
Mob. : 9414043300, 9413564300
E-mail : jolly0450@yahoo.com

AUTHORISATION LETTER

EXTRACTS OF THE MINUTES OF THE MEETING OF THE ASSOCIATION OF MEMBERS OF THE RAJASTHAN TAX CONSULTANTS' ASSOCIATION HELD ON 16th DAY OF OCTOBER, 2020 THROUGH CIRCULAR MOTION AT JAIPUR.

Resolved that the Association do hereby authorized **Shri Vinay Kumar Jolly, General Secretary** whose signature is attested below to sign & execute documents related with whose signature is attested below to sign & execute documents related with filing Writ Petition (P.I.L.) with High Court etc. & appearing before them with regard to Writ Petition (P.I.L.) of Association and to appoint to Advocates etc.

.....
Signature of Mr. SATISH KUMAR GUPTA

Certified True Copy

Vinay Kumar Jolly attested
Signature

ANNEXURE 4



THE RAJASTHAN TAX CONSULTANTS' ASSOCIATION

KAR SALAHKAR BHAWAN

B-145/B, KALYAN PATH, MANGAL MARG, BAPU NAGAR, JAIPUR – 302015

PRESIDENT

CA SATISH KUMAR GUPTA

H-1/35, 11nd Floor, Ram Vihar
 Opp. G.P.O., M.L. Road, Jaipur-01
 Tel: 0141-2371432, 2361466 (O) 2392645(R)
 Mobile: 98280 12935
 E-mail: satishgupta1004@gmail.com

GENERAL SECRETARY

VINAY KUMAR JOLLY, Advocate

11nd Floor, Dhula House
 Bapu Bazar, Jaipur
 Ph: 0141-2571300, 2521300 (R)
 Mobile: 9414043300, 9414364300
 E-mail: jolly045@yahoo.com

To:

Date: 08.10.2020

Hon'ble Finance Minister,

Government of India,

New Delhi.

Reg: Request to extend the date of filing of Tax Audit Report.

Respected Madam,

At the very outset accept our heartfelt congratulation for providing multiple reliefs to the trade and industries in the pandemic Covid-19 situation.

As of now cases of Covid-19 are increasing and businessmen are not able to contact their auditors and auditors are also facing the staff crisis due to this pandemic.

You have been very kind enough to the trade, industry and consultants and we are thankful to you for the same.

In this Pandemic situations, we humbly request that it is the time when each one of us is going through critical time and need government support.

Kindly extend the date of filing of tax audit report to 31st December 2020 and oblige.

Thanking you

Sincerely yours

For The Rajasthan Tax Consultant's Association



 Authorized Signatory

CCFO: CBDT Chairman

President CA Jigar Gogri
 Vice President CA Rahul Nagda
 Secretary CA Ameet Chheda
 Jt. Secretary CA Jeenal Savla
 Treasurer CA Vinit Gada



Established 1973
CVO Chartered & Cost Accountants' Association

6th August, 2020

To
 Shri Pramod Chandra Mody,
 Chairman
 Central Board of Direct Tax
 North Block,
 New Delhi
 Email – chairmancbdt@nic.in

Respected Sir,

Subject: Representation for relaxation from levy of interest u/s. 234A on payment of self-assessment tax for A.Y. 2020-21 within extended due date of 30 November 2020

ABOUT C.V.O. CHARTERED & COST ACCOUNTANTS' ASSOCIATION (CVOCA)

C.V.O. Chartered and Cost Accountants' Association is a four decade old, non-profit professional organization established in 1973. It has acclaimed a premier position in society. Its objective is to disseminate knowledge in the field of Taxation, Accounting, Finance and Allied laws. It has membership strength of more than 1600 members. Members of the Association have acclaimed respectable position in the CA practice and industry where they serve. It also organizes general public awareness program. One of the flagship programs is on Union Budget, which is organized in Gujarati Language for general public. The Association also publishes monthly Newsletter which is called 'CVO CA News & Views'. Besides these activities Association also supports students who are pursuing CA, CS & CWA by providing them financial assistance in the form of scholarships and interest free loans.

BACKGROUND:

Whole world is going through unprecedeted times in facing the pandemic of Covid-19. In response to the situation, Ministry of Finance vide notification no. 35/2020 dated 24-06-2020, extended the due dates for compliance for filing the return of income. However, with a rider that in cases where Self-Assessment Tax exceeds Rs One lakh, the Assessee would be liable to pay interest under section 234A

In continuation to the above relief, we would like to make further suggestions for the changes to be made in scheme for charging interest under section 234A.

Page 1

President CA Jigar Gogri
 Vice President CA Rahul Nagda
 Secretary CA Ameet Chheda
 Jt. Secretary CA Jeenal Savla
 Treasurer CA Vinit Gada



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ISSUES & SUGGESTIONS:

Issue:

The notification no. 35/2020 issued on 24-06-2020 has extended time limit for filing of income tax return for the assessment year 2020-21 upto 30-11-2020 for all the assessees. This has been a huge relief for tax payers. However, though the due date for filing the return has been extended from 31st July / 31st October to 30th November, there is no relief provided from the interest chargeable under section 234A if the self-assessment tax liability exceeds Rs. one lakh. An assessee having self-assessment tax (SA tax) liability of a taxpayer exceeds Rs. one lakh, taxpayer would be liable to pay interest under section 234A from the expiry of original due date for filing the return of income i.e. 31-07-2020/31-10-2020, as the case maybe. As a result, this provision is causing undue hardship to assessees.

Interest under section 234A is payable for delay in furnishing the return of income within the specified due date. The interest is charged at the specified rate on the amount of tax payable on the total income, as reduced by the amount of advance tax, TDS/TCS, any relief of tax allowed under section 90 and section 90A. If there is no SA tax payable, no interest is payable under s.234A even if the filing of the return is delayed. Whether self-assessment tax shall also be reduced from the tax liability or not, the provisions of Section 234A is silent in this regard. This issue was settled down after the Apex Court's judgment in the case of CIT v. Pranoy Roy [2009] 179 Taxman 53 (SC) and a Circular 02/2015, dated 10-02-2015 subsequently issued by the CBDT. The Court held that the self-assessment tax paid before the due date of filing of return of income shall also be reduced from the tax liability while computing the interest under Section 234A.

However, second proviso to the Notification no. 35/2020 prevents the normal operation of consequential impact of extension of return filing due date. It provides as follows :-

"Provided further that the extension of the date as referred to in sub-clause (b) of clause (i) of the first proviso shall not apply to Explanation 1 to section 234A of the Income-tax Act, 1961 in cases where the amount of tax on the total income as reduced by the clauses (i) to (vi) of sub-section (1) of the said section exceeds one lakh rupees"

Page 2

President CA Jigar Gogri
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The Press Release dated 24 June 2020 has explained the impact of above proviso as follows :-

"In order to provide relief to small and middle class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is upto Rs. 1 lakh has also been extended to 30th November, 2020. However, it is clarified that there will be no extension of date for the payment of self-assessment tax for the taxpayers having self-assessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act"

Suggestions:

It is submitted that the above referred Notification requires a review since it has resulted in causing unintended hardship to the taxpayers. The reasoning, in support of our submissions is as follows:-

- 1) To compute the self-assessment tax payable, the taxpayer needs to collate relevant information from multiple sources. The most common source to determine the amount of tax deducted at source is Form 26AS. Owing to the pandemic situation, due date to file TDS returns has been extended to 31 July 2020 and to issue TDS certificate by 15 August 2020. This has led to situations where Form 26AS has not been updated till 31 July 2020 and the taxpayers having original due date for filing their return by 31 July, are not in a position to determine the amount of tax deducted at source and their ultimate tax liability by this date.
- 2) In case of taxpayers having income from multiple sources in other countries, the difficulties increase further. Sourcing of relevant information from such country may take longer time due to the pandemic situation prevalent in those jurisdictions also, and some of them may be under partial lockdown. The Indian tax liability in relation to income from other countries can be determined only after receipt of the relevant information and evaluation of tax treaty provisions and benefits.
- 3) Since the taxpayers are finding it difficult to compile relevant information for working out the tax liability, consequently, they are also unable to compute their SA tax liability accurately.

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President CA Jigar Gogri
 Vice President CA Rahul Nagda
 Secretary CA Ameet Chheda
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- 4) In the case of CIT v. Pranoy Roy [2009] 179 Taxman 53 (SC), the Apex Court held that if taxes were paid in full, interest cannot be levied u/s. 234A for delayed filing of return. Applying this principle, the taxpayers should not be fastened with the liability to pay interest under section 234A within the extended deadline to file the return of income.
- 5) Many taxpayers are coping with stress due to actual or fear of loss of jobs, unpredictable business scenarios, increased cost of operations for complying with other advisories, meeting regular fixed costs & borrowing costs, risk of getting infected by the virus, medical costs, etc. These factors understandably prevent the taxpayers from compiling relevant information required to compute their incomes, taxes and fill up return forms.
- 6) Also, it may be appreciated that interest under section 234A is payable in case of default in furnishing the return of income within the specified due date. As you are aware, the online utility for filing the return of income have been available on the income tax portal belatedly-

Income tax return	Date on which utility was released
ITR 1	08-07-2020
ITR 2	20-07-2020
ITR 3	31-07-2020
ITR 4	08-07-2020
ITR 5	Not released*
ITR 6	Not released *
ITR 7	Not released *

**Till the date of this representation*

Page 4

President CA Jigar Gogri
 Vice President CA Rahul Nagda
 Secretary CA Ameet Chheda
 Jt. Secretary CA Jeenal Savla
 Treasurer CA Vinit Gada



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	Count from 01-April to 30-June*		% of Reduction in filing of returns
	AY 2019-20	AY 2020-21	
ITR 1	40,24,013	9,74,520	75.78%
ITR 2	4,39,492	3,362	99.24%
ITR 3	7,24,861	0	100.00%
ITR 4	17,02,817	3,84,829	77.40%
ITR 5	27,525	0	100.00%
ITR 6	0	0	0
ITR 7	1,243	0	100.00%

* As per data available on the site incometaxindiaefiling.gov.in

The fact that even the Income tax department is facing challenges amidst the pandemic crisis which has led to long delay in issuance of the return utility proves that the situation is beyond everyone's control and needs a compassionate approach. It may be appreciated that even the Income tax department could not come out with the return utilities and schemas in time, how could the taxpayers be expected to compute their tax liability and pay it by the original due dates to avoid interest under section 234A amidst the current extraordinary circumstances.

It is unjust to levy interest u/s. 234A in such situation, particularly when return filing due date has been extended. For delay in payment of advance tax, the taxpayers are already required to pay interest u/s. 234B and 234C from which there is no relaxation. In any case bulk of the tax collection takes place through withholding of taxes and advance payment of taxes. Thus, levying interest u/s. 234A defeats the very purpose of extending time lines for filing return of income.

Page 5

President CA Jigar Gogri
 Vice President CA Rahul Nagda
 Secretary CA Ameet Chheda
 Jt. Secretary CA Jeenal Savla
 Treasurer CA Vinit Gada



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CVO Chartered & Cost Accountants' Association

CONCLUSION

The current pandemic crisis has added to the economic crisis of the businesses which were already struggling due to economic slowdown prior to the lockdown.

It is, therefore, prayed that the Notification no. 35/2020 may be amended to omit the said second proviso in order to provide consequential relief from interest under s.234A upto the extended time for filing return of income.

Thanking you in anticipation of favourable consideration of the above genuine prayer,

Yours sincerely,

JIGAR
RATILAL
GOGRI

Digitally signed
 by JIGAR
 RATILAL GOGRI
 Date: 2020.08.06
 14:23:51 +05'30'

CA Jigar Ratilal Gogri
 President
CVO Chartered & Cost Accountant Association

SANJAY
VISANJI
CHHEDA

Digitally signed
 by SANJAY
 VISANJI CHHEDA
 Date: 2020.08.06
 13:49:38 +05'30'

CA Sanjay Visanji Chheda
 Chairman
Publication & Representation Committee

CC To

1. **Ms. Nirmala Sitharaman**
Honourable Finance Minister
Ministry of Finance,
134, North Block, Parliament Street,
New Delhi – 110 001
2. **Honourable Revenue Secretary**
Ministry of Finance
128A, North Block, Secretariat
New Delhi – 110 001
Email – rsecy@nic.in

Page 6



All India Federation of Tax Practitioners

(Direct Tax Representation Committee)

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

CHAIRMAN

S. R. Wadhwa
W-107, Ground Floor,
Greater Kailash - 1, New Delhi-110 048
M: (O) 011-41554222
M: 9810414433
E: srdwadhwa@hotmail.com

CO-CHAIRMAN

V. P. Gupta
501, Ansal Bhawan,
16, K. G. Marg, New Delhi-110 001
M: (O) 011-23351153
M: 9810052990
E: vpgco@vpgco.com

CONVENOR

Vipul B. Joshi
311, Rewa Chambers,
31, New Marine Lines, Mumbai-400 020
M: (O) 022-22080951
M: 9820043569
E: vipulbjsih@gmail.com

NATIONAL OFFICE BEARERS

National President
Nikita R. Badheka, Mumbai
M: 9821037885
E: altpresident.badheka@gmail.com

Im. Past President
Dr. Ashok Saraf, Guruvati
M: 9864020679
E: immediatepastpresident@gmail.com

Deputy President
M. Srinivasa Rao, Blore
E: srujanreddi@yahoo.com

Secretary General
Samir Jani, Junagadh
E: samirjanii@yahoo.co.in

Treasurer
Chirag S. Parekh, Mumbai
E: chiragnp7@gmail.com

Past Presidents
Dr. K. Shivarao, Mumbai
M: 9820069833
E: kshirgal@gmail.com

Prem Lata Bansal, New Delhi
M: 9811558194
E: plbansal99@gmail.com

Ganesh Purohit, Jabalpur
M: 9425154914
E: punnit_ganesh@yahoo.co.in

Zonal Chairmen
Bhaskar B. Patel, Vadodara (WZ)
M: 9979732023
E: btpatelsandco@yahoo.com

S. Nanjunda Prasad, Bangalore (SZ)
M: 9980066380
E: snp@nandakon@gmail.com

Asim Zafer, Varanasi (NZ)
M: 9415203535
E: asimzaferadvocate@hotmail.com

Vinay Kumar Jolly, Jaipur (CZ)
M: 9414943300
E: jolly0450@yahoo.com

Sandeep Gadodia, Ranchi (EZ)
M: 9431170741
E: skg66_gadodia@yahoo.co.in

Members
A. K. Srivastava, New Delhi
M: 9810128812
E: ak.srivastava.lca@gmail.com

Arvind Shukla, Varanasi
M: 9415201059
E: arvinduka_advocate@rediffmail.com

Kamlesh Rathod, Jamnagar
M: 9996093552
E: info@krrathod.com

Narayan P. Jain, Kolkata
M: 9830951252
E: npjainadv@gmail.com

O. P. Shukla, Varanasi
M: 9415204837
E: opshaw_1962@rediffmail.com

Rahul Kaushik, New Delhi
M: 9818791820
E: kaushiktaxassociates1@gmail.com

Rajesh Joshi, Indore
M: 9827256933
E: rajeshajoshi@gmail.com

Ref. No.

Date: 04/09/2020

Hon'ble Smt. Nirmala Sitharaman
Union Finance Minister
Government of India
Ministry of Finance, North Block,
New Delhi-110001

Respected Madam,

Sub: Extension of time for certain compliances under the Income-tax Act, 1961 due to Covid-19 – Request – Regarding

The All India Federation of Tax Practitioners (the Federation in short) is one of the largest professional bodies of tax practitioners, advocates and chartered accountants - both of direct and indirect taxes. It has been functioning for the last about 45 years since 1976 and has a membership of over 9000 individuals and about 130 Tax Bar Associations located all over the country in 27 out of 29 States.

2. The spread of Covid-19 virus has impacted adversely the normal working in the country. The Government has been very kind to recognize the difficulties and hardships being faced by the income tax payers. Vide Notification No. 35/2020/F.No. 370142/23/2020-TPL dated 24.06.2020, issued by the Department of Revenue, Ministry of Finance, Central Board of Direct Taxes, New Delhi, the due date for filing the tax audit report has been extended upto 31.10.2020 and that for filing the returns of income upto 30th November, 2020.

3. Unfortunately, the ferocity of Corona virus has not abated and is spreading in various parts of the country. Most of the offices, including the offices of the members of the Federation, have not been functioning regularly or functioning with very limited staff, mostly young and less experienced.

**ETHICS
EDUCATION
EXCELLENCE**

Head Office : 215, Rewa Chambers, 31, New Marine Lines, Mumbai-400 020.
Tel.: 022-22006342 / 43 / 49705343 | E-mail: aiftpho@gmail.com | Website: www.aiftponline.org

4. Likewise, the offices of the taxpayers whose accounts need to be audited under the Income-tax Act, are also not functioning normally and the required information for tax audit as also for subsequent filing of the income tax returns has not been forthcoming.
5. The available public transport is inadequate. Buses and trains are not running regularly. Wherever local trains are functioning, they are not halting at stations alleged to be in Containment Zones and Covid infected areas. In several big cities, even the taxies and buses are not plying after 5.00 or 6.00 p.m.
6. All these handicaps are making it virtually impossible for most of our members to adhere to the revised dates as per the aforementioned Notification of the Central Government.
7. The Federation shall, therefore, be most grateful if the date of filing of the tax audit reports for the A.Y. 2020-21 is extended by three months i.e. from 31st October, 2020 to 31st January, 2021 and for filing the income tax returns by four months i.e. from 30th November, 2020 to 31st March, 2021.
8. An early action in the matter is requested.

With my most respectful regards,

Yours sincerely,


S.R. Wadhwa, IRS (Retd) —
Advocate

 Print

Request for Extension of Date of Filing of ITR & Audit Report

 taxguru.in/income-tax-requests-extension-date-filing-audit-report.htm

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National Association of Tax Professionals (Haryana Chapter) submitted a representation to The Central Board of Direct Taxes requested for Extension of Date of Filing of ITR and Audit Report.

From:

National Association of Tax Professionals
(Haryana – Chapter)
SCO-409, First Floor
Mugal Canal, Karnal
Haryana
5th, September, 2020.

To,

The Chairman,
The Central Board of Direct Taxes,
NEW DELHI.

Respected Sir,

Subject : Request for extension of due dates for ITR and Audit

We are proud members of the National Association of Tax Professionals (NATP) which incorporated with a vision to work as a bridge between Tax Payers and Government for smooth, safe and secure, direct and indirect tax compliances. NATP consists of members, coordinates from all States and Union Territories of India.

The aim and object of NATP are to put the clear and unambiguous ground-level picture before Government to enable it to understand the ground level taxpayer and make necessary changes in law and procedures for compliances. At the same time, it is our aim and objects to

support Government to fulfil its promise of providing ease of doing business to businesses and industries in the Country and help and support the taxpayers for smooth, correct and effective compliances under the direct and indirect tax laws.

We herewith congratulating your good selves and entire team CBDT for introducing the faceless assessment and appeal. A new era of "Honoring the Honest" and reducing the corruption which will reduce to nil effectively. We also congratulate that the Exchequer has appreciated your tenure as a Chairman, CBDT, and in consideration, the taxpayer will have the benefit of your services to the nation.

Sir, We as one of the stakeholders and being the bridge between honest taxpayers and the government like to brief our concerns that we all are passing through the notorious virus **COVID-19** and it is a matter of appreciation that the CBDT has granted refunds at a jet speed and also given concession in TDS rate and also extended the deadline.

Sir, we appreciate the efforts put in but at the same time we would like to draw your kind attention to the chart given herein below:

Sr. No.	ITR No.	Date of release of Utility of ITR	Extended due Date of return of Income	Original due date of return of Income
1	ITR- 1	05.06.2020	30.11.2020	31.07.2020
2	ITR- 2	26.06.2020	30.11.2020	31.07.2020
3	ITR- 3	31.07.2020	30.11.2020	31.07.2020
4	ITR- 4	05.06.2020	30.11.2020	31.07.2020
5	ITR- 5	25.08.2020	30.11.2020	31.07.2020
6	ITR- 6	Yet to be notified	30.11.2020	30.09.2020
7	ITR- 7	03.09.2020	30.11.2020	31.07.2020

You will appreciate from the above chart that the due date of filing the return of income compared to the date of the extended due date of filing the return compared to the date of the utility available on the website of the Income-tax Department, don't you think that the taxpayers are given less time to prepare the tax affairs? We are sure that your office will also be because we all are traversing with notorious virus COVID 19.

All our working with the fear of getting infected and everywhere the working is at reduced strength. So, looking to the chart you will appreciate that the time taken by the Department to announce the date of the returns for filing the return on the website with utility, same time is not given to the taxpayer to comply with his tax obligations.

Presently the spread of Virus COVID 19 is mounting but the economy is coming up with safety and, therefore, it is the need of an hour that the relief promptly and in advance, the date of compliance of filing the return as well as filing the tax audit and return may please be extended well within the time to avoid the Pandemic situation and to avoid the mental trauma with the taxpayer and the consultants involved in the process.

We hope, you will accede to our request and announce the extended deadline very soon.

Thanking You,
Yours Faithfully,
For, National Association of Tax Professionals

Sanjay Arora Advocate

Secretary North Zone

Tags: Due Date, ITR, Tax Audit Report

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Author Bio

Name: Sanjay Arora

Qualification: LL.B / Advocate

Company: N/A

Location: Karnal, Haryana, IN

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TAX BAR ASSOCIATION, KOTA

e www.tbakota.com

taxbarassociationkota@gmail.com

PRESIDENT

Adv Raj Kumar Vijay

+91-94141 87556

Opp. Power House, Rawatbhata Road,
Gurmanpura, KOTA-324007 (Raj.)
email: rajvijayassociates@gmail.com

SECRETARY

CA Lokesh Maheshwari

+91-94605 69369

1109, Behind Bank of Baroda,
Mahaveer Nagar-I, KOTA-324005 (Raj.)
email: lokesh.ca.maheshwari@gmail.com

Hon'ble Smt. Nirmala Sitharaman Ji
Union Minister of Finance,
Ministry of Finance,
Govt. of India,
North Block,
NEW DELHI-110001
email id: fmo@nic.in

Respected Madam,

RE: Extension of due date for submitting Tax Audit Report and for filing IT Returns

We appreciate the commitment and efforts of Government to re-orient tax administration to make it pro-tax payer and providing ease of doing business. In the series of tax reforms, the Prime Minister recently announced some reformative measures during the launch of "Transparent Taxation - Honoring the Honest" platform like Faceless Assessment, Faceless Appeal Process and Taxpayers' Charter.

As part of Covid 2019 relief measures various due dates for filing the IT Returns for F.Y.2019-20 (A.Y.2020-21) stand extended to 30th Nov.2020 for all types of tax payers and Tax Audit Form from Sept.30th, 2020 to 31st Oct., 2020.

However, the corona pandemic has immensely affected humans, vaccine are not yet available, the emphasis is on taking extensive precautions such as hygiene protocol, social distancing and so on. This virus is spreading exponentially region-wise. The part of the nation is still in lock down and enforcing strict quarantine to control the spread of the havoc of this highly communicable disease. There are restriction of travelling from one place to another place. The chaotic situation for assessee and tax professionals forces us to request for extension of due date for filing of Tax Audit Report and IT Returns, because it is the assessee who would have to get agonized and face the consequences in delay of filing of return.



- **VICE PRESIDENT**
CA Rajeev Kumar Bazar
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 - CA Vishnu Garg

TAX BAR ASSOCIATION, KOTA

www.tbakota.com

taxbarassociationkota@gmail.com

PRESIDENT

Adv Raj Kumar Vijay

+91-94141 87556

Opp. Power House, Rawatbhata Road,
Gumanpura, KOTA-324007 (Raj.)
email: rajkvijayassociates@gmail.com

SECRETARY

CA Lokesh Maheshwari

+91-94605 89369

1109, Behind Bank of Baroda,
Mahaveer Nagar-I, KOTA-324005 (Raj.)
email: lokesh.ca.maheshwari@gmail.com

Though the CBDT has extended the due dates for filing of the IT Returns, but considering the nation vide situation, it is very unlikely that the assessee would be in position to get the accounts audited by 31st October 2020 and file the return by 30th November 2020. **We therefore request that CBDT shall also exercise discretionary power vested u/s 119 of the Income Tax Act by extending the due date to 31st March 2021 to ameliorate the difficulties faces by the assessee in this corona period.**

We look forward to your compassionate response.

Yours truly,

For: Tax Bar Association, Kota


President

Date : 07.09.2020



Date: 23rd September, 2020

Smt. Nirmala Sitharaman
Hon'ble Minister of Finance
Government of India
New Delhi – 110001

Respected Madam,

Subject: Request for taking up certain measures under Income Tax Act, 1961 in the backdrop of Covid-19 outbreak

The Covid-19 outbreak has shaken the world and uprooted normalcy everywhere. A new normal has emerged, which includes some compromises, lot of lifestyle changes and economic difficulties. Till now, the Government has been extremely proactive in taking various measures to help the economy deal with this situation. We sincerely appreciate the efforts by the Government in this regard especially the recently introduced Taxation and other Laws (Relaxation and amendment of certain provisions) Bill 2020.

In this letter, we wish to bring to your kind notice some measures and relaxations that can be taken up under the Income Tax Act, 1961 which will save the taxpayers from undue and unintended hardship. Our recommendations cover various provisions of the law and have been bifurcated into suitable subjects for ease of reference:

1. Easing of Compliance

1.1. Extension of timelines for filing of returns under section 139(1) of the Act

Current position: the deadline for filing the return of income for FY 2019-20 (AY 2020-21) was extended vide Notification No 35/2020 dated 24 June 2020 from its original deadlines. Subsequent to such extension, the dues dates stand as under:

Particulars	Due date
Income tax returns for all tax payers (including where audit under the Income-tax Act or any other Act is applicable) for AY 2020-21	30 th November, 2020
Tax audit report submission for AY 2020-21	31 st October, 2020



Hardships to tax payers:

- a) There are still many States in the country where lockdown has not been lifted. The number of containment zones are rapidly changing. Furthermore, there are restrictions on the number of staff members that can come to work. This has resulted into very low number of people working (out of) in offices in many organisations especially MSMEs and small corporates. This has crippled their ability to comply with the requirements of the audit and tax filing badly. Currently, they are focusing on their survival.
- b) Majority of the CA firms who carry out audits are small and medium sized firms having limited resources to work remotely and work from home. Further, audit is an activity that more often than not happens on the ground and in the premise of the audit clients. Lockdown and continuing fear of spread of virus has resulted in the audit process getting impacted considerably.
- c) To compute the self-assessment tax payable, the taxpayer needs to collate relevant information from multiple sources. The most common source to determine the amount of tax deduced at source is Form 26AS. The due date for filing e-TDS statements for Q4 of FY 2019-20 were extended till 31st July, 2020 and the credit of TDS are only now reflecting in Form 26AS. Reconciling them before the filing of returns is a considerable task, without which filing the tax returns would be impossible. Further, due to the lockdown, many entities have not yet filed their e-TDS statements for Q4 of FY 2019-20 and as a result, credit of TDS are yet to be reflected in 26AS of a large number of tax payers.
- d) The CBDT proactively extended the due date for filing returns of AY 2019-20 upto 30th September 2020. There are also notices / SMS / Mails being sent to non filers which require response / return to be filed. A lot of time and effort are being devoted to respond to the notices and file returns in such cases
- e) The Income Tax filing Java utilities which are relevant for AY 2020-21 were released on the following dates:

ITR Form	Java utility	Excel utility
ITR 1	08-07-2020	08-07-2020
ITR 2	20-07-2020	20-07-2020
ITR 3	04-09-2020	31-07-2020
ITR 4	08-07-2020	08-07-2020
ITR 5	Yet to be released	25-08-2020
ITR 6	Yet to be released	Yet to be released
ITR 7	Yet to be released	03-09-2020



Since the return filing utilities are released only now in some cases and some cases, they have not yet been released, adhering to the deadline of 30th November, 2020 is a very uphill task. The fact that even the Income tax department is facing challenges amidst the pandemic crisis which has led to long delay in issuance of the return utility proves that the situation is beyond everyone's control and needs a compassionate approach. It may be appreciated that like the Income tax department could not come out with the return utilities and schemas in time, the taxpayers also need some extra time cushion for filing the returns.

f) Considering the difficulty being faced in conducting the Annual General Meeting, the Ministry of Corporate Affairs have extended the due date for holding the AGMs from 30th September to 31st December 2020. MCA's recognition of the hardship faced by Companies in conclusion of audits and holding the AGMs is a vindication of the fact that the difficulty created because of the Covid-19 outbreak is continuing to have its impact. With AGM due dates being 31st December, 2020 it would be almost impossible to adhere to the ITR filing due date of 30th November, 2020 in case of companies.

Our representation:

Considering all the above difficulties, it is recommended that the due date for filing of returns for all the taxpayers for A.Y. 2020-21 be extended to 31st March, 2021 and the due date for filing the tax audit report also be extended to 28th February, 2021. Consequently, the timeline for filing all the reports and certificates under the Act which fall due alongwith or in connection with the ITR filing due dates may also be extended to 31st March, 2021.

This will also mean taxpayers availing moratorium will get an extended time for payment of interest and claiming the deduction u/s 43B of the Act in AY 2020-21.

1.2. Extension of timelines for filing Transfer Pricing audit report and consequently the ITR for such tax payers

Current position: The due date for filing Transfer Pricing audit report in Form 3CEB and the ITR for such tax payers u/s 139(1) had historically been 30th November. This was, however not altered in the Notification No 35/2020 dated 24 June 2020.

Hardship to the tax payer:

In addition to the hardships mentioned in para 1, for preparation of Transfer Pricing documentation contemporaneous data of comparable companies are required. Once



the due date to conduct AGM is extended till 31st December, 2020, the possibility of those companies filing the annual return with Registrar of Companies also gets delayed and thereby availability of comparable data also becomes scarce. This would result into TP documentation being incomplete and thereby possibility of filing Form 3CEB also gets impacted.

Our representation:

The due date for filing of Form 3CEB and all the associated compliances like filing of Form 3CEAA be deferred to 31st March, 2021. The due date of filing Form 3CEAB which needs to be filed 1 month before the above due date be allowed to be filed on or before 28th February, 2021. Consequently, time limit for filing of Country by Country Reporting (CbCR) may also be extended.

1.3. Time limit for completion of assessments relating to AY 2018-19 was 30th September 2020. This due date was extended to 31st March, 2021. The due date for completion of assessments for AY 2019-20 is also 31st March 2021. It is recommended that the due date for completion of scrutiny for AY 2019-20 be extended to 31st July, 2021.

2. Improving Cashflows with businesses

2.1. Refund of Taxes: It is very encouraging that a step was taken to release Rs.1,01,308 crore refunds from 1st April to 8th September, 2020. A lot more refunds are stuck for procedural and other issues. Immediate steps have to be taken to address them and release the refunds. To demonstrate few examples:

2.1.1. When there are reliefs granted by ITAT or High Court and no further appeal is filed or relief is granted by Supreme Court, the order giving effect are not passed by AOs and refunds are pending because of that. A step maybe taken to identify all such matters and refunds maybe issued immediately for those taxpayers.

2.1.2. Further, if there are demands in a particular year and the appeal proceedings are ongoing, despite automatic stay after 20% of the demand is recovered, the rest of the refunds continue to remain unpaid, especially at CPC.

2.2. Levy of Interest u/s 234A of the Act for delayed payment of self assessment tax

Current position: The interest payable under section 234A is for delay in filing return. It is levied on self-assessment tax payable (after reducing all prepaid taxes) along with return. If there is no Self Assessment tax payable, no interest is payable under s.234A even if return is delayed.



b) In the past, whenever due date for filing return has been extended, the levy of interest under section 234A for failure to file return on time also gets consequentially deferred to the extended due date. However, the second proviso to the Notification No. 35/2020 dated 24 June 2020 precludes the normal operation of consequential impact of extension of return filing due date. It provides as follows :-

"Provided further that the extension of the date as referred to in sub-clause (b) of clause (i) of the first proviso shall not apply to Explanation 1 to section 234A of the Income-tax Act, 1961 in cases where the amount of tax on the total income as reduced by the clauses (i) to (vi) of sub-section (1) of the said section exceeds one lakh rupees"

d) The Press Release dated 24 June 2020 has explained the impact of above proviso as follows :-

"In order to provide relief to small and middle-class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is upto Rs. 1 lakh has also been extended to 30th November, 2020. However, it is clarified that there will be no extension of date for the payment of self assessment tax for the taxpayers having self-assessment tax liability exceeding Rs. 1 lakh. In this case, the whole of the self-assessment tax shall be payable by the due dates specified in the Income-tax Act, 1961 (IT Act) and delayed payment would attract interest under section 234A of the IT Act".

Hardship to the tax payer: The hardships faced by the tax payers to stand on their ground and to comply with the requirements of the law have already been detailed. Additionally, we wish to bring to your kind notice the following points:

- a) The computation of self assessment tax requires the taxpayer to compile relevant information from various sources. The most common source is interest from banks. Due to extended timeline to file TDS return by 31 July 2020 and issue TDS certificate by 15 August 2020, most banks are yet to file their TDS returns – especially the smaller branches in smaller cities and towns. Further, taxpayers are facing difficulty in getting even interest accrual certificates from banks due to shortage of staff at banks. Senior citizens are prevented by government guidelines from moving out of their homes to visit banks or any other place. This has led to situations where Form 26AS has not been updated till 31 July 2020 and the taxpayers having original due date for filing their return by 31 July, are not in a position to determine the amount of tax deducted at source and their ultimate tax liability by this date.
- b) Current circumstances are extra ordinary in nature and levying interest on the taxes due is inappropriate. The interest is generally levied to compensate the time lapse that the Government has to be face due to delay in tax payments by the tax payers. However, in the current circumstance, the delay is not on account of reasons and conditions which are in control of the tax payer. It is completely



out of control of the tax payer. Further, for any delay in payment of taxes, Government is already compensated by interest u/s 234B and additionally charging interest for delay in filing the returns defeats the very purpose of extending the deadline of filing of returns.

Our representation:

There is no justification to distinguish those having self-assessment tax above Rs.1,00,000 and those having below that. It is an unfair distinction that has been cast and that too in unprecedented times. Therefore, it is recommended that such interest u/s 234A be not levied and the second proviso be suitably amended to align the date of charging the interest u/s 234A to the due date of filing of income tax return.

2.3. Non-levy of interest u/s 234C of the Act for AY 2021-22: Since all the businesses are struggling with the cashflows, paying advance tax in a quarterly manner as laid down in the Act is a difficult possibility. Therefore, the operation of interest u/s 234C of the Act for AY 2021-22 should be suspended and payment of advance tax at time during the year should be facilitated. In any case, interest u/s 234B of the Act would continue and is levied when atleast 90% of the taxes are not paid.

3. Providing relief to tax payers from unwanted hardship

3.1. CSR contribution as deduction u/s 37: Contributions made to relief undertaken to counter Covid-19 outbreak out of CSR funds of Companies can be considered as one-time deduction u/s 37 of the Act for AY 2021-22.

3.2. Arms Length Price tolerance range: Section 92C provides for tolerance range in case of difference between transaction value and arms length price. Such tolerance range has also been notified. It is recommended that the tolerance range be increased for AY 2021-22 as under:

- Wholesale trading – 3% (Currently 1%)
- Other cases – 5% (Currently 3%)

3.3. Safe harbour rules: A one time measure to reduce the Safe Harbour rate as provided in section 92CB read with rule 10TD by 3% across board wherever rates are prescribed and wherever percentages are prescribed reduce by 100 basis points across board for AY 2021-22.



- 3.4. Secondary TP adjustment: Enhance the time available for repatriating the primary TP adjustment amount into India from the existing 90 days to 180 days for all such dates that fall within FY 2020-21.
- 3.5. Residential Status, PE and POEM: Due to lockdown and travel curbs that were imposed, a lot of individuals overstayed in certain places than they envisaged. This would result in some people becoming residents in India for tax purpose. In order to address this, Circular 11 of 2020, dated May, 8th 2020 was released, whereby it was clarified that in the case of people overstaying due to the restriction from 24th March, 2020 till 31st March, 2020 would not be considered in calculating the residential status. It is recommended that this relaxation be extended for FY 2020-21 also till a particular timeline. Further, the other consequence of this is also that people staying in India and working could also create situation of they creating a Place of Effective Management or Permanent Establishment in India, which otherwise would not have taken place. In order to avoid that, the period of time from 24th March, 2020 to such period as deemed appropriate by Government, not be counted to determine PE or POEM. Such relaxation to be only provided where the stay alone has created PE or POEM exposure, which would not have been created otherwise. This is to ensure that there is no misuse of this relaxation.
- 3.6. Clarification in relation to concessional tax regime under sections 115BAA and 115BAB - Companies opting for tax regimes under section 115BAA and 115BAB will have to claim depreciation as per prescribed manner. However, manner of claiming depreciation has not been prescribed yet and therefore, companies are not in a position to carry out a comparative analysis before opting for the new regime.

In light of the various hardships highlighted above, we sincerely request you to kindly take necessary steps – whether by way of amendment to the law or by way of issuing necessary notifications to ease the hardships.



Thanking you,

Yours sincerely,

Suhas Paranjpe
President,
Bombay Chartered Accountants' Society

Ketan Mistry
President,
**Chartered Accountants Association,
Ahmedabad**

Rasesh Shah
President,
Chartered Accountants Association, Surat

Kumar S. Jigajinni
President,
**Karnataka State Chartered Accountants
Association**

Anshul Agarwal
President,
Lucknow Chartered Accountants Society

cc. 1. Hon. Shri Anurag Thakur, Minister of State, Finance
2. Shri P C Mody, Chairman, CBDT



President
Anish Thacker

Hon. Lt. Secretary
Hareesh Karia | Nisha Gada

Vice President
Ketan Vajani

Hon. Treasurer | Hon. Past President
Parag Ved | Vipul Choksi

Date: 7th October, 2020

To,

Smt. Nirmala Sitharaman,
Hon'ble Finance Minister,
Ministry of Finance, North Block,
New Delhi 110 001.

Hon'ble Madam,

Sub: Request for Extension of Due Dates for filing Tax Audit, Transfer Pricing Audit and Income Tax Return for Assessment Year 2020-21.

The Chamber of Tax Consultants, established in 1926, is one of the oldest non-profit organizations of tax practitioners of Mumbai, having Advocates, Chartered Accountants and Tax Practitioners as its members. Many senior tax professionals who regularly appear before ITAT, High Courts and the Supreme Court are its Past Presidents. The Chamber has been making regular representations before various government agencies.

The Chamber regularly takes up initiatives to act as a bridge between stakeholders and concerned regulatory bodies in order to convey and help in resolving genuine grievances or effectively implement the laws.

Today, we have come forward with a request of extending the due dates of Tax Audit, Transfer Pricing Audit and Income Tax Return filing. Apart from others, this request is based on three major reasons being:

1. The Covid-19 Pandemic

At the outset, we commend the Government for the way the pandemic has been efficiently tackled during the various phases of lockdown and unlock. We also appreciate the extension provided for tax audit and income tax return filing up to 31st October, 2020 and 30th November, 2020 respectively.

While the country has been unlocked gradually, the spread and severity of the Corona virus has not been reduced and instead is rising each day. Amidst this, several restrictions are still in place in various States and movement is still restricted. Commuting via public buses and/or other public transport is restricted and not fully operational. The numbers of reported cases of COVID-19 are still increasing and there



President
Arish Thacker

Hon. Jr. Secretary
Harosh Kerkar | Neeta Gada

Vice President
Ketan Vajani

Hon Treasurer: Hon. Past President
Parag Ved | Vipul Choksi

is a fear among the people of getting infected due to which they prefer not travelling at all or restrict it to the vicinity of their homes for their necessity. Due to this, several industries and private offices have still not resumed functioning at all or fully. This also includes the offices of the Chartered Accountants and Tax Practitioners.

Due to this, the details required for carrying on tax audit and filing the return of income are not being received promptly and thus the audits cannot be efficiently performed. Also travelling to the place of audit is very difficult for the professionals and their staff.

Several Chartered Accountants and Tax Practitioners themselves have also been infected and have not been able to work for minimum of 14 days. Also, visiting any audit place all the more exposes them to the virus making them prone infection. Further, the senior citizens including senior professionals and senior assesseees are advised to stay at home

These hindrances are making it very difficult for the assesseees, the Chartered Accountants and the Tax Practitioners to comply with even the extended due dates.

At this juncture, we would like to appreciate that for the very same reasons that we have cited above, *i.e.* genuine difficulties being faced by the taxpayers due to outbreak of COVID-19 pandemic, the CBDT has further extended the date for filing belated and revised return of income for Assessment Year 2019-20 from 30th September, 2020 to 30th November, 2020.

2. Extension of last date of AGM

Due to the current pandemic situation, the last date of holding AGM for corporates has been extended to 31st December, 2020 by Ministry of Company Affairs. Based on this, the statutory audit can be concluded even beyond 30th November, 2020.

The tax audit can be conducted only post completion of statutory audit, post which only the income tax return can be filed by the Company. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after the filing of Transfer Pricing Report in Form No. 3CEB. Therefore, complying with the tax audit and Transfer Pricing Report due date of 31st October, 2020, and return filing due date of 30th November, 2020 seems very improbable.



President
Arish Thacker

Hon. Jr. Secretary
Harosh Kerkar | Neha Gada

Vice President
Ketan Vajani

Hon Treasurer: Hon. Past President
Parag Ved | Vipul Choksi

One may note that since the date of AGM is extended, Annual Returns by the companies will be filed only subsequently. This will delay in getting database for the purpose of comparables for the Transfer Pricing audits.

Adequate time must be provided to comply with the audit and return filing timelines in order to maintain the quality of work.

3. Delay in release of return filing utilities

The utilities for the income tax return were made available only June'20 onwards instead of April'20. Following is the chart showing the release date and the latest update date:

Sr. No.	Income Tax Return	Schema Release Date	Schema Updation Date	Utility Updation Date
1	ITR 1	June 2, 2020	June 15, 2020	July 8, 2020
2	ITR 2	June 26, 2020	September 11, 2020	September 11, 2020
3	ITR 3	July 31, 2020	August 29, 2020	September 4, 2020
4	ITR 4	June 5, 2020	July 8, 2020	August 12, 2020
5	ITR 5	August 25, 2020	-	August 25, 2020
6	ITR 6	September 22.2020		October 1, 2020 (Excel Utility) Java Utility not Released
7	ITR 7	September 3, 2020	-	September 3, 2020

Usually, the income tax returns are notified in the month of April, but due to the pandemic, the release of the returns also have been delayed on an average by 4 months.

Meanwhile, amendment to Income Tax Rules and Forms vide Income-tax (22nd Amendment) Rules, 2020 by Notification No. G. S. R. 610(E) dated 1st October, 2020, has been amended. All reports (including reports ready for signature) after 1st October, 2020 needs to be accordingly updated in new form. These amendments of new forms will further require time for the assessees and professionals to carry out the changes for the proper compliance.



President
Anish Thacker

Hon. Jr. Secretaries
Harosh Kerkar | Nisha Gada

Vice President
Ketan Vajani

Hon. Treasurer: Anis. Past President
Parag Ved | Vipul Choksi

With due respect to the above difficulties faced by the assessees and the professionals, we request your Honour to take them into consideration and extend the due dates for tax audit and transfer pricing audit to 31st January, 2021 and the Income Tax return filing to 28th February, 2021 at the earliest. The entire fraternity of taxpayer and professionals will highly appreciate if this is done soon enough (*i.e.* well in advance} to allow them to get a clarity and to focus on filing of returns of non-corporate/non-tax audit entities which would continue to be 30th November, 2020.

We look forward for your kind consideration to the genuine request.

Yours Sincerely,

For THE CHAMBER OF TAX CONSULTANTS

Sd/-

Sd/-

Sd/-

Anish Thacker
President

Mahendra Sanghvi
Chairman

Apurva Shah
Co-Chairman

Law and Representation Committee

CC: Shri Pramod Chandra Mody

Chairman CBDT

TAX BAR ASSOCIATION

Kalptaru, 1, Ashok Circle, Alwar - 301001 (Raj.)



IN THE SERVICE
OF PROFESSION

PRESIDENT
CA RAJESH KUMAR

B.Com., LLB, FCA, DISA (ICAI)
Kalptaru, 1, Ashok Circle,
Alwar - 301001 (Raj.)
Tel. 2338444, 2338443
Mob. 9414019444
E-mail: rajeshmanak@hotmail.com

SECRETARY
ADV. RAJESH SETIA

B.Sc., LL.B.
102-A, S.N. Tower, Old Station Road,
Alwar - 301001 (Raj.)
Tel. 2702080
Mob. 9413586701
E-mail: rajeshsetiaadvocate@gmail.com

1st Vice President :

● **Suresh Chand Gupta**

Advocate

B.Com., LL.B.
Off. 0144-2332580
Resi. 0144-2338169
Mob. 9414261666

2nd Vice President :

● **Pramod Kumar Jain**

Advocate

B.Com., LL.B.
Off. 0144-2701872
Resi. 0144-2338199
Mob. 9414018899

Joint Secretary :

● **CA K.K. Khandelwal**

B.Com., LL.B.
Off. 0144-2335362
Resi. 0144-2330361
Mob. 9829096290

Treasurer

● **Harbhajan Singh**

Advocate, B.Com., LL.B.
Off. 5131233
Mob. 9414639092

Members :

● **CA M.L. Agarwal**

B.Com., LL.B. FCA, DISA,
CATT
Off. 0144-2340924, 2332542
Mob. 9414215353

● **Sushil Bansal**

Advocate, B.Com., LL.B.
Off. 0144-2331153
Mob. 9414232101

● **Archana Methi**

Advocate, BA, B.Ed., LLB
Off. 0144-2342080
Mob. 9413447235

Date:-08.10.2020

Hon'able smt. Nirmala Sitaraman Ji,

Union Minister of Finance,

Ministry of Finance, Govt. of India,

North Block,

New Delhi-110001

Email id:fmo@nic.in

Respected Madam,

RE: Extension of due date for submitting Tax Audit Report and for filing IT Returns of F.Y. 2019-20.

We are thankful to you that as part of Covid 2019 relief measures various due dates for filing the IT return for F.Y. 2019-20 (A.Y.2020-21) stand extended to 30 Nov. 2020 for all types of tax payers and Tax Audit Form from Sept. 30th, 2020 to 31st Oct., 2020.

But the corona pandemic has immensely affected humans, vaccine is not yet available, the emphasis is on taking extensive precautions such as hygiene protocol, social distancing and so on. The part of the nation is still in lock down and enforcing strict quarantine to control the spread of the havoc of this highly communicable disease. There is restriction of travelling from one place to another place. At present it is very difficult for the Assessee to get the accounts audited by 31st Oct, 2020 and to file return by 30th Nov. 2020. We therefore request you for extension of due date to 31st March 2021 for filing of Tax Audit Report and IT Returns of F.Y. 2019-20 and providing great relief to the assessee in this Corona period.

Thanking you

Yours Faithfully

Rajesh Kumar
(President)
M.No. 9414019444

**TAX BAR ASSOCIATION
JODHPUR (Rajasthan)**

President**CA.Vishnu PrakashDaga**

102, Manji ka Hatha, Paota,
Opp. BSNL Office
Jodhpur-342001
Tel. (O) 2546240
M: 93147-46240
E-mail: vishnudaga@yahoo.com

Secretary**CA.Raj Bothra**

155, Patrakar Colony,
New power House Road,
Jodhpur-342003
Tel. (O) 2623707
Mobile: 93147-10770
E-mail: carajbothra@yahoo.com

Vice President**CA.RakeshBhandari**

R. Bhandari& Co.
Near Shanti Tower, Jalori Gate Bari
Jodhpur-342001
Mobile : 98290-26549
Email:rbhandarico@gmail.com

Joint Secretary**CA.Manoj Gupta**

16, ImertiyaBera
Paota C Road,
Jodhpur-342001
Mobile : 98285-10543
E-mail: gm2104@gmail.com

Treasurer**CA. Praveen Rathi**

"SHRUTIK", Opp. Footbal House,
First Lane Shakti Nagar, Poata C Road
Jodhpur-342006
Mobile : 98290-24488
E-mail: prathi4085@yahoo.co.in

Executive Members

1. Adv. BhagwanlalKhatri, 94143-84100
2. CA.MahaveerBohra98290-23868
3. Adv. Ram Vilas Soni 93147-11731
4. Adv. JagdishRathi, 94141-28450
5. CA.Surendra Chopra, 98290-24848
6. CA. Raj Kumar Jain 94133-62461
7. CA. Anil Maheshwari 98290-25014
8. CA.BalveerGehlot 94141-31095
- 9.T.P.Lavjeet Parihar91665-09877
10. CA.KapilArora 96028-40004
- 11.CA. KishoriLalSoni, 98290-28260
- 12.Adv. VinayMertia, 94141-96150
- 13.Ashok Baheti, 98290-23597

Date: 10/10/2020

To,

1) Smt. Nirmala Sitharaman
Hon'ble Union Minister of Finance & Corporate Affairs
Government of India, North Block,
New Delhi-110001

2) The Chairman

The Central Board of Direct Taxes

3) Prime Minister Office
New Delhi

4) Shri Gajendra Singh Shekhawat
Hon'ble Cabinet Minister

Hon'ble Madam,

Greetings of the Day!

Sub.: Request for Extension of due date for filing of Tax Audit reports, Transfer Pricing Audits and Income-tax returns – AY 2020-21 till 31st March 2021.

Tax Bar Association, Jodhpur hereby takes the privilege to address the concern of the members, being Chartered Accountants, Advocates and Tax Practitioners, practicing in the area of direct taxation which are of utmost importance and need to be addressed by your good office on utmost priority.

There is sufficient cause and need for extension of last date of filing Income tax Returns for a reasonable period not less than 31st March 2021.

As you are aware that all assessees who are liable to audit either under Income Tax Act, 1961 or under any other law for the time being in force are required to file their return of income and tax

TAX BAR ASSOCIATION JODHPUR (Rajasthan)

audit report by 30th November of the Assessment year 2020-21.

The assessees are also supposed to file tax audit report by 31st October, 2020.

Due to the following reasons a case is made out for extension of above date.

The Covid-19 Pandemic

At the outset, we commend the Government for efficient tackling of the pandemic using lockdown and staggered unlock as a tool. We also appreciate that the government suo motu provided extension for tax audit and income tax return filing up to 31st October, 2020 and 30th November, 2020 respectively.

The country is being unlocked gradually and as your goodself may be aware that the spread and severity of the Corona virus has not yet started to decline and instead is rising each day. Amidst this, several restrictions are still in place in various States and movement is still restricted. Commuting via public buses and/or other public transport is restricted and not fully operational. Given the increasing numbers of reported cases of COVID-19 there is a fear among the people of getting infected due to which they prefer not travelling at all or restrict it to the vicinity of their homes for their necessity. Due to this, several industries and private offices have still not resumed functioning at all or fully. This also includes the offices of the Chartered Accountants and Tax Practitioners.

Due to this, the details required for carrying on tax audit and filing the return of income are not being received promptly and thus the audits cannot be efficiently performed. Also travelling to the place of audit is very difficult for the professionals and their staff.

TAX BAR ASSOCIATION JODHPUR (Rajasthan)

Several Chartered Accountants and Tax Practitioners themselves have also been infected and have not been able to work for minimum of 14 days. Also, visiting any audit place all them or exposes them to the virus making them prone infection. Further, the senior citizens including senior professionals and senior assessees are advised to stay at home

These hindrances are making it very difficult for the assessees, the Chartered Accountants and the Tax Practitioners to comply with even the extended due dates.

Extension of due date for assessment year 2019-20

Recently, on the 30 th day of Septemeber , 2020 the CBDT has extended the date for filing belated and revised return of income for Assessment Year 2019-20 from 30th September, 2020 to 30th November, 2020, that too suo motu. We appreciate the step taken by CBDT in the interest of taxpayer community.

Extension of last date of AGM

Ministry of Company Affairs has extended the last date of holding AGM for corporates to 31st December, 2020 only due to pandemic. Based on this, the statutory audit can be concluded even beyond 30th November, 2020.

Madam, you may please note that the tax audit can be conducted only post completion of statutory audit, post which only the income tax return can be filed by the Company. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after the filing of Transfer Pricing Report in Form No. 3CEB. Therefore, complying with the tax audit and Transfer Pricing Report due date of 31st October, 2020, and return filing due date of 30th November, 2020 seems

**TAX BAR ASSOCIATION
JODHPUR (Rajasthan)**

very improbable.

Tax Bar Association is of the belief that in a democratic country, the People of the country are the supreme authority and it is confident that the Government will not suppress the concerns of its People. We understand that the Govt. is well aware of the above facts and will definitely consider the above representation of date extension. We are rather confident that the Government will suo moto extend the dates and that too well before last date.

We would be thankful if your goodself judiciously extend the date well in advance which will keep the professionals and the assessees relieved from stress and movement in this current pandemic situation and would be effective and meaningful.

**Yours Faithfully,
A Definite Partner in Nation Building
Tax Bar Association, Jodhpur**

Sd/-
CA. Vishnu Prakash Daga
President

Sd/-
CA. Manoj Gupta
Joint Secretary

Sd/-

CA. Raj Bothra
Secretary



Udaipur Tax Bar Association

(Established in 1951)
2019-2020

President:

Amit Tiwari

335, Emerald Tower,
Udaipur (Raj.)- 313001
98290 33161 (M)
0294-2426024(O)
E-mail: amittiwari1965@yahoo.com

Secretary:

Chandra Prakash Baldi

54, Indraprastha Complex,
Outside Delhigate,
Udaipur (Raj.)- 313002
94141 69156 (M)

E-mail: cpbaldi74@gmail.com

Hon'able Smt. Nirmala Sitaraman Ji,
Union Finance Minister,
Ministry of Finance, Govt. of India,
North Block,
New Delhi – 110001
Email ID – fmo.nic.in

10.10.2020

Respected Mam,

Re : Further Extension of due dates for filing of both Income Tax Returns & Tax Audit Reports for F.Y. 2019-20 (A.Y. 2020-21)

We are grateful to you that due to the ongoing pandemic various due dates including filing of Income Tax returns for F.Y. 2019-20 (A.Y. 2020-21) have been extended till 30th Nov, 2020 (irrespective of type of taxpayer) and filing of Tax Audit reports till 31st Oct. 2020 under Covid-19 relief measures.

However, looking at the current scenario country is still fighting from the pandemic which has vastly affected the nation as a whole. Such a situation has led to high emphasis on taking various precautions in order to maintain hygiene along with social distancing. Therefore it has been quite difficult for the assessee to get his accounts audited and returns filed till the revised due dates.

Hence, as professionals and responsible citizens, we would like to request you for further extension of due dates to 31st Mar. 2021 for filing of both Income Tax returns and Tax Audit reports for F.Y. 2019-20 (A.Y. 2020-21) and providing aid to the assesses under such a challenging period.

Thanking You,
Yours Sincerely,
For UDAIPUR TAX BAR ASSOCIATION

[Amit Tiwari]
President



To,
Ms. Nirmala Sitharaman
 Union Finance Minister of India
 15, Safdarjung Road,
 New Delhi – 110029
 E-mail id: fmo@nic.in

Respected Madam,

Sub: Direct Tax Laws- Request for extension of due date of filing of Tax Audit Report & Income Tax Return for A.Y.2020-21- delay in notification of ITR forms/release of schema and Covid-19 pandemic
Ref: Notification No. 82/2020/F. No. 370142/30/2020-TPL/ dated 1.10.2020 issued by Central Board of Direct Taxes [CBDT] amending Tax Audit Report [form 3CD & ITR Forms]

About Associations

1. **Income Tax Bar Association, Ahmedabad (ITBA)** is first professional association founded in 1947 comprising of Tax Professionals, Advocates & Chartered Accountants, with membership strength of 950 from all over Gujarat. **Chartered Accountants Association, Ahmedabad (CAA)** is carrying on the activities of imparting technical guidance to the Chartered Accountants and engaged in research activities in the field of accounting, tax & allied laws, since 1949. It has dedicated membership of more than 1600 Chartered Accountants from all over Gujarat and India. **All Gujarat Federation of Tax Consultants (AGFTC)** founded in the year 1992, is the apex Regional Body of Advocates, Chartered Accountants & Tax Practitioners of Gujarat, having membership strength of more than 1400 professionals and institutional membership across 34 districts of Gujarat.

Above associations are non-profit organizations of Tax Practitioners having membership of many Senior Tax Professionals, who regularly appear before ITAT, High Court and Supreme Court. The prime objective of these associations is not only to work for the cause of its professionals but also educate the public at large and to act as a catalyst between Citizens & Government Authorities.

Goal of Ease of Living

2. Hon. Prime Minister has laid before the government, Ease of Living as a goal to be achieved on behalf of all citizens. An important aspect of both Ease of Living and Ease of Doing Business, is fairness and efficiency of tax administration. Finance Ministry has always endeavored to reassure taxpayers that they remain committed to taking measures so that citizens are free from harassment of any kind.

Covid-19-Pandemic

3. This year entire planet has witnessed nightmare year of 2020 since the WHO declared corona virus (Covid-19) as a pandemic on 11.03.2020. India declared complete lockdown of more than 70 days, even today we are battling our way out of pandemic, as number of cases are not flattening/coming down. Due to risk of Covid-19 many business houses are either completely shut or working with lower capacity with limited manpower & staff, due to further restriction imposed by the States or Local Authorities. Unexpected fall out of pandemic & continuous lockdowns have not only resulted into squeeze in businesses but, on individual level, there has been pain of loneliness, illness, fatigue, mental & emotional stress for many victims of virus and their families. The commutation through Public Transportation is not fully operational. Due to fear of getting infected people avoid travel for longer distances or use of public transport. Several Tax Professionals & Chartered Accountants, themselves have been infected. Due to this staff, articles assistants, who are backbone of doing the tax audit work and preparation of tax audit reports/I.T. returns are not able to regularly attend office of Tax professionals/Chartered Accountants. Even clients are facing the similar limitations/restrictions. Till date we are not optimistic about, when these days will be over and we will be allowed to function normally.

Gujarat vs. Other states

4. As on date more than 70 lakhs corona cases have been detected across the country. Out of these cases, Gujarat's tally has crossed the mark of 1.51 lakhs. The major share of cases & deaths are contributed by 8 Municipal Corporations of Gujarat, including Ahmedabad, Vadodara, Surat, Rajkot, Bhavnagar, Jamnagar, Junagadh and Gandhinagar. Even State administration admits that things are not anyway near normal, keeping in view Unlock 5.00 Guidelines.

Proactive Extension of various statutory due dates by Govt.

5. Though, Government has remained pro-active by extending various statutory due dates for different compliances under various laws. The statutory dates for filing of return of income for various categories of assessees are extended from 31.07.2020/30.09.2020 to 30.11.2020 and due date for filing of declaration under VVS scheme is also extended from 31.03.2020 to 31.12.2020. However the due date of filing Tax Audit Report for assessees, whose accounts are required to be audited is extended just for one month from i.e. 30.09.2020 to 31.10.2020.

Recent CBDT Notification dated 1.10.2020 making amendments in Tax Audit Report/Forms

6. Recently Central Board of Direct Taxes [CBDT] has issued Notification No. 82/2020 [F.No. 370142/30/2020-TPL] dated 1.10.2020 making extensive amendments in the rules by introducing Form No. 10-IE [for exercise/withdrawal of option u/s 115BAC(5)(i)] & Form No. 10-IF [for exercise of option u/s 115BAD(5)] and amendments relating to section 115BA, 115BAA, 115BAB. The consequential amendments are made in Form No. 3CD [Statement of particulars to be furnished u/s 44AB] by insertion of various clauses. These changes are made operative in relation to the tax audit of accounts of F.Y. ended on 31.03.2020, due date of furnishing the Tax Audit Report for these cases fall on 31.10.2020.
7. The above amendment in Form No. 3CD/ITR forms are required to be explained to the tax payers to facilitate the compilation of required data & complete reporting. Tax auditor is also tasked to furnish the opinion on

certain interpretational issues involving detailed verification, compilation of voluminous data & in particular, relating to reporting in adjustment of WDV of assets & carry forward of losses chart. The Institute of Chartered Accountants of India, apex body of Chartered Accountants is required to upgrade the guidance note on revised form no. 3CD in order to ensure uniformity in reporting.

Delay in release of utilities required for preparation of ITR Forms

8. Normally ITR forms/TAR Form/ Schema & Validation rules are expected to be provided in the month of April. But due to Covid-19 Pandemic, utilities required for furnishing the data in ITR Forms No. 3, 5, 6 & 7 used by assessees, required to furnish the Tax Audit Report are provided on 30.09.2020 and 1.10.2020 and Java utility for preparing Form no. 6 is provided on 10.10.2020. The Schema/Validation Rules for uploading form no.3CD electronically were last updated on 25.08.2020. Any user who file e-return will have to create an XML file based on the schema. The schema is needed by those, software companies and organizations who wish to use this code to help create their own software utility for filling up these forms. Due to frequent changes in schema or utility, third party services providers will have to upgrade their software which may take about 5 to 6 days to upgrade, depending upon nature of change.

With the issue of above stated notification on 1.10.2020, amending the ITR Forms and Form 3CD-Tax Audit Report, further amendments in Microsoft Excel, Java utilities & ITR Schema/Validation rules will have to be provided by the Income Tax Department.

9. **Hon. Gujarat High Court in the case of All Gujarat Federation of Tax Consultants V. CBDT [SCA No.12656 of 2014]** while extending the due date for filing Tax Audit Report in relation to A.Y. 2014-15, observed that any introduction or new utility/ software with additional requirement in the middle of the year, ordinarily is not desirable. Any change unless inevitable, can be planned well in advance. Keeping in focus such comprehensive process re-engineering may result in undue hardship to the stake holders.

Again in the case of **All Gujarat Federation of Tax Consultants V. CBDT [SPL No. 15075 of 2015]**, while extending the due date of filing Tax Audit Report in relation to A.Y. 2015-16 for one month, also directed the Board, that forthwith the respondents shall henceforth, endeavor to ensure that the forms and utilities for e-filing of income tax returns are ordinarily made available on the 1st day of April of the assessment year. Rule is made absolute to the aforesaid extent. Hon. Court, further observed that the Board is expected to exercise the discretionary powers vested in it under section 119 of the Act to ameliorate the difficulties faced by the assessees on account of no default on their part. The Board should not create a situation whereby the assessees are required to knock the doors of the court year after year, more so, when on account of the delay on the part of the respondents, it is the assessees who would have to face the consequences of not filing the returns in time.

Request for extension of due date for filing TAR/ Relevant ITR Forms

10. Though, due to Covid-19, CBDT has extended the due date for filling Tax Audit Report from 30th September to 31st October 2020, in case of assessees, who are required to get their books of account audited. It is requested that CBDT shall exercise the discretionary power vested in it under section 119 of the Act by extending the due date of 31st October, 2020 at least for three months, up to 31st January, 2021 both for filing ITR and Tax Audit Reports in case of assessees whose accounts are required to be audited, to ameliorate the difficulties faced by whole business community and professional fraternity due Covid-19 Pandemic situation and on account of delay in notifying the amended rules/forms/return preparation utilities by CBDT, otherwise it would be assessee who would have to face the consequences of non filing the Tax Audit Report/ITR in time.
11. The Ministry of Corporate Affairs, responding to various representations from the Companies, Industry Bodies and Professional Institutes, due difficulties faced in view of Covid-19 Pandemic, has given extension to companies for holding Annual General Meeting for the period of 3 months.

12. At the association level, tax professionals will highly appreciate if extended due dates are notified immediately, well in advance, that will allow them to focus on filing of ITRs in cases where accounts are not required to be audited. We assure all our support & co-operation in guiding the taxpayers in fulfilling their compliance obligations, making honest & full disclosure as per applicable tax law in timely manner.

Thanks & Regards,

Yours Truly,

Bharat L. Sheth
President-AGFTC

Adv. Ashutosh R. Thakkar
President-ITBA

Ketan Mistry
President-CAA

Adv. Dhiresh T. Shah
Chairman Rep Comm.-AGFTC

CA. Bakul Shah
Chairman Rep Comm.-ITBA

CA. Ajit C. Shah
Convenor-L/R Com of CAA

CA. S. K. Sadhwani
Chairman-Legal & Rep. Committee [Direct Taxes] of CAA
Co-Chairman-Rep. Committee [AGFTC & ITBA]

Ahmedabad

Dated: 12.10.2020

Copies To: (Respected Sirs, with a request to do needful in the matter)

1. **Hon. Minister of State for Finance,**
North Block, Parliament Street.
New Delhi – 110001
E-mail: mosfinance@nic.in
2. **Hon. Chairman**
Central Board of Direct Taxes,
Ministry of Finance,
North Block, Parliament Street.
New Delhi – 110001
Email: chairmancbdt@nic.in

3. **Joint Secretary, Tax Policy and Legislation**
Ministry of Finance,
North Block, Parliament Street.
New Delhi – 110001
E-mail: mosfinance@nic.in
4. **Pr. Chief Commissioner of Income Tax, Gujarat (CCA)**
Aayakar Bhavan,
Ashram Road,
Ahmedabad-380009
Email ID: ahmedabad.pccit.incometax.gov.in

ALL GUJARAT FEDERATION OF TAX CONSULTANTS

303, B wing, Pratyaksh Kar Bhavan,
Nr. Panjrapole, Ambawadi, Ahmedabad-380 015.
Ph.: +91 9825 5652 82
Email: sec.agftc@gmai.com

TAX CONSULTANT'S ASSOCIATION, JAIPUR

B-145-B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur-302015
Phone- 0141-2704697, E.Mail- jaipurtca@gmail.com



President

Natwar Sarda

S-4, Gordhan Enclave,
Bhawani Singh Road,
Jaipur-302004
(o) 0141-2228131
(M) 9414053388
Natwarca@gmail.com

Secretary

CA. G.C.JAIN

F-1,Kuber,H-21A
Bhagat Singh Marg,
C-Scheme, Jaipur-302001
(O) 0141- 2360198
(M) 9414077196
gciainf1@yahoo.co.in

Dy. President

CA. Manish Agarwal

,H-8, Chitranjan Marg,
C-Scheme,
Jaipur-302001
(O) 0141- 419000
(M) 9414044020
camanishagarwal@rediffmail.com

VICE-PRESIDENT:

Adv . Tarun Sharma
9314974912

JT. SECRETARY:

CA. Mahendra Kumar Modi
9414240839
CA. Rakesh KuamrLohiya
9928532031

TREASURER:

CA. Kamal Kumar Jain
9782555151

EXECUTIVE MEMBERS:

CA. Aashish Jain
9828505753
Adv. Chetan Agarwal
9602324157
CA. Gauri shankarDhamani
9314519155
CA. Hemant Kaushik
9555721811
CA. Mohit Patni
9829135856
CA. Rohit sharma
7737275309
CA. Rohit Natani
9887351993
CA. Sanjay Khandelwal
9314099350
CA. Shyam Sunder Maheshwari
9783368645
CA. Suman Bhalla
9829747888
CA. sunilKhandal
9829099350
CA Gautam Sharma
9829032565
CA Rohit Ruwatia
9571799999
CA. Pankaj Sharma
9636025021
ADV. Vinay Jolley
9414043300
CA. Parul Gupta
6376395280
CA Jitendra Agrawal
9694008325

EX-OFFICIO MEMBERS:

CA.Abhishek Sharma
9414225353
CA. Satish Gupta
9828012935
CA.P. C. Parwal
9829888804

Hon'ble Smt. Nirmala Sitharaman Ji

Union Minister of Finance,
Ministry of Finance,
Govt. of India,
New Delhi-110001
Email id: fmo@nic.in

Respected Madam,

RE: Extension of due date for submitting Tax Audit Report and for filing IT Returns for AY 2020-21

We are thankful to you that as part of Covid-19 relief measures various due dates for filing IT Returns for F.Y. 2019-20 (AY 2020-21) stand extended to 30th Nov. 2020 for all the tax payers and Tax Audit Form from Sept. 30th, 2020 to 31st Oct.,2020.

However, the corona pandemic has immediately affected humans, vaccine is not available, the emphasis is on taking extensive precautions such as hygiene protocol, social distancing and so on. Most of the offices, including the office of the members of the organisation, have not been functioning regularly or functioning with very limited staff, mostly young and less experienced. Likewise, the offices of the taxpayers whose account needs to be audited under the Income-tax Act, are also not functioning normally and the required information for tax audit as also for subsequent filing of the Income-tax returns has not been forthcoming.

Under such an immense mental pressure, it has become much difficult in compliance of filing tax audits and uploading returns. If preparing, compiling and reconciling correct tax data is required, we need sufficient time.

Though the CBDT has extended the due dates for filing of the IT Returns, but considering the nation-vide situation, it is very unlikely that the assessee would be in position to get the accounts audited by 31st Oct. 2020 and file the return by 30th Nov. 2020. **We therefore requested that CBDT shall also exercise discretionary power vested u/s 119 of I.T Act 1961 by extended the due date to 31st March 2021 to ameliorate the difficulties faced by assessee in this corona period.**

We look forward to your compassionate response.

Your truly,

For: Tax Consultant's Association, Jaipur

CA H M Singhvi
(chairman Representation Committee)

CA Natwar Sarda
(President TCA)

CA Suhani Maharwal
(Convenor Representation Committee)



TAX PRACTITIONERS' ASSOCIATION, INDORE

email : contact@tpaindore.com

Tax Practitioners' Association Hall,
Room No. 17, Ground Floor,
Aaykar Bhawan (Main Building),
Opp. White Church, INDORE (M.P.)
Phone : 2499199

Website : www.tpa-indore.com

President :

CA. Manoj Gupta
Ph. (O) 2525774
(M) 98260-10100

Vice President :

CA. Shailendra Singh Solanki
Ph. (O) 4263270
(M) 98260-52321

Hon. Secretary :

CA. J.P. Saraf
Ph. (O) 2534493
(M) 94250-59619

Secretary- State GST :

CA. Kirti Joshi
Ph. (O) 4222583
(M) 97539-74737

Secretary- Central GST

CA. Krishan Garg
Ph. (O) 2520604, 4225588
(M) 98260-52060

Joint Secretary :

CA. Manoj P. Gupta
Ph. (O) 2436510, 4065159
(M) 98270-26540

Treasurer :

CA. Pranay Goyal
Ph. (O) 2701279
(M) 99777-87773

Immediate Past President :

CA. Vikram Gupte
Ph. (O) 2514448, 2527716
(M) 98260-27717

Executive Members :

CA. Swapnil Jain
Ph. (O) 4040408
(M) 94250-57004

CA. Sunil P. Jain
Ph. (O) 2510731
(M) 98260-49479

CA. Abhay Sharma
Ph. (O) 4292948
(M) 98270-67732

CA. Manish Dafria
Ph. (O) 2526142
(M) 98260-46463

CA. Abhishek Gang
Ph. (O) 2402104
(M) 98260-18475

CA. Sanket Mehta
Ph. (O) 4044911
(M) 97546-22966

CA. Dr. Pramod Garg
Ph. (O) 4082700
(M) 94247-46000

CA. Bharat Agarwal
Ph. (O) 4035423
(M) 98933-99744

CA. Som Singhal
Ph. (O) 2401054
(M) 82510-51000

To,
Smt. Nirmala Sitharaman,
Ministry of Finance,
North Block, New Delhi 110 001.

13th Oct, 2020

Hon'ble Madam,

Sub: Request for Extension of Due Dates for filing Tax Audit, Audit Reports under Income Tax Act and ITR for Assessment Year 2020-21.

Tax Practitioners Association (TPA), Indore having Advocates, CA's, CS and Tax Practitioners as its members with over 550 members. The TPA regularly takes up initiatives to act as a bridge between stakeholders and concerned regulatory bodies in order to convey and help in resolving genuine grievances or effectively implement the laws.

Today, we have come forward with a request of extending the due dates of Tax Audit, Transfer Pricing Audit, various other Audit Reports under Income Tax Act and Income Tax Return filing for AY 2020-21.

Apart from others, this request is based on following major reasons being:

- 1. The Covid-19 Pandemic and its effect on professional work:** At the outset, we are in the various phases of lockdown and unlock. As the spread and severity of the Corona virus has not been reduced and instead is rising each day. Amidst this, several restrictions are still in place in various States and movement is still restricted. Commuting via public buses and/or other public transport is restricted and not fully operational.

Due to this, several industries and private offices have still not resumed functioning at all or fully. This also includes the offices of the Tax Advocates, CA's, Tax Practitioners etc. resulting the details required for carrying on tax audit and filing the return of income are not being received promptly and thus the audits cannot be efficiently performed. Further also travelling to the place of audit is very difficult for the professionals and their staff.

Several our members have also been infected and have not been able to work for minimum of 14 days which extends to a month due to post Covid-19 health recovery. Also, visiting any audit place all the more exposes them to the virus making them prone to infection. Further, the senior citizens including senior aged professionals and senior aged assessee are advised to stay at home. These hindrances are making it very difficult for the assessee, the Tax Advocates, CA's and the Tax Practitioners to comply with even the presently extended due dates. We would like to appreciate that for the very same reasons that we have cited above, i.e. genuine difficulties being faced by the taxpayers due to outbreak of COVID-19 pandemic, the CBDT has further extended the date for filing belated and revised return of income for Assessment Year 2019-20 from 30th September, 2020 to 30th November, 2020 in addition to Tax audit and income tax return filing up to 31st October, 2020 and 30th November, 2020 respectively, initially.

Cont...



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Room No. 17, Ground Floor,
Aaykar Bhawan (Main Building),
Opp. White Church, INDORE (M.P.)
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email : contact@tpaindore.com

2

Website : www.tpaindore.com

President :

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(M) 97546-22966

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(M) 94247-46000

CA. Bharat Agarwal
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(M) 98933-99744

CA. Som Singhal
Ph. (O) 2401054
(M) 82510-51000

2. Extension of last date of AGM due to the current pandemic situation: the last date of holding AGM for corporates has been extended to 31st December, 2020 by MCA resulting, the statutory audit can be concluded even beyond 30th November, 2020. The tax audit can be conducted only post completion of statutory audit, post which only the income tax return can be filed by the Company. In a case where the Transfer Pricing audit is also applicable, the return shall be filed only after th

3. e filing of Transfer Pricing Report in Form No. 3CEB. One may note that since the date of AGM is extended, Annual Returns by the companies will be filed only subsequently. This will delay in getting database for the purpose of comparable for the Transfer Pricing audits.

Therefore, complying with the tax audit and Transfer Pricing Report due date of 31st October, 2020, and return filing due date of 30th November, 2020 seems very improbable.

4. Delay in release of return filing software utilities: The utilities for the income tax return were made available only June'20 onwards instead of April'20 and latest on 3rd Sept,2020 for ITR 6. Usually, the income tax returns are notified in the month of April, but due to the pandemic, the release of the returns also have been delayed on an average by 4 to 5 months.

5. Recent Amendment in Income Tax Rules & forms: Meanwhile Income Tax Rules and Forms vide Income-tax (22nd Amendment) Rules, 2020 Dt.1st Oct, 2020, has been amended. All reports (including reports ready for signature) after 1st Oct, 2020 needs to be accordingly updated in new form. These amendments of new forms will further require time for the assessee and professionals to carry out the changes for the proper compliance.

REQUEST: With due respect to the above difficulties faced by the assessee and the professionals, we request your Honour to take them into consideration and extend the due dates for tax audit, transfer pricing audit and other audit reports under income tax act as under:

Returns /Audit Reports	Present Due Dates	Requested Due Dates
Tax Audit	31 st Oct.,2020	31 st Jan,2021
Income Tax Return	30 th Nov.,2020	28 th Feb,2021

The entire fraternity of taxpayer and professionals will highly appreciate if this is done soon enough (i.e. well in advance) to allow them to get a clarity to. We look forward for your kind consideration to the genuine request.

Yours Sincerely,

For Tax Practitioner's Association, Indore

Sd/- Sd/-
(CA Manoj Gupta) (CA J.P. Saraf)
President Hon. Secretary

CC: Chairman CBDT, New Delhi.

All India Federation of Tax Practitioners (CZ)



(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

Regd. Office : 215, Rewa Chambers, 31, New Marine Lines, Mumbai 400 020.
Tel: 022-2200 6342 / 49706343 | Telefax: 022-2200 6343 | E-mail: aiftp@vsnl.com | Website: www.aiftponline.org

CHAIRMAN
VINAY KUMAR JOLLY
(O) 2571300
M: 9414043300
E-mail:
jolly0150@yahoo.com

VICE PRESIDENT
RAJESH MEHTA
(O) 731 2520111
(M) 9827036956
E-mail:
rajeshmchta_Indore@yahoo.com

CHIEF ADVISOR
PANKAJ GHIIYA
(O) 0141 2621679
(M) 9829013626
E-mail:
pankaj.ghiiya@hotmail.com

SECRETARY
BANDEEP AGRAWAL
(O) 0141-2375777
M: 9414242195
E-mail:
bandeepjalpur32@gmail.com

NATIONAL PRESIDENT
Nikita Badheka, Mumbai
NATIONAL SECRETARY GENERAL
Samir Jani
NATIONAL TREASURER
Chirag Parikh
NATIONAL VICE PRESIDENT (CZ)
Rajesh Mehta, Indore
VICE CHAIRMANS
Anil Mathur (Rajasthan)
Arvind Mittal (Chattisgarh)
TREASURER
Deepak Khandelwal, Jaipur
JT. SECRETARY
Ajay Soni (Jodhpur)
Neeraj Agarwal (Jabalpur)
Executive Member
Anubhav Chandel, Jaipur
Ashok Jangid, Jodhpur
Azizudin, Jaipur
Belvant Rao, Jalore
Chandra Prakash Ladha, Pali
Deepak Garg, Jaipur
Dinesh Vijay, Jaipur
Gangaprasad Gupta, Gangapur
Jitendra Mishra, Rewa
Mahendra Gargiyea, Jaipur
Milind Vijayvargiya, Kota
Murari Lal Gupta, Alwar
Naresh Motwani, Jaipur
Neeraj Jain, Kota
Praveen Rathi, Jodhpur
Raj Kumar Jain, Jodhpur
Raj Thakur, Kota
Rambabu Vijay, Jaipur
Sanjay Ghiya, Jaipur
Sanjay Kumar Shah, Jaipur
Sunil Agarwal, Udaipur
Vikram Gogro, Jaipur
Vinod Patni, Jaipur

NEC Members
Pankaj Ghiya, Jaipur
Rajesh Joshi, Indore
Rajesh Mehta, Indore
D C Mali, Jodhpur
Hemant Modh, Jabalpur
Vijay Kr. Navalkha, Ujjain

Patrons
M L Patodi, Kota
Ganesh Purohit, Jabalpur
H M Singhvi, Jaipur
O P Agarwal, Jaipur
Satish Gupta, Jaipur
Ratan Goyal, Jaipur
G P Singh, Bhilwara

**ETHICS
EDUCATION
EXCELLENCE**

To,
Smt. Nirmala Sitharaman,
Union Finance Minister,
Government of India,
New Delhi

Reg.: Request to extend the date of filing of Income Tax Audit Report for the financial year 2019-20 to 31st December, 2020.

Respected Madam,

We wish to bring to your kind attention that the due date for filing of Income Tax Audit Report for the Financial year 2019-20 is 31st October, 2020. The Audit Forms has been notified very recently and due to Covid Pandemic there is restricted working and it is very dangerous right now to call the office staff and the clients. The Professionals cannot be expected to work in this dangerous situation.

We request that looking to the circumstance and looking to the government guidelines regarding gradual reopening of offices etc. the time limit for filing of Income Tax returns and Income Tax Audit Report may kindly be extended till 31st December, 2020.

Sincerely yours,

VINAY KUNAR JOLLY
Chairman, AIFTP, CZ

Dated: 13.10.2020

www.taxguru.in

Tax Bar Association

BHILWARA – 311 001 (RAJ.)

President:
CA ATUL KUMAR SOMANI
115, Bhilwara Textile Market, Bhilwara (Raj.)
Ph. 01482-247759
M. 9829126375
EmailID:
caaksomani@gmail.com

Secretary:
CA AMIT KUMAR SETH
120, First Floor, HeeraPanna Market, Pur Road, Bhilwara (Raj.)
Ph. 01482-246754
M. 9413861390
EmailID:
casethamit@gmail.com

Treasurer:
CA ANKIT LAKHOTIYA
3, Hare-Krishna Tower
Rajendra Magr Road Bhilwara (Raj.)
Ph. 01482-232328
M. 8003619872
EmailID:caaklakhotiya@gmail.com

Date: 14th Oct. 2020

To,
Smt. Nirmala Sitaraman
Hon'ble Finance Minister,
Ministry of Finance,
Government of India,
North Block,
New Delhi 110 001

Subject: Request for extension of Due Date of filing of Tax Audit and Income Tax Return for Assessment Year 2020-2021 due to COVID 19 Pandemic.

Respected Madam,

The Tax Bar Association Bhilwara is organization of tax practitioners of Bhilwara having Advocates, Chartered Accountants and Tax practitioners with more than 200 members.

At the outset, we would like to convey our sincere thanks and gratitude to the Government for the way the pandemic has been efficiently tackled. Also to the Finance Ministry to provide extension of due dates of filing tax audit and income tax return filing upto 31 October 2020 and 30 November 2020 vide notification no. S.O. 2033(E) dated 24th June 2020 considering the COVID 19 conditions.

You goodself would also appreciate that the extension was granted in JUNE 2020 with a positive thought that the impact of pandemic COVID19 will subsidize by the end of the year. However, as you are aware, COVID 19 situations have not improved and there are still several areas under strict lockdowns and curfews. There are several cases being report on daily basis. Bhilwara has been receiving hundreds of cases on daily basis with more than 7000 cases reported. Due to COVID19, many businessmen, accountants and tax professionals have been under quarantine and have suffered from COVID 19.

www.taxguru.in

Tax Bar Association

BHILWARA – 311 001 (RAJ.)

President:
**CA ATUL
KUMAR SOMANI**
 115, Bhilwara Textile
 Market, Bhilwara (Raj.)
 Ph. 01482-247759
 M. 9829126375
 EmailID:
 caaksomani@gmail.com

Secretary:
**CA AMIT KUMAR
SETH**
 120, First Floor,
 HeeraPanna Market, Pur
 Road, Bhilwara (Raj.)
 Ph. 01482-246754
 M. 9413861390
 EmailID:
 casethamit@gmail.com

Treasurer:
**CA ANKIT
LAKHOTIYA**
 3, Hare-Krishna Tower
 RajendraMagr
 RoadBhilwara (Raj.)
 Ph. 01482-232328
 M. 8003619872
 EmailID:caaklakhotiya@
 gmail.com

Further, several industries and private offices have been working with limited staff. Due to this, the details required to carrying on tax audit and filing of the tax return of income are not being received promptly. Also travelling to the place of audit is very difficult for the professionals and their staff.

These bottlenecks are making it difficult for the assessee, the accounts and the tax professionals to comply even with the extended due dates.

In view of the above genuine difficulties being faced by tax payers and tax practitioners due to outbreak of COVID 19 pandemic, we would request you to further extend the due date of filing tax audit report to 28 February 2021 and Income tax return filing to 31 March at the earliest. The entire fraternity of tax payers and professionals will highly appreciate if this is done soon enough (i.e. well in advance).

We hope your honour shall take positive action to resolve the problems faced by the members. We look forward to your kind support and cooperation.

Thank you

For: **Tax Bar Association, Bhilwara**

Sd/- President (CA Atul Somani)	Sd/- Secretary (CA Amit Kumar Seth)	Sd/- Treasurer (CA Ankit Lakhotiya)
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Cc: 1.Hon'ble Chairman CBDT, New Delhi
 2.The CCIT, Udaipur
 3.The JCIT, Range-2, Ajmer



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



CA. Kumar S Jagannath
President, KSCAA

CA. Pramod. Srivari
Secretary, KSCAA

Date: 15th October 2020

Smt. Nirmala Sitharaman
Hon'ble Minister of Finance
Government of India
15, Safdarjung Road
New Delhi - 110001

Hon'ble Madam,

Subject - REMINDER - Request for taking up certain matters under the Income-tax Act, 1961 in the backdrop of COVID-19 Pandemic

This letter is in continuation to earlier joint representation dated 23rd September 2020 by Karnataka State Chartered Accountants Association (KSCAA) along with Bombay Chartered Accountants' Society Mumbai, Chartered Accountants Association Ahmedabad, Chartered Accountants Association Surat and Lucknow Chartered Accountants Society Lucknow.

The relevant extract of the joint representation which beseeches various relief measures in backdrop of Covid-19 outbreak *inter-alia* include request for an extension of timelines in the matter of filing return of income u/s 139(1) and submission of tax audit report u/s 44AB.

1. Easing of Compliance

1.1. Extension of timelines for filing of returns under section 139(1) of the Act

Current position: the deadline for filing the return of income for FY 2019-20 (AY 2020-21) was extended vide Notification No 35/2020 dated 24 June 2020 from its original deadlines. Subsequent to such extension, the dues dates stand as under:

Particulars	Due date
Income tax returns for all tax payers (including where audit under the Income-tax Act or any other Act is applicable) for AY 2020-21	30 th November, 2020
Tax audit report submission for AY 2020-21	31 st October, 2020



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



Further to various issues that we have highlighted in our earlier joint representation, we now would wish to bring to your kind consideration some of the hard and challenging issues which are prevailing in the state of Karnataka. We would therefore implore to your good selves to kindly take cognizance of the issues elaborated below and provide appropriate extension in the matter of due dates for filing of return of income and submission of tax audit report for AY 2020-21:

- **COVID-19 situation:** On account of COVID-19 pandemic, the 'State' death toll has exceeded 10,000 as on 12.10.2020, making it the 3rd state in India after Maharashtra and Tamil Nadu, to record deaths over 10,000. The number of new COVID positive cases per day is also constantly above 10000-mark in Karnataka. Given this alarming rate of COVID spread, we are sure that the Government would advise citizenry to exercise maximum precautions by staying indoors so as to contain the spread of the deadly virus;
- **Floods** - Flood-like situation, landslides continue to cause havoc in certain districts of Karnataka. The State Government has estimated Rs. 8,000 crore damage and has sought Centres assistance. This situation has also crippled the activities and regular course of business / life;
- **Due date for Company statutory audit** - The Ministry of Corporate Affairs has extended the time period for conducting Annual General Meeting ("AGM") for the FY 2019-20 from 30th September 2020 to further 3 months, i.e. 31st December 2020. This was a much needed relief for companies which are not in a position to finalize their accounts and get them audited owing to covid-19 pandemic. In case Government do not provide consequential extensions in the matter of filing Tax audit reports and filing of return of income for AY 2020-21, it would cause undue hardship and thereby it would be hard & challenging for companies to finalise their accounts and get them audited before 30th October 2020 in order to file tax audit reports and file return of income before 30th November 2020. Thereby, the non extension of due date in Income Tax



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



would only prove that the extension provided by MCA is futile and of no relevance to companies

- **The limitation period for scrutiny/order / etc extended to March 2021:** Pursuant to the amendment to section 153 of the Income Tax Act, 1961 for the AYs commencing on 01-04-2018, the due date for completion of assessment proceedings is 18 months from the end of the AY i.e. September 2020. We note that the same has been extended to March 2021. We are of considered opinion that when the regular assessment proceedings itself is difficult in these pandemic times, then self-assessment / fresh tax audit / such other primary compliances which by nature are more laborious are also equally difficult to complete in time. And hence this equally merits for extensions.;
- **Various due dates under the provisions of the IT Act have been extended:** It is relevant to note that various relaxations provided via Ordinance 2020 in terms of extension of statutory timelines, reduction of TDS and interest rates, waiver of penalty, etc. have now been incorporated in Taxation and Other Laws (Relaxation & Amendment of Certain Provisions) Act, 2020, and the due date stands extended. However, the due dates with respect to filing of return of income and filing of tax audit reports for the AY 2021-22 have been saved from extension;
- **Parliament and Assembly session curtailed:** Considering the gravity of the above situation, Karnataka Assembly recent session was curtailed to only 6 days. Even the Parliament's recent session was curtailed citing reasons of rapid spread and absenteeism due to COVID. When it has become so difficult to even undertake sovereign functions of the Government, the plight of common citizens of the country should also be given equal cognizance;
- **Clashes with other compliance dates:** It is brought to your kind notice that CBDT had extended the due date for filing time barring / revised returns for the AY 2019-2020



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



also to 30th November 2020 which actually clashes with the current due date of 30th November 2020 for filing income tax returns by all taxpayers for AY 20-21. Further, the due date for filing of Annual Return GSTR-9 and Reconciliation Statement GSTR-9C for the FY 2018-2019, was also extended to 31st October 2020 which also clashes with the present due date of 31st October 2020 for filing of tax audit reports. These date clashes would actually add further pressure on the CA practitioners in timely completion of work.

- **Small and mid-sized CA firms/practice:** It is a fact that substantial numbers of CA practitioners in India and also in Karnataka are small/mid-sized practitioners. In this segment of CA firms, even a single Covid-19 infected case would warrant closing down of the entire office and sending the entire staff for getting quarantined and self-isolation. This abysmal situation is further aggravated due to identified covid-19 positive cases at the client's place which would be an concomitant leading to **impossibility of performance** of audit functions; and we wish to re-iterate and draw kind attention of your good selves to the relevant extract of our prayers in our earlier joint representation made in the month of September 2020:

"Our representation: Considering all the above difficulties, it is recommended that the due date for filing of returns for all the tax payers for A.Y. 2020-21 be extended to 31st March, 2021 and the due date for filing the tax audit report also be extended to 28th February, 2021. Consequently, the timeline for filing all the reports and certificates under the Act which fall due along with or in connection with the ITR filing due dates may also be extended to 31st March, 2021"

Humble prayer -

We at Karnataka State Chartered Accountants Association sincerely request to your good selves to please provide aforesaid relaxations well in advance, **preferably within 2 days from the date of submission of this representation** to avoid any further damage on account health



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



hazards related to covid pandemic. Hitherto in the past we have noticed that, whenever any extension is sought from the Government, in most of those cases the extension were although given, but the announcement of such extensions have come almost towards the end, probably a day before or on the due date itself. Keeping decisions about these extensions sought pending till the end date creates enormous amount of mental pressure on the professionals and clients,

We humbly request you to kindly consider our submissions made in our joint representation during month of September 2020 and also various submissions which are made in this representation and to please accede to our prayers in the matter of extension of due dates as applicable for AY 2020-21 for filing tax audit reports from 30th October 2020 to 28th February 2021 and extension of due date for filing of return of income under section 139(1) from 30th November 2020 to 31st March 2021.

Yours sincerely,

For Karnataka State Chartered Accountants Association ®

CA. Kumar S Jigajinni

President

CA. Pramod Srihari

Secretary

CA. Ganesh V Shandage

Chairman

Representation Committee

Cc to:

1. Hon. Shri Anurag Thakur, Minister of State, Finance
2. Shri P C Mody, Chairman, CBDT

No. 67, 1st Floor, West of Chord Road, 2nd Stage, Mahalakshmi Puram, Bangalore 560 086.

Phone : +91 80 2955 2155 | Email : info@kscaa.com | Website : www.kscaa.com

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D. B. Civil Writ (P.I.L.) Petition No. 21774/2018

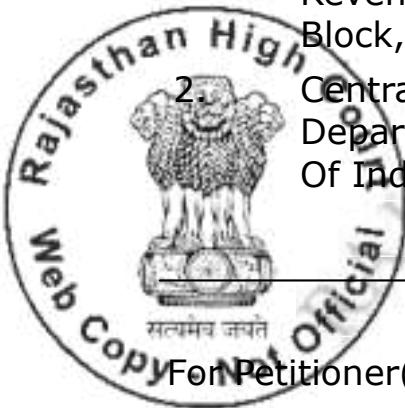
The Rajasthan Tax Consultants Association, Having its registered address at B-145/B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur in the State of Rajasthan through its Secretary Shri Vinay Kumar Jolly, S/o Shri Raj Kumar Jolly.

----Petitioner

Versus

1. Union of India, through its Secretary, Department of Revenue, Ministry of Finance, Government of India, North Block, New Delhi 110001
2. Central Board Of Direct Taxes, through its Chairman, Department of Revenue, Ministry of Finance, Government Of India, New Delhi 110001

----Respondents



For Petitioner(s)

: Mr. Siddharth Ranka with Mr. M.I. Iqbal, Mr. Saurabh Harsh.

For Respondent(s)

: Mr. R.D. Rastogi, Addl. Solicitor General assisted by Mr. Chandra Shekhar Sinha.

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE GOVERDHAN BARDHAR

Order

01/10/2018

This public interest litigation has been filed by the Rajasthan Tax Consultants Association, Jaipur inter alia with the prayer that the respondents-Union of India and Central Board of Direct Taxes (for short 'CBDT') may be directed to extend the due date for filing Tax Audit Reports and Income Tax Returns.

In the course of arguments, learned counsel for the petitioner submitted that Respondent No. 2-CBDT pursuant to the powers vested in it under the Income Tax Act, 1961 (for short 'the Act') has been continuously making random alterations/modifications in the "From No. 3CD" and also in the

“Utilities” and “Schemas” that are essential for e-filing of Tax Audit Reports (for short ‘TARs’) and Income Tax Returns (for short ‘ITRs’), which are mandatorily required to be filed by the assessees’ in accordance with the provisions of Section 44AB of the Act read with Rule 6G of the Income Tax Rules, 1962 (for short ‘the Rules’). The most affected category of the taxpayers are the assessees’ including companies, firms and individuals, whose accounts are required to be audited in terms of Section 44AB of the Act. They suffered on account of frequent amendment in the reporting formats and other technical changes, which leads to consequent reduction of time to comply with the formalities as provided in the Act.

It is argued that the Institute of Chartered Accountants filed a representation before Respondent No. 2, CBDT on 17.09.2018 to extend the due date of submission of TARs and ITRs. All India Federation of Tax Practitioners, Mumbai also submitted similar representation to Respondent No. 2 on 20.09.2018. The respondents vide notification dated 20.07.2018 introduced substantial changes in the Form 3CD made effective for TARs furnished from 20.08.2018 and relevant for the assessment year 2018-19. However, some of the changes proposed by the aforesaid notification were deferred for next assessment year vide Circular dated 17.08.2018. It is argued that amendments in the Form 3CD has made these forms far more comprehensive and detailed one. It has put substantial onus and accountability on the Chartered Accountants to verify and provide minute of the details of the respective assessee. It is argued that due to system failures and late introduction of ‘Schema’ / ‘Utility’, due date of filing ITRs for assessees’ who were not required to get their books of accounts audited was extended by Respondent No. 2-CBDT from 31.07.2018

to 31.08.2018. Hence, Chartered Accountants are left with effectively only 30 days to finalise and comply with the TARs. The quality of tax audit was effectively compromised, in view of the plethora of information sought and the short span of 72 days being provided as against 183 days contemplated under the statute. Learned counsel for the petitioner has relied upon the judgments in Vishal Garg and Others Vs. Union of India & Another, 2015 SCC OnLine P&H 5343; All Gujarat Federation of Tax Consultants Vs. Central Board of Direct Taxes and Another, 2015 SCC OnLine Guj 6220; All Gujarat Federation of Tax Consultants Vs. Central Board of Direct Taxes, 2014 SCC OnLine Guj 11148; Avinash Gupta Vs. Union of India & Others, 2015 SCC OnLine Del 12295 to argue that in similar circumstances, various High Courts in those cases have mandated the respondents to extend the due date to file TAR and ITR. Reference is also made to the various orders passed by the CBDT in variety of circumstances covering different periods extending the last date for filing of TARs and ITRs. It is also contended that for those income tax payees, whose accounts are not required to be audited, date of filing ITR has been extended by Respondent No. 2 from 31.07.2018 to 31.08.2018 without levy of any interest, but in the case of audited accounts, date has been extended vide notification dated 24.09.2018 only for 15 days with no extension of due date for the purpose of Explanation 1 to Section 234A of the Act and assessee shall remain liable to interest or else the respondents would be charging interest not only for 15 days but for the entire period of one month. The present situation that has arisen, on account of which the date has been extended, is attributable to the respondents and therefore no interest should be charged.

Mr. R.D. Rastogi, learned Additional Solicitor General appearing on behalf of the respondents submitted that CBDT has already in the past and in this case also considered the matter for extension of the date to a reasonable extent. If any grievance further remains, the petitioner should be required to approach Respondent No. 2-CBDT by filing representation which looking to the genuine difficulties and hardships of the taxpayers as also the Chartered Accountants shall consider the same in accordance with law.

Having regard to the submissions aforesaid as also cited judgments, orders and taking into consideration the fact that CBDT has already extended the date for filing TARs and ITRs by those assessees whose accounts are not required to be audited for a month without levy of any interest, we deem it appropriate to direct Respondent No. 2, CBDT to consider the representation of the petitioner-Association and take a decision on both the aspects i.e. extension of date by another 15 days and extension of due date for the purpose of Explanation 1 to Section 234A of the Act for waiver of interest and decide the same by passing speaking order preferably before 10.10.2018.

With the aforesaid observation and direction, writ petition is disposed of.

A copy of this order be provided to Mr. R.D. Rastogi, learned Additional Solicitor General for onward transmission and compliance.

(GOVERDHAN BARDHAR),J

(MOHAMMAD RAFIQ),J

Manoj/16

ANNEXURE 7

F.No. 225/358/2018/ITA.II

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

North-Block, ITA.II Division

New Delhi, the 8th of October, 2018Order under Section 119 of the Income-tax Act, 1961

On consideration of representations from various stakeholders for further extension of due date being 30th September, 2018 for purpose of filing return of income as well as various reports of audit pertaining to Assessment Year 2018-2019 for assessees covered under clause (a) of *Explanation 2* of section 139(1) of the Income-tax Act, 1961 (Act), the Board, in partial modification of its order dated 24.09.2018 in file of even number, hereby, further extends the due date for filing of return of income and reports of audit pertaining to Assessment Year 2018-2019 from 15th October, 2018 to **31st October, 2018**. However, as specified in earlier order dated 24.09.2018, assessees filing their return of income within the extended due date shall be liable for levy of interest as per provisions of section 234A of the Act.



Under Secretary to Government of India

Copy to:-

1. PS to F.M./OSD to FM/PS to MoS(R)/OSD to MoS(R)
2. PPS to Secretary (Revenue)
3. Chairman (CBOT), All Members, Central Board of Direct Taxes
4. All Pr.CCsIT/CCsIT/Pr.DsGII/DsGII
5. All Joint Secretaries/CsIT, CBOT
6. Directors/Deputy Secretaries/Under Secretaries of Central Board of Direct Taxes
7. ADG[Systems]-4 with request to place the order on official website
8. Addl. CIT, Data base Cell for placing the order on inofficers website
9. The Institute of Chartered Accountants of India, IP Estate, New Delhi-110003
10. CIT (M&TP), CBOT with request to issue Press Release & for placing on Twitter handle of the department



Under Secretary to Government of India

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 16691/2019

The Rajasthan Tax Consultants Association, Having Its Registered Address At B-145/b, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur In The State Of Rajasthan Through Its Secretary Shri Vinay Kumar Jolly, Advocate, S/o Shri Raj Kumar Jolly

----Petitioner

Versus

1. Union Of India, Through Its Secretary, Department Of Revenue, Ministry Of Finance, Government Of India, North Block, New Delhi 110001
2. Central Board Of Direct Taxes, Through Its Chairman, Department Of Revenue, Ministry Of Finance, Government Of India, New Delhi 110001

----Respondents

For Petitioner(s) : Mr. Siddharth Ranka

For Respondent(s) : Mr.R. D. Rastogi, ASG with
Mr. Anand Sharma &
Mr. Devesh Yadav

**HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA
Order**

27/09/2019

Learned counsel for the petitioner seeks permission of this Court to withdraw this writ petition as the grievance raised by the petitioner-Rajasthan Tax Consultants Association has been remedied by the Central Board of Direct Taxes.

Permission is granted.

Writ petition is dismissed as withdrawn.

(NARENDRA SINGH DHADDHA),J

(MOHAMMAD RAFIQ),Acting CJ

Gourav/Manoj-128

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH: JAIPUR

D.B. CIVIL WRIT (P.I.L.) PETITION No. /2020

THE RAJASTHAN TAX CONSULTANTS ASSOCIATION,
JAIPUR

... PETITIONER

Versus

UNION OF INDIA & ANOTHER

... RESPONDENTS

AFFIDAVIT IN SUPPORT OF THE DOCUMENTS

I, Vinay Kumar Jolly S/o Sh. Raj Kumar Jolly, aged 61 years, General Secretary of The Rajasthan Tax Consultants Association having its office at B-145-B, Mangal Marg, Bapu Nagar, Jaipur, do hereby take oath and state as under:

1. That I am the General Secretary of the Petitioner Association and as such am fully conversant with the facts and circumstances of the case.
2. That the annexed documents Annexure 1 to 4 are true and correct photo copy of their respective originals. That the annexed documents Annexure 5, 7 are downloaded copies from the website. That the annexed documents Annexure 6, 8 are downloaded copies from the website of the Hon'ble High Court.

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify that the contents of aforesaid affidavit Para 1 to 2 are true and correct to my personal knowledge. Nothing material has been concealed and no part of it is false. SO HELP ME GOD.

DEPONENT