

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1141 of 2022

All Odisha Tax Advocates Association* *Petitioner

Mr. Jagabandhu Sahoo, Sr. Advocate
-versus-

Union of India & others* *Opposite Parties

Mr.T.K.Satapathy Sr. Standing Counsel for O.P. Nos. 2 & 3

**CORAM:
THE CHIEF JUSTICE
JUSTICE G. SATAPATHY**

**ORDER
06.04.2023**

Order No.

05.

W.P.(C) No. 1141 of 2022 & I.A. No. 4378 of 2022

1. Despite a last opportunity having been granted to the Union of India on the last occasion to file its reply to the present petition, no such reply is forthcoming.

2. Mr. J. Sahoo, learned Senior Counsel for the Petitioner places before the Court copy of the judgment dated 13th January, 2021 of the Gujarat High Court in Special Civil Application No.13653 of 2020 (*The All-Gujarat Federation of Tax Consultants v. Union of India*) whereby a similar issue concerning non-filing of returns and tax audit reports within time was being dealt with. There the Gujarat High Court took note of the fact that Central Board of Direct Taxes (CBDT) had

kept extending time limit for submission of the returns of the Tax Audit Reports. In response to the prayer for a direction to the CBDT to further extend the due dates by invoking its power under Section 119 of the Income Tax Act 1961 ('Act'), the Gujarat High Court declined to do so on the ground that in "matters relating to the revenue" interference at that stage would have "far-reaching consequences". Ultimately, the Gujarat High Court observed as under:

"51. In the result, both the writ applications fail and are hereby rejected. At this stage, we may only observe that the CBDT may consider issuing an appropriate circular taking a lenient view as regards the consequences of late filing of the Tax Audit Reports as provided under Section 271B of the Act. We leave it to the better discretion of the CBDT in this regard."

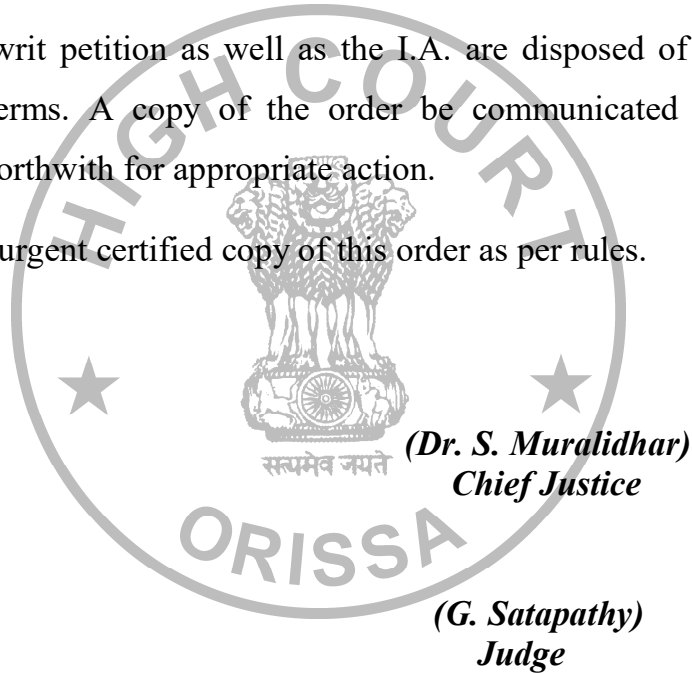
3. As already noted by this Court in its order dated 31st March, 2022 a circular dated 11th January, 2022 has been issued by the CBDT extending the time for filing of returns and audit reports for the Assessment Year 2021-22. As a result prayers (iv) and (viii) of the writ petition already stand taken care of. The only apprehension remaining is that the Department should not charge interest under Sections 234A and 234-B of the Act, late fees under section 234F and penalty under Section 271B for filing of late returns.

4. Considering that the Department has itself acknowledge that there have been technical glitches which have prevented many Assesses from filing their returns and tax audit reports within

time, and taking a cue from the aforementioned judgment of the Gujarat High Court in *The All Gujarat Federation of Tax Consultants* (*supra*), this Court observes that CBDT should consider issuing an appropriate circular clarifying that by granting extension of the deadline for filing returns/tax audit reports the above provisions would correspondingly not be invoked as long as the returns and audit reports are filed within the extended deadline.

5. The writ petition as well as the I.A. are disposed of in the above terms. A copy of the order be communicated to the CBDT forthwith for appropriate action.

6. Issue urgent certified copy of this order as per rules.



Kishore