



*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 01.11.2023
Judgment pronounced on: 06.11.2023

+ W.P. (C) 3423/2013

ALL INDIA FEDERATION OF TAX PRACTITIONERS Petitioner

versus

UOI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Prem Lata Bansal, Senior Advocate
with Mr. Shivang Bansal & Mr. Anunav
Kumar, Advocates

For the Respondent : Mr. Prashant Meharchandani, Senior
Standing Counsel with Mr. Akshat
Singh, Junior Standing Counsel for
Respondent No.2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J.

1. The present petition has been filed under Articles 226/227 of the Constitution of India, in the nature of a Public Interest Litigation (PIL) seeking following prayers:-

- a. *To formulate a policy and issue necessary directions to Commissioners (Appeals) to take steps for expeditious disposal of appeals or within the time limit envisaged by Section 250(6A) of the Income Tax Act 1961.*
- b. *To increase the number of Commissioners (Appeals) and also*



provide such other infrastructural support as is required by the Commissioners (Appeals) for disposal of appeals expeditiously.

- c. *To make clear guidelines for the Commissioner Appeals to dispose of the appeals in a chronological manner and also for passing orders within 10 days after conclusion of hearing or within a reasonable period.”*

2. Facts as culled out from the petition filed by the petitioner are as follows:

“2A. That the source of knowledge of the facts stated in the Writ Petition is the information provided by the members of the Petitioner and also the information gathered under the Right to information Act from the offices of the Commissioners of Income Tax (Appeals) in Delhi and from Respondent No. 2 herein i.e. the Central Board of Direct Taxes. On the basis of information, it is an undoubted position that the appeals are decided by Commissioners of Income Tax (Appeals) after long delays, which is causing harassment and cost to the assesses.

2B. That the delay in disposal of appeals by the Commissioners of Income Tax (Appeal) is adversely affecting large number of assesses and it is difficult for all of them to approach this Hon'ble Court. Therefore, this Writ Petition is being filed by the petitioner.

2C. That the present Petition is being filed in the interest of public at large and the assesses under the Income Tax Act and the Tax Practitioners in particular and accordingly, the relief sought in the petition will be in the interest of above persons and no other person / body / Institution is likely to be affected by the orders sought in the writ petition. The petitioner has impleaded Ministry of Finance and Central Board of Direct Taxes as Respondents as the Commissioners of Income Tax (Appeals) are working under their control and direction.

2D. That the Petitioner, All India Federation of Tax Practitioners is one of the oldest and the largest Association of Tax Practitioners in the country. At present it is having more than 5,400 individual tax professionals / Practitioners as its members apart from membership of 19 Tax Bar Associations. Accordingly, the Petitioner is representing a large number of Tax Professionals. It is having its central office at 215, Rewa Chambers, 31, New Marine Lines, Mumbai-400020 and also



zonal offices at number of other places, including at Delhi. It is registered under the Societies Registration Act 1860.

3. That the Commissioners of Income Tax (Appeals) are working as per the directions of Respondent No. 2. In this regard every year an Action Plan is given by Respondent No. 2 to the Commissioners (Appeals) for disposal of appeals. The Respondents are well aware of the provisions of Section 250(6A) to the Income Tax Act and also about pendency of appeals. In reply to the query raised through one of the member of the petitioner, the Respondent No. 2 has also given information in this regard vide its letter dated 14.12.2012, a copy of which is also enclosed here with this Petition. The Action Plan being issued by the Respondent No. 2 is in disregard to the provisions of Section 250(6A) of the Act.”

3. We have heard Ms. Prem Lata Bansal, learned Senior Counsel appearing for the petitioner and Mr. Prashant Meharchandani, learned Senior Standing Counsel, for the respondent No.2/Central Board of Direct Taxes (in short “CBDT”), the contesting party, and perused the documents including the additional affidavit filed on behalf of CBDT in terms of order dated 14.09.2022 and 27.01.2023.

4. The present PIL has been pending since the year 2013 and various orders and directions were being passed by this Court from time to time. We need not dilate on those. What is relevant to consider today is the additional affidavit dated 09.10.2023 filed on behalf of the CBDT.

5. According to the additional affidavit, the CBDT has provided the manner in which, in the past as also in the future, pending appeals are to be dealt with and disposed of expeditiously. The relevant paragraphs of the said additional affidavit showing the road map as to how the department seeks to dispose of pending appeals are extracted hereunder for clarification:

“5. That the updated status report in terms of order dated 18.09.2023 are as under:-

*A. Updated statistics for Appellate Authorities*:*

Sanctioned Strength (SS) and Working Strength (WS) of CIT (Appeals)			
CIT (Appeals)			
SS		WS	
CIT (Appeals) Unit (Faceless)		CIT (A) (Non-faceless)	
SS	WS	SS	WS
285	188	64	41

**Source: Database of CBDT*

B. No. of Appeals Pending (as on July 2023): The year wise breakup may be seen in table below. Data for 2022-23 is up to end of July, 2023.

Financial year	Total New Appeals Instituted	Total Appeals Disposed	Cumulative Pendency	% of disposal to institution
2019-20*	2,16,441	98,868	4,57,808	45.68%

	Faceless Appeals (CIT(AU))		Non-Faceless Appeals CIT(A)		Faceless Appeals CIT(AU)	Non- Faceless Appeals CIT(A)	Faceless CIT(AU)	Non- Faceless Appeals CIT(A)
	New Appeals Instituted upto the end of the year [For Faceless CsIT(AU)]	Progressive Disposal upto the end of the year [Faceless CsIT(AU)]	New Appeals instituted upto the end of the year [For Non-Faceless CsIT(A)]	Progressive Disposal upto the end of the year [Faceless CsIT(A)]	Cumulative Pending of Appeals upto the end of the year with Non-Faceless (CIT(AU))	Cumulative Pending of Appeals upto the end of the year with Non-Faceless (CIT(A))	% of disposal of new appeals instituted	% of disposal of new appeals instituted
	(a)	(b)	(c)	(d)	(e)	(f)	[(b)/(a)*100]	[(d)/(c)*100]
2020-21	23694	14547	3771	11552	397479	51513	61.4	306.34
2021-22	75433	57350	28068	15608	430951	71160	76.03	55.61
2022-23	117460	107680	29088	16888	434411	90956	91.67	58.06
2023 till 31.07.2023	35787	22405	5605	4762	447521	97169	62.61	55.34

C. Timeframe for Disposal of Appeals: Inputs same as previous letter dated 28.12.2018.

D. Action Plan for Disposal of appeals within reasonable time (Source CAP 2023-24): Litigation management is one of the key priority areas of the Central Action Plan (hereinafter referred to as CAP) for FY 2023-24. Targets for disposal of appeals by CSIT



(Appeals/ Appeals Unit) laid out in Para 4.2 of chapter III of CAP 2023-24 are as follows:

i. Each CIT(A/AU) posted in Central and faceless appeal charges is expected to dispose of a minimum of 450 appeals (excluding VSVS orders) for the financial year 2023-24 and reach the overall target of 1000 points across various categories. Further, each CIT (A) posted in IT & TP appeal charges is expected to dispose of a minimum of 350 appeals (excluding VSVS orders) for the financial year 2023-24 and reach the overall target of 800 points across various categories.

ii. Dispose of 100% of appeals pending as on 01.04.2023 that involve demand of Rs.50 crore and above (Category A1).

iii. Mandatory disposal of 100% appeals of A2 & B1 category, filed prior to 01.04.2020.

iv. Cases set aside and restored to the CsIT (Appeal) Units by Courts/ITAT are to be disposed of on priority.

v. All appeals for which Form 5 under the Vivad Se Vishwas Scheme has been issued to be disposed of within 1 week of issue of Form 5, in all the cases where the Form 5 is visible.

vi. In case of insufficient do able appeals filed prior to 01.04.2020 in A1, A2 & B1 categories, to achieve target, appeals filed after 01.04.2020 but before 01.04.2023 may be taken up for disposal.

vii. With a view of ensuring even disposals throughout the FY each CIT(A/AU) must ensure that the following quarter wise disposal targets are achieved:

a. In line with the targets set by the Interim Action Plan- 2023, 100 appeals filed prior to 01.04.2019 were to be disposed of by 30.06.2023.

b. Each CIT(A/AU) must ensure disposal of a minimum of 120 appeals during each quarter ending on 30.09.2023 and 31.12.2023 and disposal of a minimum of 110 appeals during the last quarter of FY 2023-24 i.e., by 31.03.2024."

6. After having perused the aforesaid additional affidavit and having heard Mr. Prashant Meharchandani, learned Senior Standing Counsel for CBDT, we are satisfied that the prayers as sought by the petitioner



have been suitably addressed by the CBDT. Also, upon a perusal and consideration of the aforesaid road map including the Central Action Plan for the Financial Year 2022-23, it appears that the CBDT has formulated a real time and a practical approach to dispose of the large number of appeals pending before various Commissioner (Appeals).

7. So far as the prayers in clause (a) and clause (c) of the petition are concerned the same appear to be satisfied in terms of the Litigation Management Policy framed under the yearly Central Action Plan. In fact, the said policy also addresses the specific grievances raised by the petitioner.

8. So far as the prayer in clause (b) is concerned, the CBDT has submitted that more than 570 Commissioners (Appeals) would be needed to deal with the pending appeals as in the year 2014. It appears that as against the sanctioned strength 349 Commissioner (Appeals), only 229 Commissioners form the working strength as on July 2023.

It also appears that the CBDT has made a request to the concerned authorities to increase the working strength by way of promotions or direct in-take, as the case may be. That apart, it also becomes clear that the Finance Act, 2023, has introduced a concept where joint Commissioner/Additional Commissioners (Appeals) will decide the First Appeals below the threshold of Rs. 10 lakhs. The department claims to have sanctioned 100 such posts which according to it, will substantially reduce the pendency of appeals. In that, the greater percentage of the pending appeals belongs to this bracket/category.



9. That apart, the concept of Faceless Appeals introduced since September 2020 by the department also appear to have mitigated the issue of disposal of pending appeals.

10. We are satisfied that so far as increasing the sanctioned strength or the filing up of vacant posts of the Commissioner (Appeals) is concerned, the CBDT may not have any role to play. However, the Union of India, which is respondent no.1 in the present petition, may take appropriate measures and decision in that regard, inasmuch as filling up of all the present posts lying vacant would greatly assist in disposals of the pending appeals. The Union of India may also consider increasing the sanctioned strength of Commissioner (Appeals) substantially at least to the extent of 570 of such posts, to achieve the aims and objects of the Central Action Plan which is formulated every year.

11. Ms. Prem Lata Bansal learned Senior Counsel, submitted the following suggestions for consideration of this Court:-

- a. Working/Sanctioned Strength of the Commissioner (Appeals) should be increased substantially.
- b. Since the assesseees have to mandatorily deposit 20% of the demand as pre-deposit for hearing of the appeal, further demands should not be raised till the appeal is decided.
- c. Since, the assesseees are major stake holders, their interests should be taken care of.

12. We have, while considering the aforesaid issues, noted that the road map drawn up by the CBDT in the additional affidavit, adequately addresses the concerns raised by Ms. Bansal, learned Senior Counsel and as such do not feel it necessary to pass any further directions. Suffice it to say that the CBDT shall scrupulously implement the



2023:DHC:8030-DB



aforesaid road map and the Union of India shall also address in all earnest and as soon as may be, the directions contained in Para 10 above.

13. In view thereof, we are of the considered opinion that nothing further remains for adjudication in the present PIL and the same is disposed of accordingly.

(TUSHAR RAO GEDELA)
JUDGE

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

NOVEMBER 06, 2023/rl