



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3343 OF 2018

The Chamber of Tax Consultants & Anr.] ... Petitioners

Versus

The Central Board of Direct Taxes]
Dept. of Revenue & Anr.] ... Respondents

Mr. S. E. Dastur, Senior Advocate a/w Mr. Vipul Joshi, Mr. Harsh Kothari, Mr. Abhishek Padwalkar & Mr. Dharan V. Gandhi for Petitioners.

Mr. Anil Singh, ASG, a/w Mr. Sham V. Walve for Respondent No.1.

ALONG WITH

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.144 OF 2018

ACELEGAL & Anr.] ... Petitioners

Versus

Union of India & Anr.] ... Respondents

Ms. Ritika Agarwal a/w Ms. Deepti Jethva or Petitioners.

Mr. Anil Singh, ASG, a/w Mr. Sham V. Walve for Respondent No.2.

**CORAM :- AKIL KURESHI &
SARANG V. KOTWAL, JJ.**
DATE :- 22 MARCH, 2019

P. C. :-

1. These Petitions involve similar issues. The Petitioners have challenged certain portion of the central action plan formulated by the Central Board of Direct Taxes ('CBDT', for short). This document contains Chapter 3 pertaining to litigation management. This Chapter provides the target for Appeals to be disposed by the Appellate Commissioner in expeditious manner. The clauses contained in this Chapter lay down targets and norms to be achieved within certain time.

2. The challenge of the Petitioners is in two parts. In the first part, the Petitioners have challenged the directions issued by the CBDT for disposal of certain number of Appeals of specified categories within specified time. According to the Petitioners, these time limits are artificially applied, are contrary to the statutory provisions and also have the effect of making hurried orders by the Appellate Commissioner.

3. The Petitioners' second part of the challenge is to the following portion of the said Chapter :

“Incentive for quality orders :

- (i) *With a view to encourage quality work by CITs (A), additional credit of 2 units shall be allowed for each quality appellate order passed. The CIT (A) may claim such credit by reporting such orders in their monthly DO letter to the CCIT concerned. Quality cases would include cases where -*
- (a) *enhancement has been made,*
- (b) *order has been strengthened, in the opinion of the CCID, and*
- (c) *penalty u/s 271(1) has been levied by the CIT (A).”*

4. With respect to the first part, we are *prima-facie* of the opinion that the target set by the CBDT for disposal of the Appeals within the time-frame provided, are directory and not mandatory. *Prima-facie*, we also feel that it may not be impermissible for the CBDT to prioritize the disposal of the Appeals and to set the goals for disposal of certain number of such Appeals by the Appellate Commissioner.

5. With respect to the Petitioners' second part of the challenge, we are of the opinion that the CBDT should reconsider the same. From the action plan, it is not clear as to the utility of the

norms set which the Commissioner has to achieve. If the purpose of setting of norms is to evaluate the performance of the Commissioner, there would be all the more reason why the above-quoted portion of the action plan be reconsidered by the CBDT.

6. On the next date of hearing, the learned Counsel for the Respondent would apprise us about the utility of the norms that the Commissioner would need to achieve and the outcome of the CBDT's deliberations on our recommendation for reconsideration.

7. Stand over to 11/04/2019.

(SARANG V. KOTWAL, J.)

(AKIL KURESHI, J.)