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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO.32465 OF 2024

The Chamber of Tax Consultants
through it's President Vijay Bhatt ... Petitioner
V/s.
Director General of Income Tax
(Systems) & Ors. ... Respondents

Mr. Percy Pardiwala, Senior Advocate with Mr.
Dharan V. Gandhi for the petitioner.

Mr. Akhileshwar Sharma and Mr. Abhishek R. Mishra
for the respondents.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : DECEMBER 20, 2024

P.C.:

1. The Chamber of Tax Consultants has filed the present PIL petition seeking a direction to the respondents to modify the system developed and put in place by the Tax Department for filing income-tax returns for Assessment Year 2024-2025 so as to allow the assesseees at large to take complete benefit of the rebate available under Section 87A of the Income Tax Act, 1961. According to the petitioner, the respondents have unilaterally disabled assesseees from claiming rebate under

Section 87A after 5 July 2024 by modifying the utility software for filing income-tax returns. As a result, if the returns are filed by the assessee using the software of the respondents after 5 July 2024, they are unable to claim the rebate. The petitioner contends that this unilateral modification is arbitrary, lacks justification, and deprives eligible taxpayers of statutory benefits. The petitioner further asserts that the respondents' actions violate the principles of fairness and transparency expected from public authorities and seek judicial intervention to ensure compliance with statutory provisions.

2. Section 115BAC of the Act was introduced by the Finance Act, 2020, providing an alternate tax mechanism for computing tax liability for individuals and Hindu Undivided Families (HUFs). The alternate tax regime offered lower tax rates on the condition that the assessee forgoes certain exemptions and deductions available under the erstwhile regime. The Finance Minister, in her speech while introducing the Finance Bill, 2020, clarified that the new tax regime proposed in Section 115BAC would be the default tax regime unless an assessee specifically opts for the erstwhile regime. The Government encouraged taxpayers to adopt the new

regime by simplifying compliance and reducing the tax burden on middle-income groups. However, the petitioners argue that the implementation of Section 115BAC in conjunction with Section 87A has led to unintended complications, particularly with the changes in the utility software.

3. The re-introduction of Section 87A vide the Finance Act, 2013, provided a rebate of up to Rs. 2,000 from the tax payable for individual assesseees falling in the lower-income bracket, whose income did not exceed Rs. 5 lakh. This provision aimed to provide relief to small taxpayers and promote equitable taxation. Vide the Finance Act, 2019, the threshold for claiming the rebate was retained at Rs. 5 lakh, but the maximum amount of rebate was enhanced to Rs. 12,500. This increase was intended to extend greater relief to the same income group, aligning with the Government's policy of providing fiscal support to economically weaker sections of society. The petitioner contends that the principle behind Section 87A has always been to ensure that taxpayers in lower-income brackets are not burdened unduly, and the arbitrary disabling of the rebate through the modification of utility software undermines this legislative intent.

4. From Assessment Year 2024-2025 onwards, an assessee being an individual resident in India whose income is chargeable to tax under the proposed sub-section (1A) of Section 115BAC shall now be entitled to a rebate of 100% of the amount of income tax payable on a total income not exceeding Rs. 7 lakh. This significant enhancement in the rebate threshold is in line with the Government's commitment to support middle-income groups and reduce the tax burden on small taxpayers. The petitioner highlights that while this amendment was a progressive step, the arbitrary disabling of the rebate functionality in the utility software post-5 July 2024 negates the intended benefit. This creates confusion among taxpayers and professionals and undermines the confidence of the public in the tax administration system. The petitioner, therefore, seeks directions to restore the functionality and ensure that all eligible taxpayers can avail of the rebate as per the legislative mandate.

5. Section 139(1) of the Act mandates that every assessee, subject to a few exceptions, is required to furnish the income-tax return in the prescribed form, on or prior to the due date provided in the Act. The due dates in this regard are set out in Explanation 2 to Section 139 of the Act, which provides that

an assessee who is not required to furnish a transfer pricing report referred to in Section 92E of the Act needs to file their return before 31 October 2024; an assessee who is required to furnish a transfer pricing report referred to in Section 92E of the Act is required to file their return before 30 November 2024; and any other assessee is required to file their return by 31 July 2024. These statutory deadlines are crucial for maintaining uniformity and ensuring timely compliance, but the petitioner argues that they should not preclude eligible taxpayers from availing statutory benefits, such as the rebate under Section 87A.

6. The returns of income are mandatorily required to be filed online. Respondent No.1 annually releases utilities for filing income tax returns online. These utilities are generally released before the end of the financial year to ensure taxpayers have sufficient time to comply with their obligations. However, the petitioner points out that the modification of the utility for Assessment Year 2024-2025 midway through the assessment year has caused undue hardship to taxpayers, particularly those relying on the rebate under Section 87A.

7. The respondents published a change in the utility with effect from 5 July 2024 for ITR-2 and ITR-3. The modifications are tabulated as follows:

<i>JSON Root Element</i>	<i>Change Description</i>	<i>Change Description</i>	<i>Change Description</i>
<i>Computation of Tax Liability</i>	<i>Rebate 87A</i>	<i>Modified</i>	<i>Maximum declaration is removed.</i>

These changes, as highlighted by the petitioner, have led to significant confusion and impediments in filing accurate returns, particularly for individual assessee eligible for the rebate.

8. As a result, with effect from 5 July 2024, the utility for filing a return of income for Assessment Year 2024-2025 was amended, disabling an individual assessee from claiming the rebate under the proviso to Section 87A where tax is levied at special rates such as those specified under Sections 111A, 112, or 112A if the assessee opts for the new regime. This has created a scenario where taxpayers, despite being statutorily eligible, are effectively deprived of their entitlements solely due to technical modifications introduced by the respondents.

9. This change in the utility with effect from 5 July 2024 disabling individual assessees from claiming the rebate under the proviso to Section 87A prompted the petitioner to file the present PIL petition. The petitioner seeks directions to modify the utility for filing income tax returns for Assessment Year 2024-2025 so as to allow the assessees at large to take complete benefit of the rebate available under Section 87A of the Act. The petitioner contends that this is essential to uphold the legislative intent of providing relief to taxpayers in lower-income brackets and to ensure that procedural changes do not defeat substantive rights.

10. Mr. Pardiwala, learned Senior Advocate representing the petitioner, invited our attention to Section 115BAC and Section 87A of the Act and submitted that a conjoint reading of the relevant provisions indicates that the rebate under Section 87A is available on tax calculated even on income taxable at special rates. He argued that the statutory right created by the proviso to Section 87A cannot be extinguished or restricted through executive instructions or modifications to the utility software. He further emphasized that such executive action undermines the rule of law and negates the express legislative mandate. Mr. Pardiwala submitted that the

unilateral modification of the utility has resulted in eligible taxpayers being deprived of their rightful claim, causing unwarranted financial hardship and procedural hurdles.

11. Mr. Pardiwala also contended that the assesseees who have already filed their returns without claiming the rebate under the proviso to Section 87A should be allowed to file revised returns to rectify this situation. He highlighted that the provision for filing revised returns under Section 139(5) of the Act is available until 31 December 2024. Therefore, appropriate directions should be issued to the respondents to enable taxpayers to file revised returns and claim the rebate. He emphasized that such directions are necessary to protect the rights of taxpayers and ensure adherence to the principles of tax regime.

12. Per contra, Mr. Sharma on behalf of respondent No.1 relying on the affidavit submitted that software utility is aligned to the statutory requirements and notified rules to avoid variance while processing the return, which largely helps taxpayers in ease of filing returns and processing refunds. He contended that before 5 July 2024, proper validations were not in place due to which taxpayers could

claim rebate under Section 87A through ITR utility. However, from 5 July 2024, an anomaly was noticed, and the utility was updated, restricting the claim under Section 87A. According to him, the availability of rebate under Section 87A does not depend on the claim made in the return of income. The same depends on statutory criteria, i.e., quantum of income, regime of tax paid, and nature of income forming part of total income. It is submitted that rebate under Section 87A is not similar to claims of deductions and exemptions which need to be claimed in the return and, therefore, there is no requirement that the assessee has to claim rebate for filing the said tax benefit.

13. The issue which arises for consideration in the present writ petition is, therefore, as to whether the utility in the form of software can take away the statutory right to claim rebate as per the proviso to Section 87A and is it necessary for an assessee to make a claim for seeking rebate under Section 87A.

14. The issue involved in the present petition requires detailed examination by giving an opportunity of hearing to both sides to make submissions in detail. However, at this

stage, we are considering the matter for the purpose of grant of interim relief and as to whether the petitioner has made out a case for grant of interim relief. Therefore, for considering a prima facie case, it is necessary to note that under the Income Tax Act, 1961, there is a concept of self-assessment wherein an assessee is to compute his own income, determine his tax liability, and pay such tax, and then file a return declaring his income. However, due to the change in the utility with effect from 5 July 2024, the assessees at large were not able to compute rebate under Section 87A of the Act under the new regime, in respect of income taxable at special rates. As a result, the assessees may have to pay additional tax to the extent of the rebate not allowed to be claimed by the assessee. The petitioner is entitled to file a revised return computing rebate under Section 87A, which would enable such an assessee to compute a refund in the revised return. Undisputedly, the last day to file a belated return in terms of Section 139(4) is 31 December 2024, which allows even those assessees who have not filed their return within normal due dates.

15. Prima facie we are of the view that the rebate under Section 87A is inherently linked to the total income and tax

liability of the taxpayer. The responsibility lies with the tax authorities to ensure proper implementation of the rebate, as long as the taxpayer fulfills the statutory criteria. Procedural changes, such as those in utility software or instructions issued by the tax department, cannot override the substantive right to the rebate. Any action or inaction on part of the tax authorities that limits the ability of taxpayers to avail of this statutory benefit is arbitrary and violative of the rule of law. Taxpayers should not bear the consequences of administrative inefficiencies or unilateral executive actions that undermine the legislative intent behind Section 87A.

16. It is well-settled that statutory benefits must be extended in a manner that aligns with the objectives of the legislature. In this regard, procedural changes that deprive taxpayers of such benefits warrant judicial intervention to rectify the anomaly and ensure justice. Tax authorities must act as facilitators to help taxpayers comply with the law rather than creating impediments through technical or procedural hurdles. Ensuring fairness, equity, and transparency in tax administration is crucial for upholding public confidence in the system.

17. Based on the above discussion by way of interim relief, the respondent Central Board of Direct Taxes is hereby directed to forthwith issue requisite notification under Section 119 of the Act extending the due date for e-filing of the income-tax returns in relation to the assesseees who are required to file a return of income by December 31, 2024, at least to January 15, 2025. This extension is to ensure that all taxpayers eligible for the rebate under Section 87A are afforded the opportunity to exercise their statutory rights without facing procedural impediments.

18. List the petition for final disposal on **9 January 2025** at **2.30 p.m.**

(AMIT BORKAR, J.)

(CHIEF JUSTICE)