



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.3612 of 2024

Decided on: 3rd May, 2024

Ultra Drugs Private Limited

.....Petitioner

Versus

Principal Commissioner of Income Tax-1 & Anr.

...Respondents

Coram

Hon'ble Mr. Justice M. S. Ramachandra Rao, Chief Justice

Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge

¹ *Whether approved for reporting?*

For the petitioner:

Mr. Vishal Mohan, Sr. Advocate with
Mr. Praveen Sharma and Mr. Aditya
Sood, Advocates.

For the respondents:

Mr. Neeraj Sharma & Mr. Ishan
Kashyap, Advocates.

M.S.Ramachandra Rao, Chief Justice (*Oral*)

The petitioner is a private limited company and engaged in the manufacturing of pharmaceuticals etc. in the name and style of “M/s Ultra Drugs Private Limited” and it is an Assessee under the

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Income Tax Act, 1961 (the Act in short).

2. On 17.10.2022, a return under Section 139(1) of the Act for the assessment year 2022-23 had been filed by the petitioner.
3. On 01.06.2023 a notice under Section 143(2) of the Act was issued, informing the petitioner that his case was selected for scrutiny under the CASSS.
4. Thereafter, notices under Sections 142(1) of the Act were issued to the petitioner on 31.10.2023 and 16.11.2023. Detailed reply was furnished by the petitioner on 28.11.2023 to the same. Again, notices were issued on 04.01.2024, 17.03.2024 and 18.03.2024 to the petitioner under Section 142(1) of the Act, which were complied by the petitioner.
5. On 20.03.2024, at 10:59 p.m, an e-mail/show-cause notice was received by the petitioner and its Chartered Accountant, seeking a reply by 15.45 p.m. on 24.03.2024.
6. On 24.03.2024, which was Sunday, the petitioner alleges that the Assessing Officer closed the e-filing portal and restricted the petitioner to file the response; that on 24.03.2024 at 11:39 p.m.,

response/submission to the show-cause notice was submitted to the National Faceless Assessment Centre by the petitioner through e-mail, which was reiterated in a subsequent e-mail sent on the following day i.e. 25.03.2024 as a reminder, stating specifically that the Income Tax portal was closed, and the same was transferred by the National Faceless Assessment Centre to the concerned Assessing Officer.

7. On 27.03.2024, respondent no.2, without considering the reply/submission tendered by the petitioner, had passed an order under Sections 143(3) read with Section 144B of the Act.

8. Assailing the same, this Writ petition is filed.

9. Counsel for the petitioner contended that time granted for submitting reply to the show-cause notice dt. 20.03.2024 of a period less than four days is arbitrary, and sufficient time ought to have been granted by respondent no.2 to enable the petitioner to submit its reply to the show-cause notice dt. 20.03.2024. He further pointed out that the petitioner was ready with the reply and had filed the same on the same day. i.e. 24.03.2024 at 11:39 p.m. through the National Faceless Assessment Centre, but in view of the fact the Assessing Officer had

closed the e-filing portal by then on the ground that the petitioner had not submitted the reply by 15:45 p.m. on 24.04.2023, the same could not be uploaded.

10. This Court is of the opinion that the time granted for submitting reply to the petitioner is extremely short, and when there was no undue delay on the part of the petitioner in submitting the reply and it had submitted the reply on the date fixed i.e. 24.03.2024, though sometime after 15:45 p.m. the same ought not to have been ignored by respondent no.2 and, the impugned order could not have been passed by him.

11. Therefore, the counsel for the Department was asked to ascertain response of respondent no.2 and matter was posted for today.

12. Counsel for respondent no.2 states today that if the impugned order is set aside, they will pass a fresh order after considering the reply of the petitioner submitted to the show-cause notice.

13. Since we are convinced that reasonable time to the

petitioner had not been granted by respondent no.2 in the show-cause notice dt. 20.03.2024 to reply to the same and, since there is no undue delay on the part of the petitioner in submitting its reply, which admittedly it did on 24.03.2024, the impugned order dt. 27.03.2024 passed by respondent no.2 is set aside, and the matter is remitted back to respondent no.2 to consider the reply submitted by the petitioner on 24.03.2024 and 25.03.2024 to the show-cause notice dt. 20.03.2024 and then pass a reasoned order in accordance with law and communicate the same to the petitioner. The petitioner may also be afforded an opportunity of being heard by respondent no.2.

14. The Writ petition is allowed as above. No costs.

15. Pending miscellaneous application(s), if any, also stand disposed of.

(M. S. Ramachandra Rao)
Chief Justice

(Jyotsna Rewal Dua)
Judge

May 3, 2024
R.Atal