

IN THE HIGH COURT OF JUDICATURE AT GUJARAT

DISTRICT: SURAT

SPECIAL CIVIL APPLICATION NO ____ OF 2025

In the matter under the Article 226 of
the Constitution of India, 1950;

And

In the matter of Article 14, 19(1)(g), 21
& 265 of the Constitution of India,
1950

And

In the matter of Section 119, 234A,
234B, 234C, 234F and allied provisions
of the Income Tax Act, 1961

And

In the matter between;

1. CHARTERED ACCOUNTANTS ASSOCIATION, SURAT (CAAS)

Through its President – Shri Hardik J Kakadiya

Office No.607, Velocity Business Hub, Near Madhuvan Circle, LP
Savani Road, Adajan, Surat – 395009.

2. HARDIK JIVRAJBHAI KAKADIYA,
B-5, Shiv Sagar Society, Opp. Parshuram Garden,
LP Savani Road, Adajan, Surat – 395009.
3. VIPASHA MEHUL SHAH
through Authorised Representative MEHUL RASESH SHAH,
9, Shivani Bunglows, Near Gateway Hotel,
Parle Point, Athwalines, Surat – 395007.
4. KANCHANBEN NANJIBHAI VASANI
through Authorised Representative CHIRAGBHAI NANJIBHAI
VASANI,
29, Anand Park Society, Jakat Naka,
Sarthana, Surat – 395006.
5. SEJALBEN HARSHADBHAI VASANI
through Authorised Representative CHIRAGBHAI NANJIBHAI
VASANI,
29, Anand Park Society,
Jakat Naka, Sarthana, Surat – 395006.
6. PRASAD STUDIO
through Authorised Representative CHIRAGBHAI NANJIBHAI
VASANI,
29, Anand Park Society,
Jakat Naka, Sarthana, Surat – 395006.
7. JIGNESH GOPALBHAI SUTARIYA

through Authorised Representative CHIRAGBHAI NANJIBHAI
VASANI,
29, Anand Park Society,
Jakat Naka, Sarthana, Surat – 395006. **...Petitioners**

VERSUS

1. UNION OF INDIA

Through, the Secretary, Ministry of Finance,
North Block, Cabinet Secretariat,
Raisina Hill, New Delhi - 110001

2. CENTRAL BOARD OF DIRECT TAXES (CBDT)

Through, The Chairman, Department of Revenue
Ministry of Finance,
New Delhi - 110 001.

3. DIRECTOR GENERAL OF INCOME TAX (DGIT) (Systems) –

Delhi
ARA Centre, Ground Floor,
E-2 Jhandewalan Extension,
New Delhi

...Respondents

TO,

The Hon'ble Chief Justice and

Other Hon'ble Judges of
the Hon'ble High Court of Gujarat

The humble petition of the Petitioner above-named:

MOST RESPECTFULLY SHEWETH THAT: -

1. The Petitioners in the present writ petition under Article 226 of the Constitution of India, 1950 is aggrieved by the incompetency, non-operation and technical glitches of the New Income Tax Portal and therefore the petitioners are before this Hon'ble Court seeking appropriate reliefs for the petitioners for the better, easy and smooth tax compliances. The brief facts leading to the filing of the present Petition are stated as under: -
2. The Petitioner No. 1 is an association registered under the Bombay Public Trust Act, 1950 and Societies Registration Act, 1860. Members of the petitioner no. 01 are Chartered Accountants who are also the members of The Institute of Chartered Accountants of India (ICAI). Members of the petitioner no. 01 facilitate their clients in Income Tax compliances and are fully devoted in the Income Tax & Tax Audit Compliance mandated under the Income Tax Act 1961. (Copy of the registration certificate of petitioner no. 01 under the Bombay Public Trust Act, 1950 and Societies Registration Act, 1860 Act is annexed herewith and marked as **Exhibit-A**).

3. The Petitioner No. 2 is a member of The Institute of Chartered Accountants of India and also the President of the Petitioner No.1. He provides services in the nature of consultancy and other compliance work. The petitioner is having its registered office and Principal place of business at Surat.

4. The Petitioners state that the cause of action in the instant case has arisen within the territorial jurisdiction of this Hon'ble Court.

5. Repeated Delay in Release of Utilities & Schema by the respondents, causing undue hardship

(a) The Petitioners hereby state that for the AY 2025-26, the sequential release of return forms and audit utilities was inordinately delayed, as tabulated below:

Form / Utility	Form Notification Date	Date of Release of Utility	No. of Versions released
ITR-1	29-04-2025	30-05-2025	4
ITR-2	03-05-2025	11-07-2025	2
ITR-3	30-04-2025	11-07-2025	3
ITR-4	29-04-2025	30-05-2025	4
ITR-5	01-05-2025	06-09-2025	2
ITR-6	06-05-2025	14-08-2025	1
ITR-7	09-05-2025	18-09-2025	1

Form / Utility	Form Notification Date	Date of Release Utility	No. of Versions released
ITR-V and ITR-Ack	07-05-2025	NA	NA
ITR-U	19-05-2025	NA	NA
ITR-B	07-04-2025	Not launched	Not launched
Form 3CA/3CB-3CD Utility	14-08-2025	14-08-2025	3

(b) It is humbly stated that the above table indicates that the Statutory Forms of the Income Tax Returns and the Tax Audit Forms, were notified more than a month past the starting of the Assessment Year 2025-26 rather Tax Audit form was notified in mid of August i.e. after almost 4.5 months from the start of the Assessment Year 2025-26.

(c) Further, it is pertinent to note that the filing of IT Returns in all cases is notified to be online vide Electronic Furnishing of Return of Income Scheme, 2007, and hence filing of IT Return online is mandated for nearly almost all categories of Assesseees, except senior citizens. Assesseees are left with no other choice or mode, to file Income Tax Returns, except online mode. For this, CBDT has entrusted the work of codifying authorised Utility Software to a Managed Service Provider (MSP), so that Assesseees can fill up

IT Returns using that software directly into the Income Tax Portal.

As can be seen from the above table, the said Utility Software for different types of ITRs as applicable to different categories of Assessee were released too late.

(d) It is further stated and relevant to be noted is, once the Utility Software is released by the MSP, they are also re-released with latest versions on trial-and-error basis with numerous versions until a stable version is established. This is to counter the errors and bugs faced and reported by the Assessee.

(e) Additionally, the MSP also provides “Schema” so as to enable Third Party Software Providers to make their own user friendly software and upload Income Tax Forms and Returns using such software. “Schema” is a blueprint map of database design and fields to store information. The following are the facts related to the release and re-release of Schema for the ITRs and Forms:

Form / Utility	First Schema Release Date	Latest Schema Release Date	No. of Versions released
ITR-1	30-05-2025	30-07-2025	2
ITR-2	11-07-2025	30-07-2025	2
ITR-3	11-07-2025	30-07-2025	2
ITR-4	30-05-2025	26-08-2025	3
ITR-5	08-08-2025	16-09-2025	2
ITR-6	14-08-2025	NA	1
ITR-7	21-08-2025	NA	1

Form / Utility	First Schema Release Date	Latest Schema Release Date	No. of Versions released
Form 3CA/3CB-3CD Utility	17-07-2025	14-08-2025	3

Therefore, even if the Assesseees opt to file, IT Returns or Forms using third-party user-friendly software, they have to wait for the schema to be released by the service provider. Besides the below mentioned facts are also backed by Income Tax Department:

Filing through Software/Utilities	2025	2024	2023	2022
Percentage of Returns filed using utility provided by Department*	40.27	43.93	45.21	47.89
Remaining Percentage of Returns filed using Third Party Software	59.73	56.07	54.79	52.11
Total Filing Percentage	100.00	100.00	100.00	100.00

*Source:<https://eportal.incometax.gov.in/iec/foservices/#/pre-login/success-enablers>

It is pertinent to note that Third Party Software costing Rs.12000 to Rs.20000, are not purchased by the assesseees due to their heavy

cost. This software are purchased by CAs and Tax Practitioners. This implies, that most of the return filing has been done by the CAs and Tax Practitioners, who are a bridge between the taxpayers who do not understand law, taxation, jargon words or even usage of e-filing portal. Thus, these CAs and Tax Practitioners are the most affected people due to the late release of Forms and Utilities.

The design and workflow of the Income-tax portal are intricate and require specialised knowledge, such that even a person conversant with government procedures would generally seek professional assistance for accurate and timely filing. CAs and tax practitioners are the real, front-line users of the portal and are thus directly aggrieved by its failure.

(f) It is respectfully stated that to ignore the grievances is to deny reality, as 90%+ of audit and business returns are filed by professionals. Thus, this petition is filed, on behalf of all the tax professionals, as the voice of taxpayers who are dependent on the petitioner's members.

(g) Further to this it is stated humbly that the CAs and the Tax Practitioners undertake assignments of filing non-audit able ITRs as well as Audit able ITRs. The extension of due date for non-audit able ITRs had locked their resources available on hand till 16th September 2025. These staggered and belated releases cumulatively left practitioners with barely less than 15 effective working days (including Sundays) to finalise books of account,

complete statutory audits, prepare tax audit reports and thereafter file the ITRs by the statutory due date of 30-09-2025. The compressed compliance window, though entirely a result of administrative delay, has caused significant hardship to professionals and taxpayers alike.

(h) It is hereby stated that the Petitioner filed Special Civil Application No. 272 of 2022 which is pending disposal wherein this Hon'ble Court had recognised the *locus standi* of the Petitioner Association, which reinforces the maintainability of the present petition. In this petition the Hon'ble Court had shown indulgence after which the respondents took some proactive measures.

6. Portal Glitches are persistent causing mental and physical hardship and also is impacting the compliances by the tax payers

(a) It is stated that, Beginning 10-09-2025, the income-tax e-filing portal experienced repeated and prolonged outages, with users facing login failures, error codes, and stalled processing. CAAS received hundreds of screenshots and video captures from members and professionals across the country evidencing inability to upload ITRs, generate challans, perform DSC-based verifications or complete e-verification steps. The disruption persisted through peak filing dates and was most severe on 15-09-2025, which was simultaneously the due date for non-audit ITRs and the second instalment of advance tax. The failure continued in the form of Denial of Service, on the extended due

date i.e. 16-09-2025 and surprisingly is continuing till the filing of this writ petition. This shows it is not due to the traffic on the server rather it is due to failure on the part of respondents to have an error free and seamless system / portal.

(b) Petitioner No.1 made a detailed representation to the Respondent No.1 for Time Compensation on account of Portal full of Glitches vide its letter dt.05-09-2025 (**Exhibit – B**). At that time the Portal had started showing signs of denial of service which compelled to represent. However, Respondent No.1 had not responded, and even today, till the filing of this writ petition, no action has been undertaken, and therefore, this petition. These systemic outages crippled compliance efforts and effectively denied taxpayers the ability to discharge their statutory obligations despite readiness to comply. Portal Glitch is a woe not only represented by Petitioner No.1, but a mention of the glitches can be found in several representations made by reputed Trade and Professional Organisations across India who had also represented to Respondent No.1 about the Portal Glitches, names of which are tabulated below:

Sr. No.	Representing Body
1	The Institute of Chartered Accountants of India (ICAI)
2	Karnataka State Chartered Accountants Association (KSCAA)
3	Bombay Chartered Accountants Society (BCAS)
4	Gujarat Chamber of Commerce and Industry (GCCI)

Sr. No.	Representing Body
5	Federation of Karnataka Chamber of Commerce and Industry (FKCII)
6	Tax Bar Association, Jodhpur
7	Tax bar Association, Bhilwara
8	Chandigarh Chartered Accountants Taxation Association (CCATAX)
9	Akhil Odissa Tax Advocates Association (AOTAA)
10	Advocates Tax Bar Association (ATBA)
11	BJP CA Cell
12	Chamber of Tax Consultants
13	GST Practitioners Association
14	Andhra Pradesh Tax Practitioners Association
15	Central India Regional Council (CIRC) of ICAI
16	Malda Chamber of Tax Consultants (MCTC)
17	Income Tax Practitioners Association (ITPA)
18	Nagpur Chamber of Commerce
19	Rajasthan Tax Consultants Association (RTCA)
20	Amritsar Income Tax Practitioners Association
21	Pune BJP Chartered Accountants Cell
22	Barnala Industrial Chamber and Trade Association
23	Ashwini Kumar (P&H-HC PIL)
24	Marudhara Tax Bar Association (West Rajasthan)

7. Petitioners Grievances requiring immediate action by the respondents

(a) Petitioner No.1, Chartered Accountants Association Surat (CAAS) and Petitioner No.2, its President had already filed a writ petition before this Hon'ble Court vide SCA 272/2022, challenging the vires of the:

- Circular No.9/2021 dt.20-05-2021;
- Circular No.17/2021 dt.09-09-2021; and
- Circular No.01/2022 dt.11-01-2022

Stating that the interest and late fees charged on account of “Portal Glitches”. This Hon'ble Court had shown indulgence and by its interim order dated 11-01-2022, impressed upon Respondent No.1, the necessity of fixing the portal glitches and ensuring smooth functioning of the system. The Respondents had filed an affidavit candidly admitting the existence of glitches and assuring corrective measures. However, even after the lapse of more than three years, the same as well as even more aggravated failures have resurfaced. This continued non-compliance, despite judicial notice and the Respondents' own undertaking, not only provides a fresh cause of action but also highlights the urgent need for judicial intervention to ensure that such systemic lapses do not recur year after year. The Petitioner also respectfully submits that the principle of *res judicata* does not apply to continuing causes of action, as settled by the Hon'ble Supreme Court, thereby entitling the Petitioner to maintain the present proceedings notwithstanding the earlier writ. The said writ petition is pending

before this Hon'ble Court and the next hearing is scheduled on 25th September 2025.

(b) Multiple requests had been received by Petitioner No.1 from its members as to the Portal Glitches due to which either filing ITRs could not be filed or the members were prevented from fulfilling other critical statutory obligations through functions available only on the Income Tax Portal, creating a similar cause of action as to continuing default as in SCA 272/2022.

(c) Further, the due date for AY 2025-26 for filing Income Tax Returns for non-audit able Assessees referred in clause (c) of Explanation 2 to sub-section (1) of section 139 of the Act was 31st July 2025. This was extended by CBDT vide Circular No.6/2025 dt.27/05/2025 vide F.No.225/205/2024-ITA-II, by exercising powers conferred on CBDT vide Section 119 of the Act, without citing any reason or justification. The said circular only granted extension of due date for filing of ITR for Non-audit able cases and none other.

(d) However, on account of Portal Glitches the Petitioners could not perform critical statutory obligations as they were prevented by persistent portal glitches. The portal failure due to glitches was so grave, that to lodge a grievance, the portal itself was not operative (**Exhibit-C**). Subsequently, even after the passing of the re-extended due date i.e. 16th September 2025 to file ITRs for non-

auditable Assessees referred in clause (c) of Explanation 2 to subsection (1) of section 139 of the Act vide Circular No.12/2025 dt.15/09/2025 vide F. No. 225/131/2025/ITA-II, the portal was still not working on 17th September 2025 and petitioners could somehow file the following grievances which are tabulated below:

Petitioner No.	Name	PAN	Grievance Ack No.	Lodged on	Nature of Grievance in Short	Impact Amt (Rs.)
3	Vipasha Mehul Shah	EYXPS4130J	22972581	17-09-2025	Non-Payment of Advance Tax due to Portal Glitch	7500
4	Kanchan ben Nanjibhai Vasani	BFHPV8827B	22991303	18-09-2025	Non-Payment of Advance Tax due to Portal Glitch	6000
5	Sejalben Harshadbhai Vasani	BTFPV8069R	22991693	18-09-2025	Non-Payment of Advance Tax due to Portal Glitch	6000
6	Prasad Studio	ABDFP4312L	22995239	18-09-2025	Non-Payment of Advance Tax due to Portal Glitch	6000
7	Jignesh Gopalbhai Sutariya	AYYPS8994D	22995430	18-09-2025	Non-Payment of Advance Tax due to Portal Glitch	6000

(e) It is clearly depicted from the above table that due to portal glitches, the petitioners could not pay Advance Tax on the scheduled date of 15th September 2025. They had filed grievances for the same requesting waiver of interest u/s 234C which shall be automatically charged due to delay in payment of advance tax instalment. However, till date the department has not addressed the said grievances, nor waived the wrongful interest. The impact of the said interest amount on the Petitioner No.3 to 10 is also listed in the table, calculated at 3% of the advance tax amount which could not be paid by due date on account of failure of Income Tax Portal.

(f) The Petitioner No. 3 humbly submits that she is a regular and law-abiding taxpayer who had duly arranged funds to discharge her second instalment of advance tax amounting to ₹2,50,000/- on 15-09-2025. However, despite repeated attempts commencing from 11:30 p.m. on the due date, she was unable to even access the payment option on the Income-tax portal owing to its extreme instability. Login screens failed to load, payment options did not appear, and finally at 11:50 p.m., while crucial compliance time was still available, the portal was abruptly taken down for maintenance. Consequently, she was completely prevented from effecting payment, through no fault of her own. A grievance was promptly lodged on 17-09-2025 and acknowledged under Grievance No. 22972581. The Petitioner now faces an automatic interest liability under Section 234C purely because of these

technical failures, which have caused her financial prejudice and unnecessary anxiety despite her timely intent and bona fide efforts to comply. Copy of Grievance is enclosed in **Exhibit - D**.

(g) The Petitioner No. 4 respectfully states that she faced persistent login failures on the Income-tax e-filing portal during the crucial compliance window for payment of her second instalment of advance tax of Rs.2,00,000/-. Despite repeated attempts throughout the day, she was denied access to her account entirely, leaving her helpless and unable to discharge her tax liability within the prescribed due date. The grievance could only be formally recorded on 18-09-2025 under Acknowledgement No. 22991303 due to persistent portal glitches. In her grievance, she specifically highlighted the hardship caused by such failures, the threat of penal interest and late fees, and requested that honest taxpayers not be made to suffer for faults entirely attributable to the Income-tax Department's infrastructure. She had to face acute anxiety although being a compliant citizen who are ready and willing to pay, but instead forced to bear an unlawful burden due to systemic lapses beyond her control. Copy of Grievance is enclosed in **Exhibit - E**.

(h) The Petitioner No. 5 humbly submits that she too was prevented from making her Q2 Advance Tax payment for FY 2025-26 of Rs.2,00,000/-, due on 15-09-2025, because of repeated login failures and session errors on the Income-tax e-filing portal. Despite being financially prepared and making timely attempts,

she was unable to even access her account to generate the challan.

This left her in a state of helplessness and exposed her to automatic levy of penal interest and possible penalty for no fault of her own. She could lodge a grievance only on 18-09-2025, due to persistent portal glitches which prevented her from lodging the grievance and which now stands recorded under Acknowledgement No. 22991693 and is still pending resolution.

The experience has caused her considerable mental stress and shaken her confidence in the reliability of the statutory system meant to facilitate compliance. Copy of Grievance is enclosed in

Exhibit - F.

(i) The Petitioner No. 6 respectfully brings to the notice of this Hon'ble Court that it was unable to discharge its second instalment of advance tax liability of Rs.2,00,000/- for FY 2025-26, which fell due on 15-09-2025, despite being fully prepared with funds and computation of income. The firm faced repeated login errors and denial of access to its e-filing account throughout the crucial compliance window, which completely prevented generation of the payment challan. A grievance could be filed only on 18-09-2025 and now stands acknowledged under Grievance No. 22995239. The partners are now exposed to mechanical levy of interest and penalties for no fault of theirs, and the incident has disrupted the financial planning of the business. The grievance letter specifically requested that no penal consequences be fastened on the firm for a delay caused solely by

technical failure of the Department's own portal. Copy of Grievance is enclosed in **Exhibit - G.**

(j) The Petitioner No. 7 most respectfully submits that despite being fully ready with funds and computation of income, he was completely unable to log in to the Income-tax e-filing portal on 15-09-2025, the statutory due date for the second instalment of advance tax for FY 2025-26 which amounted to Rs.2,00,000/-. The petitioner made multiple attempts through the day, but the portal persistently failed to load, effectively locking him out of his own account. A formal grievance was lodged on 18-09-2025 and has been duly acknowledged under Grievance Acknowledgement No. 22995430, which is still pending resolution. The grievance specifically recorded dissatisfaction and anxiety over exposure to automatic levy of interest and penalty despite his bona fide readiness to pay, and seeks assurance that no penal consequences be visited upon him due to a fault entirely attributable to the portal. Copy of Grievance is enclosed in **Exhibit - H.**

(k) On the basis of the above facts and problems faced by the petitioners it is submitted that the failure of the portal between the period 10th September 2025 –15th September 2025 did not merely affect return filing but also paralysed the challan generation and payment gateway access for advance tax. As a result, a large number of taxpayers were prevented from paying the second instalment of advance tax by the statutory due date of 15-09-2025

despite having funds and intent to comply. These taxpayers are now mechanically burdened with 3% interest under Section 234C, which is designed to penalise deferment of tax on the part of the taxpayer. Imposing such interest when the delay is entirely attributable to systemic failure is arbitrary, confiscatory, and violative of Articles 14 and 265. The levy ceases to be compensatory and becomes punitive without fault, thereby calling for judicial intervention and a direction to waive or deem timely payment for such cases.

8. Evidence of persistent technical glitches are collated by the petitioner

In order to provide objective and verifiable proof of the disruption, Petitioner No.1 invited taxpayers and professionals via social media to submit screenshots, error messages, and videos of portal failures (https://x.com/caas_org/status/1966367827465744788), separately furnished in **Exhibit - I**. Hundreds of submissions were received from diverse geographies and at different times of day, depicting login failures, server errors, DSC malfunctions, and challan generation issues. This overwhelming response created a comprehensive repository of evidence and demonstrated beyond doubt that the problem was systemic, widespread, and not an isolated or user-specific issue.

9. Capacity of the Portal

Respondent No.1 vide Press Release dt.1st August 2022, had announced record breaking filing of ITRs in a single day with the following remarks

“The surge of filing ITRs peaked on 31st July, 2022 (due date for salaried taxpayers and other non-tax audit cases) with over 72.42 lakh ITRs being filed on a single day i.e on 31st July, 2022”

Therefore, 72.42 lakh ITRs per day marks as the peak capacity demonstrated by the Income Tax Portal, and the event of such performance happened in 2022, which is in the recent past when Income Tax Act was not substantially different from the current law. However, filing statistics for AY 2025-26, compiled from official CBDT data, show the following performance:

Number of Income Tax Returns filed since 12th September 2025		
Date	Number of ITRs filed in Lakhs	Cumulated ITRs filed till date (Crores)
12-09-2025	47	5.95
13-09-2025	35	6.30
14-09-2025	39	6.69
15-09-2025	40	7.09
16-09-2025	44	7.53

The above table therefore clearly demonstrates that to achieve the highest filing of 7.53 Crore turnover, the IT Portal was limping at

48% to 65% of its capacity, and still crashing, bringing not only filing, but also other critical functions like Payment of Advance Tax, Appeals, Rectification, Grievance Lodging etc, all to a halt. From the above table, it is clearly evident that the portal failure was not due to last minute rush by the Assessee, but due to some internal reasons (including over validations which is discussed in detail at Para 9 of this memo of petition).

10. Increased number of Validations for uploading of returns with the poor portal stability has further added to the poor performance of the Income Tax Portal

Over the years the portal has been employing varied number of validations at the time of filing utilities or accepting the return while uploading which is produced below:

Form / Utility	Number of Category A Rules (Validations)					
	2025-26	2024-25	2023-24	2022-23	2021-22	Cumulative Increase
ITR-1	279	208	194	190	187	49.20
ITR-2	724	584	507	506	450	60.89
ITR-3	1032	889	826	756	781	32.14
ITR-4	352	278	225	215	224	57.14
ITR-5	886	751	679	629	632	40.19
ITR-6	877	759	709	643	656	33.69
ITR-7	672	605	558	491	221	204.07

Source:

<https://www.incometax.gov.in/iec/foportal/downloads/income-tax-returns>

As apparently clear from the above table, Category A Rules (Validations) which results into “**Return will not be allowed to be uploaded. Error message will be displayed.**”. These validations have strangulated the process of filing of IT Returns to the extent that even though the Assessee intends and is willing to file the Income Tax Return, these validations throw error message, constraining him to first cure the defect beforehand and only after that the ITR is allowed to be filed. Over the years from 2021-22 to 2025-26, these validations have astronomically and exponentially increased from 32% to 204% in different types of forms. These validations are in fact Rules not statutorily backed by Income Tax Rules or the Law passed in the Parliament. These are the rules enforced by the Portals, which are illegal, arbitrary and restrictive of one’s right to again file the defective return after curing the defects within 15 days.

11. Absence of CBDT Response on such a grave issue shows the lethargy on the part of respondents

Despite detailed and timely representations by CAAS (05-09-2025) and BCAS (01-09-2025) and others highlighting the hardship caused by delayed utilities and portal glitches, CBDT has not issued any clarification or relief for audit cases. While it suo-motu extended the due date for non-audit returns acknowledging systemic failure, no

similar accommodation has been provided for audit taxpayers whose compliance burden is heavier and directly impacted by the same systemic deficiencies. This selective relief leaves a large class of taxpayers remediless and necessitates the need for judicial intervention for a comprehensive, long term and an equitable solution, to a problem which pops out every year. Whether or not, extension is granted, accountability needs to be set for timely notification of form, release of utilities and punitive actions for those acting unaccountable.

GROUNDS

Although the above stated facts clearly demonstrates the grievances and the grounds why immediate judicial intervention is necessary, the petitioners are further challenging the action of the respondents on the following grounds:

- A. **Violation of Article 14:** The Respondents' action in extending due dates only for non-audit returns while denying similar relief for audit cases, despite both being equally impacted by delayed forms and utilities as well as portal glitches, constitutes arbitrary classification. The distinction lacks any rational nexus to the object of securing compliance. Audit taxpayers are in fact subject to greater compliance obligations and hence deserve at least equal, if not greater, accommodation. The statutory deadline for filing Income Tax Returns is as follows:

Sr. No.	Category of Tax Payer	Due Date	Statutorily available days for Compliance
1	Individual / HUF/ AOP/ BOI (books of accounts not required to be audited)	31st July	121
2	Tax Audit Report	30th September	182
2	Businesses (Requiring Audit)	31st October	213
3	Businesses requiring transfer pricing reports (in case of international/specified domestic transactions)	30th November	243
4	Revised return	31st December	274
5	Belated/late return	31st December	274

This year the statutory forms as well as the utilities, both were released late. As a result, statutorily available days for compliance for all the categories of taxpayers had been reduced. Irrespective whether any extension is given or not, the said delay creates impediment for the taxpayers to perform the statutory duties from which they are prevented under the garb of delayed utilities or Portal Glitches.

When the Government delays the release of statutory forms/utilities, it creates a truncated compliance window for all taxpayers. Those who had the statutory right to use the full period available under Section 139 are arbitrarily deprived of that right. This delay amounts to arbitrary State action, because it frustrates the object of the statute which is to give full compliance time and is thus, in violation of the fundamental right of equality and non-arbitrariness under Article 14 of the Constitution of India (*E.P. Royappa v. State of Tamil Nadu 1974 AIR 555*). Year on year, the forms are released at the whims of the Respondent No.1 and utilities follow their delayed path, further aggravating the violation, and there is no accountability on the part of the Respondents No.1 & 2 to take punitive actions against those participating in the violation. It is humbly submitted, that setting of accountability and fixation of punitive action is imperative especially light of the upcoming New Income Tax Act, which has been overhauled and utilities whereof would again take time for notification, coding, testing and deploying, thereby bringing the tax administration at halt, if remained unchecked.

Further, the denial of parity infringes the constitutional guarantee of equality before law and equal protection of laws under Article 14.

B. Violation of Article 21: The Respondents' failure to provide a stable and timely compliance window compels taxpayers and professionals each year to remain engaged with statutory filings during periods of portal outage and in the midst of major festivals such as Navratri, Diwali, Bhai Dooj and Chhath. This interferes with their dignity,

their right to personal liberty, and their ability to practice and celebrate their religion with family. The right under Article 21 encompasses the right to live with human dignity and to have reasonable leisure and participation in cultural life; forcing statutory compliance under such circumstances amounts to an unreasonable invasion of that right. The Supreme Court in *Maneka Gandhi v. Union of India (1978)* 1 SCC 248 and *Olga Tellis v. Bombay Municipal Corporation (1985)* 3 SCC 545 has held that the expression 'life' under Article 21 means something more than mere animal existence and includes the right to live with human dignity. Denying reasonable time for compliance during such extraordinary circumstances violates this settled jurisprudence and therefore calls for judicial intervention to harmonise tax administration with fundamental rights.

C. Violation of Article 265: The power to levy interest, late fees and penalties must flow strictly from statutory authority. When such levies arise solely due to failure of State infrastructure, such as delayed release of utilities or portal outages, they lose their compensatory character and become punitive without any fault on the part of the taxpayer. Such exactions amount to unlawful enrichment by the State, run contrary to the principle of fairness in taxation, and effectively confiscate property in violation of Article 265. The doctrine of unjust enrichment and settled jurisprudence hold that the State cannot retain amounts collected without legal sanction or where the default is attributable to its own failure. The

Hon'ble Supreme Court in *Mafatlal Industries Ltd. v. Union of India* (1997) 5 SCC 536 and *CCE v. Dai Ichi Karkaria Ltd.* (1999)

7 SCC 448 has held that taxes collected without authority of law are liable to be refunded and that vested rights of taxpayers cannot be denied by administrative inaction. This principle squarely applies to interest and penalties collected for State-induced delays.

Section 139(9): The statutory scheme under Section 139(9) envisages that a return is first accepted by the system, and only thereafter, if any defect is noticed, a notice is issued to the Assessee granting 15 days (extendable) to cure such defect. This legislative design ensures that the filing date is protected and that taxpayers are not penalised merely because of curable defects. The current practice of the e-filing portal rejecting returns at the upload stage for failing overly strict schema validations goes beyond the statute, defeats the purpose of Section 139(9), and effectively deprives taxpayers of their statutory right to a cure window. Over the years from 2021-22 to 2025-26, these validations have astronomically and exponentially increased from 32% to 204% in different types of forms, despite the Income Tax Act, substantially remaining the same. These validations are in fact Rules not statutorily backed by Income Tax Rules or the Law passed in the Parliament. These are the rules enforced by the Portals, which are ultra-vires, illegal, arbitrary and restrictive of one's right to again file the defective return after curing the defects within 15 days, and thus violative of Article – 14 for Right to non-arbitrariness.

Such ultra vires and arbitrary pre-filing gatekeeping therefore requires judicial correction to align the portal's functioning with the Act and to protect taxpayers' statutory right to cure defects post-filing.

D. Section 119: Section 119 of the Income-tax Act empowers the CBDT to issue orders, instructions, and directions to mitigate genuine hardship faced by taxpayers. Section 119(2)(a) reads as follows:

“(2) Without prejudice to the generality of the foregoing

power, —

(a) the Board may, if it considers it necessary or

expedient so to do, for the purpose of proper and

efficient management of the work of assessment

and collection of revenue, issue, from time to time

(whether by way of relaxation of any of the

provisions of sections 115P, 115S, 115WD,

115WE, 115WF, 115WG, 115WH, 115WJ,

115WK, 139, 143, 144, 147, 148, 154, 155,

158BFA, sub-section (1A) of section 201, sections

210, 211, 234A, 234B, 234C, 234E, 234F, 270A,

271, 271C, 271CA and 273 or otherwise),

general or special orders in respect of any class

of incomes or fringe benefits or class of cases,

setting forth directions or instructions (not being

prejudicial to Assesseees) as to the guidelines,

*principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the **prescribed manner** for general information; ”*

In this regard, Rule 111B of Income Tax Rules, state as follows:

Publication and circulation of Board's order.

“111B. Any general or special order of the Board issued under clause (a) of sub- section (2) of section 119, the publication and circulation of which is, in the opinion of the Board, necessary in the public interest, shall be published and circulated in one or more of the following modes, namely :—

- (i) publication of the order in the Official Gazette;*
- (ii) despatching copies of the order to Chambers of Commerce and other trade or professional associations which are, for the time being, borne on the mailing list of the Board;*
- (iii) displaying copies of the order on the notice board of the office of every Chief Commissioner or Commissioner, Deputy Commissioner and Assessing Officer.”*

The present practice of Respondent No.2 is not in line with the rules frame by itself. Whenever the extension notifications are notified, they are notified in the form of a half-baked press release at literally the 11th hour, over modes like social media, instead of approved media mentioned in the rules. This kind of facility though accorded by the Respondent No.2 to the stakeholders creates chaos in the middle of the night. Information on one such Circular extending due date by 1 day from 15th September 2025 to 16th September 2025 was informed to the stakeholders at 11:48 pm in the form of Press Release on Twitter(X) without any signed Circular. (**Screenshot enclosed as Exhibit-J**). This clearly demonstrates that Respondent No.2 has no respite for the Right to Life and Liberty of the Petitioners or their members or the Public at large who forms the taxpayer's base, by releasing chaotic press releases outside the office hours.

However, post release of the extension circular, despite admitted glitches and widespread evidence of systemic failure, CBDT failed to exercise this power to provide timely relaxation or condonation to the auditable cases. Its inaction has left taxpayers exposed to penal consequences for circumstances beyond their control, thereby violating its statutory duty to ensure fair administration and remove hardship in a genuine manner. In past years, CBDT has exercised this very power to extend deadlines and grant general condonation. The present refusal to act despite similar or worse circumstances is arbitrary and unjustifiable.

E. Contempt / Continuing Wrong: The non-implementation of this Hon'ble Court's interim order dated 11-01-2022, wherein CBDT was directed to ensure removal of portal glitches, constitutes a continuing dereliction of duty. The Respondents had filed an affidavit assuring corrective measures, but the recurrence of identical failures three years later shows clear non-compliance. This not only provides a fresh and independent cause of action but also calls for judicial supervision to secure obedience to the Court's previous directions and to prevent recurrence.

It is further submitted that, in the matter of *All Gujarat Federation of Tax Consultants Vs Central Board of Direct Taxes & Ors. (SCA/15075/2015)*, this Hon'ble Court had directed as follows:

“The respondents shall henceforth, endeavour to ensure that the forms and utilities for e-filing of income tax returns are ordinarily made available on the 1st day of April of the assessment year.”

Hence, this Hon'ble Court had directed the respondent to endeavour. However, no endeavour seems to have been made from the inordinate delay in release of ITR Forms and Utilities as evident from the above table. Here, it is pertinent to note that the endeavour to ensure were 2 staged efforts:

- a. First while approving and notifying the Income Tax Form, which were delayed by a month; and
- b. Second while releasing the utility software prepared by the Managed Service Provider, which had been delayed

substantially and released in a half-baked manner, with full of bugs, resulting into portal failure vis-à-vis substantial wastage of time and effort of the Respondents and their members.

Despite the passage of a decade, Respondent No.2, who has exhibited characteristics of a habitual offender, has been callous in adhering to the directions given by this Hon'ble Court, as a result of which contempt proceedings be immediately brought upon it with exemplary punitive action, so the notion that a government body is never penalized is absolutely rebutted, and the disrepute brought upon this Hon'ble Court be restored in the interest of administration of Justice. A serious approach needs to be taken especially when the Income Tax Act has been overhauled to a new Act with renumbered Sections, utilities whereof would require prior attention, in absence of which, similar situation is bound to arise in future.

F. Doctrine of Proportionality: The imposition of penal interest and late fees in a situation where performance of statutory obligation was rendered impossible by systemic failure of the Government's own portal is manifestly arbitrary and disproportionate. The doctrine of proportionality, as recognised by constitutional courts including in *Om Kumar v. Union of India (2001) 2 SCC 386*, requires that State action be fair, reasonable and least restrictive to achieve its object. When taxpayers are ready and willing to comply but are prevented by factors beyond their control, levying interest or penalty ceases to serve any compensatory purpose and becomes punitive. Such an approach violates fairness and equity and warrants judicial

intervention to either waive or deem compliance during the period of impossibility.

G. Revenue Loss due to such persistent portal issues: The systemic delay in filings does not merely causes inconvenience to the taxpayers but also causes a direct and measurable shortfall in the Government's revenue collections and adversely affects fiscal planning. This deferment distorts fiscal deficit projections, increases interest outgo of the exchequer, and ultimately affects public spending. Reduced timely ITR filings defer self-assessment tax, demand collection and advance tax, thereby impacting cash flows of the exchequer. Such recurring revenue deferrals justify judicial monitoring and structural directions to ensure that the tax administration machinery functions efficiently in future compliance seasons, without compromising fundamental rights.

H. Portal Architecture Failure: The present portal design relies excessively on server-side validations, complex middleware logic, and synchronous checks that often overwhelm system capacity during peak filing periods. Such architecture causes systemic slowdowns and outright collapses. Taxpayers, who have no control over this design, cannot be penalised for failures intrinsic to the system. Therefore the petitioner strongly relies upon the latin maxim which is apt in the present situation i.e. "*Lex non cogit ad impossilia*" – law does not compel the impossible. Judicial intervention is warranted to direct that validations be limited to

essential checks only, and that once a return is uploaded it must be treated as filed with defects, if any, to be cured under Section 139(9) within the statutory period.

12. For that, the Petitioners craves leave to urge further grounds at the time of hearing of the case which are not taken herein.

13. For that, the Petitioners submit that it has no other equally efficacious adequate alternate remedy than to approach this Hon'ble Court under Article 226 of the Constitution of India. The remedy by way of writ(s), direction(s) and/or order(s) as prayed for herein, if granted will be adequate and complete.

14. The Petitioner have not filed any petition with regard to the subject matter out of which this writ application arises including the grounds as mentioned herein above before this Hon'ble Court including Hon'ble Supreme Court of India.

15. For that, this petition is made bonafide and in the interest of justice.

PRAYER:

16. The Petitioners respectfully prays for the following reliefs:

(a) To issue writ of Mandamus or any appropriate writ, order or direction, directing the Respondents to release ITR forms and the utilities by 1st day of April every year and create accountability framework for delay.

(b) To issue writ of Mandamus or any appropriate writ, order or direction, directing to restrict the pre-filing validations strictly to basic identity & structural checks and further direct that once Return is uploaded, it must be treated as filed, with any defect notice issued under Section 139(9) granting statutory time to cure.

(c) To issue writ of Mandamus or any appropriate writ, order or direction, directing that all consequential interest under Section 234A and Section 234C, late fees under Section 234F, and penalties including the penalty under Section 271B be automatically waived or deemed condoned wherever delay is demonstrably due to portal downtime, late release of utilities, or other system failures attributable to the Respondents.

(d) To issue writ of Mandamus or any appropriate writ, order or direction, directing to the effect that for all future years if the utilities are not available on 1st April or substantially modified thereafter, 4 months, 6 months or 7 months' time, as applicable to the category of assessee, would start from such date when utilities are made available or modified.

(e) To issue writ of Mandamus or any appropriate writ, order or direction, directing the refund or adjustment of interest, late fees, and penalties already collected in cases where the delay was caused by systemic issues.

(f) To issue writ of Mandamus or any appropriate writ, order or direction, directing the respondents to constitute an independent technical monitoring committee consisting of representatives from

ICAI, National Informatics Centre (NIC), industry, and technology experts, to carry out a quarterly portal audit, publish uptime data on a public dashboard, and file status reports before this Hon'ble Court for at least the next two assessment years.

(g) To issue writ of Mandamus or any appropriate writ, order or direction, directing the respondents to form a high-level accountability committee empowered to identify responsible officials who approve and notify the Return Forms late and software vendors who release utilities late for recurring failures, recommend disciplinary action, and recover cost of losses suffered by taxpayers and the exchequer due to such failures.

(h) Pass such further orders or directions as this Hon'ble Court may deem just, including framing of Standard Operating Procedures for timely release of utilities and robust grievance redressal mechanism.

(i) The petitioner prays for the following ad-interim relief till the pendency of the petition:

(a) Time Compensation: Grant compensatory extensions for AY 2025-26 by directing that:

- (i) Tax Audit Reports may be filed up to 30-11-2025;
- (ii) ITRs of audit cases up to 31-12-2025; and
- (iii) Transfer Pricing reports under Section 92E up to 31-01-2026,
- (iv) Belated Returns and Revised Returns may be filed up to 31-03-2025.

to restore the time lost due to late release of utilities and portal outages.

(b) Suspension and/or automatic waiver of interest under Sections 234A and 234C, late fees under Section 234F, and penalty exposures during the period 10–16 September 2025 when the portal was partially or completely non-functional, where Assessee could not file ITR or pay Advance Tax.

(c) Liberty to the Petitioner to apply for further interim relief in case the portal again becomes unstable during the extended period.

And for this act of kindness, the Petitioners shall, as in duty bound, ever pray.

Place: Surat

Date: 23-09-2025

Dr. AVINASH PODDAR

Ms. ANCHAL AVINASH PODDAR

ASHVA LEGAL ADVISORS LLP

Advocate for the Petitioner

AFFIDAVIT

I, Hardik Kakadiya, son of Jivrajbhai Kakadiya, vice president of the Chartered Accountants Association, Surat, Age: 43 Years, Occupation: Profession, residing at: B-5, Shiv Sagar Society, Opp. Parshuram Garden, L.P. Savani Road, Adajan, Surat – 395009, on behalf of all petitioners, do hereby solemnly affirm on oath and state that:-

1. That after having understood the contents of the petition in vernacular language I ink my signature on the memo of the petition.
2. That what is stated in Para 1 to 11 are true to my knowledge and belief and I believe the same to be true and correct.
3. That what is stated in Para A and H are based on legal advice and I believe the same to be true and correct.
4. That what is stated in Para 12 to 16 is requirement of law.
5. That Para 17 is the prayer clause.
6. The Annexures are true copies of the original. Nothing material is suppressed thereof.

Solemnly affirmed on Tuesday, 23rd September 2025 at Surat.

Identified by me.

Advocate

Deponent