



INCOME TAX GAZETTED OFFICERS' ASSOCIATION

WB UNIT

Aayakar Bhavan, 6th Floor, Room No. 28, P - 7, Chowringhee Square, Kolkata - 700 069

President : Mrinal Kanti Chanda

General Secretary : Bhaskar Bhattacharya

9477331010

8902198888

Dated: 19-12-2012

To,
The President,
ITGOA,
New Delhi.

Comrade,

Sub: Delay in promotions from ITO to ACIT – Regularization of adhoc promotions of JCSIT – matter regarding.

You are aware that CBDT has effected three adhoc promotions for JCSIT vide order dated 30/03/2011 for 295 promotions, order dated 27/10/2011 for 133 promotions and order in June'2012 for 108 promotions but the consequential vacancies due to arise out of those promotions are not filled up till date on one pretext or another. Even regular vacancies for the recruitment year 2012-13 have not been filled up by the CBDT. Apathy of CBDT towards promotions involving promottee officers is well known to everyone and despite all changes taking place in the Department, the CBDT is continuing with its intention against the promottees without any remorse. The factual position of promotions to the grade of ACsIT is illustrative of the above fact which is summarized below:

Sl.NO.	Recruitment year	Promotion effected	Date of promotion	Delay in promotion
1	2008-2009	50	17/09/2010	29 months
2	2009-2010	103	17/09/2010	17 months
3	2009-2010	5	28/03/2012	35 months
4	2010-2011	109	28/03/2012	23 months
5	2011-2012	88	28/03/2012	11 months

It is beyond imagination that how the Department getting dates of DPC for the posts of CIT or CCIT so frequently but when the matter comes for promotion for the posts of ACIT or JCIT, CBDT invariably fails. This is unfortunate that the issue relating to regularization of the JCIT promotions was stuck in the court for a long time however, despite much awaited order was passed long back in the month of July'2012 by the Hon'ble Court paving the way for regularization of the above promotions, no fruitful step has been taken by the CBDT. Also, the approach of the CBDT simply appears dilatory. It is evident that in view of the Hon'ble Delhi High Court order, there is no legal impediment before the CBDT in regularization of 295 JCIT promotions effected by order dated 30/03/2011 immediately as the regular DPC had already been completed for those posts. Even steps should have been taken in the right earnest for DPC of the residual adhoc promotions but nothing has been done in this regard till date. It is needless to say that due to none regularization of these promotions, consequential vacancies are being denied by the CBDT and therefore almost 275 promotions which were supposed to be effected from ITO to ACIT have not been given and the officers are getting retired without their due promotions.

We are fully aware that the attitude of CBDT towards promottee officers always remains biased but inaction on part of CHQ in pursuing the issues of the largest segment of members remains unimaginable.

Going by the sentiments of the large number of members, I would like to request you to kindly pursue CBDT to regularize all the adhoc promotions by January'2013 and consequential vacancies to be filled up by March'2013. It is needless to say that the promotion in the cadre of ACIT for recruitment year 2012-13 must be effected by December'2012 at any cost.

If the CBDT is not inclined to accept our demand and not ready to take proactive approach for redressal of the same within stipulated time, we urge you to take immediate steps of non- co-operation and other such programmes, as the officers are feeling frustrated on the step motherly treatment of the Board towards issues of promottee officers. Moreover, an emergency meeting of Executive Committee of West Bengal unit of ITGOA was held on 19/12/2012 in which following resolutions were passed:

1. We demand for an immediate Extra Ordinary General Body meeting to be convened by the CHQ to discuss the above issue or any other issues.
2. We demand that the CHQ should pursue the CBDT to ensure promotions to the Grade of ACIT for the recruitment year 2012-13 to be effected by December'2012.

3. We demand that the CHQ should pursue the CBDT to ensure regularization of all adhoc promotions of JCIT and the consequential vacancies to be filled up by March'2013.

We have received your communication today itself asking for suggestion in regard to the above mention subject. The Unit feels that due to the gravity of the situation and the far-fetched effect of the issue the CHQ must convene an Extra Ordinary General Body Meeting of the Association immediately to decide on the immediate course of action.

We request an early action on your part.

Comradely yours

**Sd/-
(Bhaskar Bhattacharya)
General Secretary.**

Copy to: The Secretary General, ITGOA, New Delhi for information and immediate action in this regard.

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President : Mrinal Kanti Chanda

General Secretary : Bhaskar Bhattacharya

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Dated: 03.02.2013.

To,
The President,
ITGOA,
New Delhi.

Comrade,

Sub: Problems facing by the field officers-matter regarding

Certain problems, faced by the field officers are seriously hampering their day to day works. The problems are technical in nature and need the intervention at the highest level. The problems and suggestions proposed to fix them are stated below. Proposals on some other issues are also furnished below for consideration of the CHQ:

1. Pan Migration: It has become a major issue with all AOs.

To mitigate the problem it is suggested:

a. PAN migration does not take place if there is some pendency like issue of refund etc. But this information is not available with the AO. He is kept at dark. It is suggested that the moment a PAN migration request is allowed by any AO a pop window should come up to indicate that this cannot be allowed unless the pendency is cleared. Such pendency must also be detailed in the pop up window.

b. Otherwise PAN should be allowed to be migrated with pendency but the receiving AO must get a message about the pendency when he receives the PAN.

c. Many times it has been seen at the time of passing the order u/s 143(3)/144 that PAN has been migrated to some other charge. The AO finds himself in great trouble because most of the time he

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himself has allowed the migration without noticing that in the long list of requests for migration the PAN of such assessee was also included. It is suggested that at the time of allowing PAN a warning message along with a check box should appear to indicate that a particular case is presently being under scrutiny. The chance of inadvertent mistake would be reduced.

2. Rectification of Challan: For payments made before 01-04-2006 no rectification can be done by the AO. In many cases it results in continuation of bogus demand and grievance of the suffering assesseees.

It is suggested that AOs should be allowed to rectify the challans for payments made prior to 01-04-2006 just the way they rectify the challans paid on or after 01-04-2006.

3. ITD connectivity to TROs: The TROs must be given access to ITD so that they can view all the details including ITS details in respect of the assesseees whose cases have been certified. This would help them to augment collection in a great way.

4. Uploading of demand to CPC: We need to raise two issues in this regard:

a. Whenever a rectification of demand is done even for demands raised prior to 01-04-2010 the same may be automatically rectified in the CPC portal. This will reduce the workload of AOs and sufferings of the assesseees to a great extent.

b. Till it is done the AOs should be empowered to upload the corrected demand in the CPC portal instead of doing the same through JCSIT. This will save duplication of work and save valuable time of both the AOs and JCSIT.

5. Integration of data: Integration of the data of Online TMS with the ITD is not taking place by and large. This has resulted in huge number of grievances. This need to be sorted out immediately.

6. Orders Of CIT(A) etc.:Orders of CIT(A), ITAT and orders u/s 263 & 264 may be passed online so as all the following orders passed by the AOs can also be passed online.

7. Online QPR: Now the submission of QPR has again been made mandatory. It is a hugely time consuming affairs as it has to be prepared manually. QPR if prepared online then a lot many data can be transferred to the QPR from CAP reports. So it is suggested that QPR be made online with proper lining to CAP reports.

8. 147/144 orders: Many 147 cases are passed u/s 147/144 as the assesseees refused either to file a return or submit letter requesting the AO to treat the earlier return as return u/s 148. In such situation order has to be passed u/s 147/144. But the same cannot be passed online as at the time of uploading the system is asking for date of filing of return and date of issue of notice u/s 143(2). This

need to be sorted out immediately otherwise such orders has to be passed either manually or has to uploaded giving false date regarding filing of return and issue of notice u/s 143(2).

9. Separate password for issue of refund: It is common knowledge that AOs share their password with the staff members for all works online. To have a safeguard it is suggested that a separate password be given for uncaging of refunds. AO may share this with only one person or can do it himself.

10. Range wise internal audit officer: Instead of one TRO doing the internal audit work for the entire CIT charge, all the TROs may be allowed to do the internal auditing range wise. Then the TRO posted in a particular range will do the internal audit of that range only. This will result in equal distribution of workload and better output of audit job.

As the problems pointed out above are very serious in nature and must have been faced by our counterparts in other states also, we request an early action on your part.

Comradely yours

(Bhaskar Bhattacharya)
General Secretary.

Copy to: The Secretary General, ITGOA, New Delhi for information and immediate action in this regard.

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President : Mrinal Kanti Chanda

General Secretary : Bhaskar Bhattacharya

9477331010

8902198888



Date:

01-02-2013

To
The Chief Commissioner of Income Tax,
Kolkata.

Sir,

Sub.: Completion of time barring scrutiny assessments

Ref.: Letter No. CIT/Kol-XI/Scrutiny/2012-13/4506 dated 28-01-2013

Kindly refer to the above.

In the context of the letter under reference we wish to bring the following facts to your kind attention:

1. The issue of completion of time barring case within December, 2012 as mentioned in the CBDT instruction no. dated 2012 was taken up with Member (P) on 11.10.2012 when he visited Kolkata. The Hon'ble member (P) assured that the AOs should

concentrate on quality assessments instead of completing the same in hurry. He further assured that the CBDT will not put any pressure or call for any explanation for non completion of assessment well before the date of limitation.

2. The same view was reiterated by the Hon'ble Chairperson in the video conference on 30/11/2012. The Chairperson stated in clear terms that all

assessing officers are asked to make as much in depth investigation as is possible in scrutiny assessments. It was emphasised that the A.O. will be liberty at to complete the cases at his chosen time and the artificial time barring date will no more hold good. However Hon'ble Chairperson also made a request that Assessments of high demand cases be disposed at earliest, **to the extent possible**, so that demands can be collected within the current F.Y.

3. Now in the video conference held on 28.01.2013 the Hon'ble Chairperson desired that attempts be made to pass the orders within 15-02-2013 **in the regions that is falling behind the target of budget collection** to augment revenue collection **in such regions**.

4. In view of the developments as discussed in points 2 & 3 above AOs in this region are vigorously pursuing the investigation process and as such the investigation cannot be completed before March, 2013. Further the request of the Chairperson as per point 3 does not apply to this region as we are ahead of the target in collection.

5. Unfortunately letters are being received by AOs working under different charges from CCsIT / CsIT asking them to complete all investigation by 05-02-2013 and pass the orders by 10-02-2013/15-02-2013/20-02-2013.

6. We wish to point out that if orders are passed when the investigation process is incomplete (after it has been initiated) may not only result in revenue loss but invite adverse comments on review and objections from receipt audit. A few illustrations of this situation are as under:

- a. AO has referred a case to the DVO either u/s 55A or u/s 142A and the report is still awaited. Under these circumstances if the order is passed when it is not forced by limitation then the same case cannot be reopened u/s 148 in case the report of the DVO goes against the assessee.

b. *As per CASS selection criteria cases selected under CASS in respect of AIR information the type of scrutiny is marked as 'Limited' and in respect of other cases it is marked as 'Complete'. Even in respect of second category cases, as per CBDT Instruction, the cases may be brought under the type 'Complete' by the A.O. with the approval of CIT. Hence, to make a 'Complete' enquiry the A.O.s issued notices u/s.133(6) wherever deemed fit.* Now, Similar situation prevails where information u/s 133(6) has been sought and not received. If

after passing the order the response is received and it is against the assessee then only recourse available to the department is to issue notice u/s 148. If such orders are passed just before the date of limitation then this action u/s 148 could be defended. But if the same order is passed in well before limitation date the validity of taking recourse to section 148 will not stand the test of appeals.

b. When the date of limitation is far off and the assessee seeks adjournment of hearing or seeks more time to give explanation or respond to show cause notice then if the AO disallows the same and goes ahead with assessment then that assessment will not have any chance whatsoever to stand the test of appeals.

c. In cases where deposition u/s 131 has already been recorded the AO is duty bound to offer an opportunity to the assessee to cross examine the witness. Without this all efforts made will be a mere waste of time.

d. Even in cases where investigation is complete the AO need to give the assessee reasonable (according to several authorities *ample*) opportunity to defend himself. Further in many cases assessee's defense calls for further investigation. All these needs time and the assessments completed without these absolutely necessary steps will only result in creation of high pitched assessment that CBDT itself had directed not to do.

e. When all the AOs have started investigation abiding by the desires of the CBDT the same cannot be stopped suddenly without jeopardising the interest of revenue and inviting potential risk to themselves.

Under these circumstances we express our inability to abide by the orders of CCsIT & CsIT to pass orders in hurry unless a specific order is issued wherein it is directed that orders be passed by a certain date **even if the investigation is not complete and AOs will not be**

held responsible for such incomplete investigation and lapse of well laid procedures.

**(Bhaskar Bhattacharya)
General Secretary**