



**JOINT COUNCIL OF ACTION**  
**INCOME TAX EMPLOYEES FEDERATION &**  
**INCOME TAX GAZETTED OFFICERS' ASSOCIATION**  
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No.JCA/3/2017-18

Dated, 20<sup>th</sup> March, 2018

To

**The Chairman,**  
Central Board of Direct Taxes,  
New Delhi

Respected Sir,

**Sub: New SOP issued for recording satisfaction u/s 147- difficulties faced by our member and NMS related issues-reg.**

Your kind attention is drawn to the new SOP issued on 10.01.2018 for recording satisfaction u/s 147 of Income Tax Act, 1961. The SOP has laid down model notes to be written in order to record satisfaction u/s 147 by the Assessing Officer in four different situations like when the return was not filed, when the return was filed but regular assessment was not made etc. Though the SOP was issued in January, 2018, it reached the assessing officers in the field much later. However the assessing officer has started facing real difficulties when deluge of information (where remedial action getting barred on 31.03.2018) has been started pouring in during this fag end of the Financial Year and the competent authorities are insisting upon to strictly adhere to the SOP for recording of reasons while sending for approval.

Reopening u/s 147 of the Act has always remained as a contentious issue, where legality of reopening in individual cases has very often been challenged in the court of law. So a standard guideline for all would definitely help. But at the same time it should be worthy of implementation. Moreover the enquiries suggested in the SOP at the reopening stage itself as sequel to the information received/collected is humanly impossible in the backdrop of the quality of information received.

It is a fact that different courts have always distinguished between the reason to believe and the reason to suspect. But at the same time, the courts have always upheld the prima facie belief of the assessing officer recorded in the reason and left the detailed enquiry for later stage or assessment charge.

We have strong objections to the manner series of information is just pushed to the assessing officers by the Investigation Wing or other agencies each year just before the remedial action getting time barred. The inadequacy or incompleteness of the information so sent clearly suggests that the wing or the agencies have just been sitting on the information without conducting any effective enquiries and shrugged off the responsibilities at the last moment by

passing the information. So entire onus is thus purposefully shifted on the assessing officers either to make a case of reopening following the SOP or face proceedings, if the remedial action gets time barred; whereas the others, holding the information for so long for unknown reasons, are simply let off. Recently issued SOP is just adding to the woes of the assessing officers, under which they are perennially reeling.

To streamline the entire process of information dissemination and consequential remedial action, the followings are suggested:

1. There shall be a target of time bound dissemination of STR and other information for Investigation Wing and others in Central Action Plan (reasonable cut off date for dissemination specially for the cases where remedial action getting barred on that particular financial year).
2. For the other enforcement agencies and Central Government Departments, the Board should sensitize by explaining the consequential remedial actions required and corresponding time barring dates under the Income Tax Act.
3. There shall be a SOP for enquires and other actions to be taken by the Investigation Wing and others for STR and other information before dissemination. There should be a standardized format for dissemination to ensure that each information should contain bare minimum material for consequential actions. If the information, even after conducting enquiries, doesn't fit in the format, then it shouldn't be disseminated.
4. The SOP issued should be reviewed, specially the enquiries suggested, as it is simply defeating the purpose. If not adhered to the SOP strictly (though not humanly possible, as already explained), the reopening will be vulnerable in the court of law, as the assessee may take a stand that the assessing officer hasn't followed the SOP strictly, otherwise binding on him.
5. Most importantly, the assessing officers may be allowed to form their belief conventionally ( as being done for so many years without any paragraph counts) for the current financial year.
6. As the assessing officers have already had their hands full, no more NMS cycle may be run or pushed in the system for the time being. Our members are working on the information already received through earlier NMS cycle. Moreover, in the NMS Cycle though the PAN gets transferred but not the data. The facility of transfer of data alongwith PAN shall be made available in the system.

Thanking You,

Yours sincerely,



**(Amitava Dey)**



**(Rupak Sarkar)**

**Joint Convenors**