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Dt: 02.11.2022

**KRINWANT SAHAY, I.R.S.**

प्रिय

**Subject: Effective Functioning of the Regional Technical Committees (RTCs) at Pr. CCIT(CCA) levels-regarding-**

The Income Tax department constantly strives to promote effective litigation management at all appellate levels. In the pursuit of this objective, an institutional mechanism to formulate 'Departmental View' on contentious legal issues was set up by the Central Board of Direct Taxes vide **Office Memorandum F.NO. 279/M-61/2012-ITJ, DATED 28-8-2012 (copy enclosed for reference)**, in which it was mandated to constitute a Central Technical Committee (CTC) at national level and Regional Technical Committee (RTC) at each Pr.CCIT(CCA) level.

2. In the recently conducted first All-India Judicial Conference in Dehradun, on 17.10.2022, led by the Chairman, CBDT and Member (A&J), CBDT, the immediate need for adopting measures for strengthening litigation management in the department was highlighted by the august gathering present in the Conference. Towards this end, a major task area which was identified was strengthening the Regional Technical Committees (RTCs) at the CCIT (CCA) levels.

3. To give a brief background, while processing the SLP proposals from all over the country, this Directorate observed that lack of desired clarity on a contentious legal issue, amongst the officers of the department, sometimes leads to inconsistent approach on the same issue giving rise to further litigation. With a view to promote consistency of approach on a given issue and reduce litigation, based on the suggestions of this Directorate, the Central Technical Committee (CTC) and Regional Technical Committees (RTCs) were formulated.

4. Kind attention is drawn to Para 4 of the aforementioned OM dated 28-08-2012, which mandates the formation of RTCs, and Para 5, in which it prescribes the sources to identify the contentious legal issues. Further, in Para 6, the above OM has prescribed the frequency of meeting of the RTC. It states that the Committee shall meet at least once a month. It has also been prescribed to ensure that no reference should be pending for more than two months.

5. In view of the above, it is urged that **Regional Technical Committee (RTC) be constituted in your region, if not existing at present. In the regions in which Regional Technical Committee (RTC) has already been constituted, the significant issues in the region may kindly be identified regularly and referred to the Central Technical Committee (CTC), in accordance with Para 7 of the aforementioned OM.**

आदर सहित,

आपका शुभाकांक्षी

संलग्नक: यथोपरि

(कृणवन्त सहाय)

प्रधान आयकर महानिदेशक  
(वि.एवं.अनु.)

All The Pr. CCIT (CCA).

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F.No. 279/M-61/2012-ITJ  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct taxes  
(A&J Division)

New Delhi, the 28<sup>th</sup> August, 2012

**OFFICE MEMORANDUM**

**Sub: Institutional Mechanism for Forming Departmental View on Contentious Legal Issues**

It has been observed that a large part of litigation in the Direct Taxes matters involves interpretation of legal provisions. Lack of desired clarity on a contentious legal issue, amongst the officers of the department, sometimes leads to inconsistent approach on the same issue giving rise to further litigation. With a view to provide clarity on contentious legal issues, promote consistency of approach on a given issue and reduce litigation, it has been decided to set up the following institutional mechanism to formulate 'Departmental View' on contentious legal issues:

**Central Technical Committee:**

2. There shall be a Standing Committee in the Board known as "Central Technical Committee (CTC) on Departmental View" with the following members:

- (i) JS (TPL)-II, CBDT
- (ii) CIT(ITA), CBDT,
- (iii) DIT(Research) / CIT(OSD), Directorate of L&R, Member Secretary

The CTC may co-opt JS(FTD), CIT(Inv), CIT(IT&CT) or CIT(A&J) as may be required. The senior-most member shall act as Chairman of the CTC in its meetings. The CTC may also invite any officer of the Department conversant with the matter for relevant inputs and deliberations.

**The Secretariat**

3. There shall be a Secretariat to assist the CTC. The Secretariat shall be headed by the DIT(Research) / CIT(OSD) under the supervision and control of the DGIT(L&R). The Secretariat will conduct research and provide inputs necessary for the CTC to deliberate upon the issues and formulate the 'Departmental View' for consideration of the Board. The DIT(Research) / CIT(OSD), being the member secretary of the Committee, shall be the liaison officer between the Committee and the Secretariat.

**Regional Technical Committee:**

4. In order that the contentious legal issues are first discussed at the local level and duly filtered, each CCIT(CCA) shall constitute a "Regional Technical Committee" (RTC) consisting of the following members :

- (i) One administrative CIT
- (ii) One CIT(DR)
- (iii) CIT(Audit)
- (iv) CIT(Judicial) / one CIT(A)

Addl CIT(J) / Addl CIT(Technical) in-charge of judicial work in CCIT (CCA)'s office shall act as Secretary to the RTC. The RTC may invite any other officer, conversant with the issues under deliberation, to its meetings.



**Identification of Contentious Legal Issues:**

5. Any issue considered as contentious and having wide implications shall be referred to the RTC as and when the issue is identified. The possible sources to identify such issues may include the following:

- (a) The administrative CIT
- (b) The CIT(DR)
- (c) The CIT(A)

In addition to the above, any officer may refer an issue considered contentious to the Secretary of the RTC through the CIT concerned. The RTC may also pick up any issue for consideration *suo motu*.

**Procedure at Regional Technical Committee:**

6. The Secretary of Regional Technical Committee shall place the references for consideration of the RTC. The Committee shall meet at least once a month. However it should be ensured that no reference is pending for more than two months. **The CCIT(CCA)/ CCIT looking after judicial matters of the station, shall supervise the functioning of the RTC.**

7. The RTC shall examine the issue with reference to the relevant provisions of the Income-tax Act and the judicial decisions available on the issue. The Regional Technical Committee shall refer the issue to the Central Technical Committee if it is of the view that-

- (i) there are conflicting interpretations by ITAT/High Court / AAR in respect of a statutory provision, or
- (ii) the interpretation of a statutory provision by ITAT / High Court / AAR defeats the legislative intent, or
- (iii) the dispute involves substantial revenue or has wide ramifications, or
- (iv) the issue involved is resulting in large scale litigation,
- (v) there is any other reason for referring the issue to the CTC

The proposals to CTC should include:

- (a) A brief *referral note* specifying the controversy.
- (b) Copies of relevant orders ie order of Assessing Officer, CIT(A), ITAT, High Court etc as may be available.

**Work Process of the Central Technical Committee:**

8. The Secretariat may receive references for the consideration of the Central Technical Committee from CBDT, RTCs and DsIT(L&R). The CTC may also pick up any issue for consideration *suo motu*.

9. The proposal shall be first processed by the Secretariat as may be directed by the Committee to enable it to formulate the Departmental View, taking into account various aspects and divergent opinions on the issue. The Committee shall take up references to formulate 'Departmental View' considering their relative importance. However the reference received from the Board shall be taken up for consideration on priority.

10. The CTC shall regulate its own functioning. However the CTC shall meet at least once in a month. Once a question is taken up for consideration, the Committee shall examine the same and form a tentative view taking into account divergent opinions on the issue. The

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tentative view may be circulated to the Regional Technical Committees of all the CCsIT(CCA) seeking their response. The RTCs may, before giving feedback to CTC on tentative view, discuss the issue on its own and/or seek inputs from other field officers. The CTC may also call for opinion from professional bodies and retired judges etc, as it may deem fit. The CTC may also solicit opinion of Ministry of Law through Member (A&J) in suitable cases.


11. The CTC shall also get the views of the respective divisions of the Board on the issue involved. If views of the concerned divisions are different / conflicting with the tentative view of the CTC, the matter shall be resolved by discussion of Member (A&J) with the Member(s) concerned. Thereafter final draft will be prepared and sent for examination by the Circular Group of the Board. The draft 'Departmental View' will then be put up through Member (A&J) to the full Board for consideration.

**Dissemination of 'Departmental View':**

12. If approved by the Board, the 'Departmental View' will be issued as Circular u/s 119 of the IT Act by ITJ division of the CBDT for compliance by all concerned.

13. Where any High Court decides an issue contrary to the 'Departmental View', the 'Departmental View' thereon shall not be operative in the area falling in the jurisdiction of the relevant High Court. However the CCIT concerned should immediately bring the judgement to the notice of the CTC. The CTC shall examine the said judgement on priority to decide as to whether filing of SLP to Supreme Court will be adequate response for the time being or some legislative amendment is called for.

14. The above mentioned institutional mechanism comes into force with immediate effect.

  
(R.K. Yadav) 28/8/20  
Commissioner (A&J)

To,

All the Chief Commissioners of Income Tax  
All the Directors General of Income Tax  
All Joint Secretaries/Commissioners, CBDT

Copy to:  Web Manager [irs.officersonline.gov.in](http://irs.officersonline.gov.in) with the request to put this OM on the website