



JOINT COUNCIL OF ACTION
INCOME TAX EMPLOYEES FEDERATION &
INCOME TAX GAZETTED OFFICERS' ASSOCIATION
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No. JCA/2025-26

Dated: 08-07-2025

To

**The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.**

Respected Sir,

Sub: Rational and seamless implementation of the Hon'ble Bombay High Court's judgment dated 08.12.2023 for the benefit of all eligible beneficiaries- reg.

At the very outset, we convey our heartfelt congratulations on your re-appointment as Chairman, CBDT for a further period of one year. We remain confident that under your visionary leadership, the Department will scale unprecedented heights of achievements. We also harbour the hope that several longstanding issues will witness decisive progress during this tenure. Simultaneously, we express our sincere gratitude for the issuance of the Office Memorandum dated 27.06.2025, pertaining to the protracted matter dating back to 2004. However, it is only appropriate to acknowledge that this development also highlights an unfortunate instance where justice has not only been delayed but, in effect, denied to numerous eligible beneficiaries, solely on the ground of not being members of ITGOA as on 31.01.2008, primarily due to the consistently rigid and indefensible position adopted by the Department of Expenditure.

2. Even at the cost of repetition, we deem it necessary to draw your kind attention to the principal prayer made by ITGOA in OA No. 86 of 2008, filed before the Hon'ble Central Administrative Tribunal, Mumbai Bench, which ultimately culminated in the issuance of the Office Memorandum dated 27.06.2025. The prayer specifically sought *"to direct the Government of India to pass orders modifying the last paragraph of the impugned order dated 21.04.2004, stating that the orders shall take effect from 01.01.1996 notionally for the purpose of pay fixation, with actual payment of arrears to be made from the date of the order, i.e., 21.04.2004."* It is, therefore, evident that ITGOA made no distinction among the beneficiaries, neither on the basis of grade (whether Inspector or ITO as on the date of filing the OA) nor status (serving or retired at that point in time). Instead, it unequivocally prayed for a suitable modification of the OM itself, to allow notional fixation from 01.01.1996 for all eligible beneficiaries and not merely for those who were members of the association as on the date of filing. Finally, the Hon'ble Central Administrative Tribunal held that the applicants are entitled to have their pay fixed w.e.f. 01.01.1996 on notional basis and the members of the applicant association i.e., ITGOA are entitled to arrears of pay and allowances arising therefrom.

3. While the Hon'ble Mumbai High Court, in its judgment dated 08.12.2023, held that the CAT's order in OA No. 86 of 2008 stands substituted or modified, it did so strictly in the limited context of extending the benefit already conferred upon the 13 applicants of OA No. 397/2009, benefits that were recommended by the Departmental Anomaly Committee. Significantly, these 13 beneficiaries included both Inspector (as on the date of filing the OA no. 86/2008) and retired employee (as on the dates of the Committee's deliberations), thereby reinforcing the inclusive intent underlying the relief granted. This clearly demonstrates that neither ITGOA nor any Judicial Forum ever prescribed or endorsed any restriction based on grade or service status on a specific date. The spirit of the litigation and the institutional response have consistently upheld a principle of fairness across categories. The Hon'ble Mumbai High Court has categorically held that the Department will give the benefits as has been given to the Applicants before the Tribunal in Calcutta in Original Application No.397/2009 in Writ Petition No. (CT)21/2015. On perusal of the judgement of the Hon'ble CAT as well as Hon'ble High Court in the present issue, it is obvious that the Hon'ble courts have extended the benefits to all the equally placed persons and not restricted the same to a particular set of employees. Unfortunately, it is the Department of Expenditure's misplaced interpretation that appears to have introduced an artificial distinction, limiting the benefit of notional fixation w.e.f. 01.01.1996 solely to those who were members of ITGOA as on 31.01.2008. While interpreting the judgments, the Department of Expenditure has arbitrarily adopted the date of filing of the OA before the CAT as the cut-off date, thereby excluding all otherwise eligible persons, who were covered under the Office Memorandum dated 21.04.2004 namely Inspectors (retired or serving and covered under that OM), ex-members of ITGOA (covered under that OM but retired prior to 31.01.2008) and members/ex-members of ITGOA (covered under that OM but promoted as ITO after 31.01.2008) and thus rightfully entitled to notional pay revision with effect from 01.01.1996.

4. As evident from documents available in the public domain, the Department of Expenditure has attempted to justify its decision to restrict the extension of benefits solely to the original applicants by invoking a purported policy, outlined in its Departmental Notes to the CBDT and CBIC that any subsequent pay upgradation not rooted in Central Pay Commission (CPC) recommendations must be given only prospective effect. This reasoning, however, rests on a demonstrably flawed and factually untenable foundation. The very crux of OA No. 86 of 2008 was the glaring inconsistency in the Department of Expenditure's own actions, wherein Government of India (more precisely DoE) had granted notional pay fixation in over 100 cases across various Departments in similar non-CPC scenarios. The Hon'ble CAT, after due consideration, categorically held that the selective denial of the same benefit to similarly placed employees of the Income Tax Department constituted a blatant violation of Article 14 of the Constitution of India, an arbitrary and unjustifiable departure from the principle of equal treatment under law and the deprivation of their fundamental rights.

5. A careful examination of the history of pay upgradations granted outside the framework of Central Pay Commission (CPC) recommendations unmistakably reveals numerous precedents where notional benefits were extended. In several instances, most notably in the case of various posts in the CBI, even retrospective upgradations were granted with arrears going back as far as ten years. These examples clearly call into question the Department of Expenditure's stated position and reveal it to be inconsistent and factually unsustainable. There is, therefore, no rational basis to treat the DoE's opinion, founded on selective and flawed premises, as sacrosanct, particularly when it runs contrary to settled judicial pronouncements, including those of the Hon'ble Supreme Court. To accept such a

view unquestioningly would amount to undermining the rule of law and the constitutional guarantee of equality under Article 14. If, by virtue of the Government of India (Allocation of Business) Rules or any related framework, the opinion of the Department of Expenditure is treated as binding regardless of merit, the matter deserves to be escalated to the appropriate constitutional or executive authority for corrective intervention.

6. It is indeed paradoxical that, while functioning under the same Ministry of Finance, one arm i.e. the Tax Administration (DoR) is required to rigorously implement the Government's *Minimum Litigation Policy* by refraining from filing or proactively withdrawing cases of low tax effect and pursuing only those with merit established after thorough scrutiny; another arm i.e. the Department of Expenditure appears to be actively encouraging the very opposite approach in service matters. Despite issues being conclusively settled by Courts or expressly accepted by the Government in identical cases, the Department of Expenditure insists that each similarly placed employee approach the courts afresh to secure the same relief, effectively compelling unnecessary and repetitive litigation. This posture not only undermines the stated objectives of the Government's litigation policy but also directly contradicts the concern raised by the Hon'ble Prime Minister in his address on 31.10.2016 at the 50th Anniversary of the establishment of Delhi High Court. In that address, he candidly questioned why Government departments fail to extend the benefit of court decisions, already accepted by the Government, to similarly placed employees, thereby forcing each one to pursue costly and time-consuming litigation up to the highest judicial forums. The stance adopted by the Department of Expenditure, in this regard, clearly assails the foundational spirit of judicial consistency, administrative fairness and the very ethos of the *Minimum Litigation Policy*.

7. In the recent judgement in the case of Lt. Col. Suprita Chandel vs Union Of India (CIVIL APPEAL No. 1943 of 2022), the Hon'ble Supreme Court has held that "*It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry vs. Collector of Central Excise, New Delhi and Others, (1975) 4 SCC 714]*". The Hon'ble Supreme Court in Prem Chand Somchand Shah vs Union of India (1991 SCC (2) 48) has observed that "*As regards the right to equality guaranteed under Article 14 the position is well settled that the said right ensures equality amongst equals and its aim is to protect persons similarly placed against discriminatory treatment. It means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed.*" Recently the Hon'ble High Court of Judicature for Rajasthan in Naresh Singhal vs. State of Rajasthan (Writ Petition No. 6372/2024) referring to the Hon'ble Supreme Court in the case of Booz Allen & Hamilton INC vs., SBI Home Finance Limited & others, reported in (2011) 5 SCC 532 and the Hon'ble Supreme Court in case of State of UP. Vs. Arvind Kumar Srivastava, reported in (2015)1 SCC 347 has held that "*Justice is not a saleable commodity. All aggrieved persons should not be compelled by the State Authorities to approach the Court of law and get similar orders which have been passed in favour of the similarly situated persons who approached the Court earlier. When the judgment pronounced by a Court is a judgment-in-rem with an intention to give its benefit to all the similarly situated persons whether they have approached the Court or not, an obligation lies on the part of the authorities to itself extend the benefit thereof to all the similarly situated persons.*"

8. In view of the above, we earnestly request your goodself to revisit the OM dated 27.06.2025 with a view to aligning it with the fundamental relief sought by ITGOA in OA No. 86 of 2008, namely,

that the OM dated 21.04.2004 be given retrospective notional effect from 01.01.1996 for pay fixation purposes. Such an amendment is imperative to ensure equitable extension of benefits to all eligible employees, irrespective of their grade (ITO/ITI), service status (serving or retired), or litigation status (whether appellants or yet to initiate legal proceedings). We further request that if considered necessary, this matter may kindly be escalated to the highest appropriate authority for corrective intervention to overturn the Department of Expenditure's stance, which stands in clear violation of Article 14 of the Constitution, established judicial precedents and fundamentally contravenes the Government's Minimum Litigation Policy, a vision unequivocally endorsed by the Hon'ble Prime Minister. We trust that your goodself will appreciate the urgency and gravity of this issue and take appropriate steps to bring about an appropriate resolution at the earliest.

This is for your kind consideration and necessary action.

Thanking you,

Yours sincerely,



(Bhaskar Bhattacharya)

(Rupak Sarkar)

Joint Convenors

Copy for information to:

- 1. Hon'ble Revenue Secretary, Gol, North Block, New Delhi**
- 2. Member (Admn), CBDT, New Delhi.**
- 3. Pr. DGIT(HRD), CBDT, New Delhi.**