

“Mehtas addressed 2 letters to 2 AO’s separately in-charge of individual and corporate entities calling upon them to pass the Order Giving Effects (OGEs) to the reliefs granted by Hon’ble ITAT in 39 + 20 cases respectively from 2013 onwards directing the AO to re-compute the demand in respect of interest u/s 234B of the I.T. Act.”

1

ASHWIN S MEHTA

32 Madhuli, Dr. Annie Besant Road, Worli, Mumbai 400 018

19.10.2018

To
Mrs Madhura M Nayak,
Dy. Commissioner of Income Tax,
Central Circle-4(1), Central Range -4,
19th Floor, Air Indi Building,
Nariman Point,
Mumbai 400 021.



URGENT

Madam,

Re: Pending adjudication in respect of reliefs granted by Hon’ble ITAT under numerous orders granting relief in respect of levy of interest u/s 234-B of Income Tax Act and directing AO to give credit to the extent of taxes paid in the form of TDS

1. I am addressing this letter on my own behalf as also on behalf of my family members as their Constituted Attorney all of whom have been granted reliefs by Hon’ble ITAT through a number of orders passed in their favour holding that interest levied by the AO u/s 234-B of the Income Tax Act is leviable by the department only after giving credit in regard to the tax paid in the form of TDS. The Hon’ble ITAT for the purpose has restored back the issue to the file of AO for fresh adjudication wherein the AO is directed to decide the issue after considering the amount of taxes deductible at source on the income assessed and after affording a reasonable opportunity of hearing to the assessee.
2. I am pleased to enclose at **Exhibit A**, a chart giving complete particulars of 39 orders passed by Hon’ble ITAT till date together with the copies of the orders of Hon’ble ITAT which list is not exhaustive during past several years starting from the year 2013 onwards. Even after the said orders have been passed, neither your kindself nor any of your predecessor have made compliance with the said orders and directions

given therein despite passage of considerable period, and therefore all these notified entities are aggrieved by the suffering.

3. It is respectfully submitted that all the notified entities have paid large amounts of taxes as and by way of Tax Deducted at Source ("TDS"), and therefore they are entitled to the credit of the said taxes paid while computing levy of interest u/s 234-B. That if the effect of above orders of relief of Hon'ble ITAT is given, the interest levied by A.O is expected to fall down sharply, but yet the proceedings have not been initiated by your department because of which all the aforesaid notified entities are suffering on account of false levy of interest u/s 234-B.
4. It is reasonably expected by us that once effect is given, the demands raised by your department will fall down sharply, and therefore by this common letter, I call upon your kindness to kindly initiate the above proceedings and re-compute the levy of interest u/s 234-B and make full compliance with the orders of Hon'ble Tribunal at the earliest particularly since considerable delay has already taken place and no compliance is made till date.
5. Please note that I am forwarding a copy of this letter to the Custodian with a request to seek compliance with the orders of Hon'ble ITAT and to revise the picture of demand after giving effect to the reliefs as explained above. In this regard I state that if your kindness initiates the proceedings, the notified entities are ready to fulfil the requirements as may be directed to them by your kindness.

Yours truly,


(Ashwin S Mehta)
Constituted Attorney

Encl: As above

CC: Mrs Molly Sengupta, Director, Office of the Custodian,
Nariman Bhavan, Nariman Point, Mumbai 400 021.

Your kindself is aware that the notified entities have a grievance that the department is not giving effect to the orders of relief for long periods of time and even the Hon'ble Special Court has therefore passed directions on the revenue in M.A No.205 of 2003 directing the AO to give effect to the orders of relief. The above orders of relief have not been given effect to for a considerable period. You are therefore requested to call upon the AO to make compliance with the orders of Hon'ble ITAT at the earliest and forward you a revised picture of demand which will considerably lower the demand on us so that the correct picture is presented in proceedings before the Hon'ble Special Court and Hon'ble Supreme Court.



**LIST OF CASES WHERE HON'BLE ITAT HAS GRANTED RELIEFS IN FAVOUR OF ASSESSEE
IN RESPECT OF LEVY OF INTEREST U/S 234B OF I.T. ACT**

Sr. No.	Name	A.Y.	ITA No.	Order date	Para
1	Ashwin S. Mehta	2002-03	1728/M/15	27.12.2017	68
2	Ashwin S. Mehta	2003-04	1729/M/15	27.12.2017	77
3	Ashwin S Mehta	2008-19	7628/M/13	13.07.2016	10
4	Deepika A. Mehta	1995-96	6334/M/13	18.03.2015	7 to 8
5	Deepika A. Mehta	2007-08	6598/M/13	31.05.2016	10 to 11
6	Deepika A. Mehta	2008-09	6335/M/13	31.05.2016	5
7	Deepika A. Mehta	2009-10	6831/M/13	21.10.2015	22.2
8	Deepika A. Mehta	2011-12	418/M/16	27.12.2017	40
9	Deepika A. Mehta	2012-13	2736/M/17	27.12.2017	40
10	Harshad S Mehta	2002-03	1731/M/15	17.01.2017	10 to 11
11	Harshad S Mehta	2003-04	3270/M/15	30.06.2017	6 to 6.1
12	Harshad S Mehta	2007-08	7627/M/13	30.06.2015	4 to 7
13	Harshad S Mehta	2012-13	1844/M/17	26.09.2018	6
14	Harshad S Mehta	2013-14	1845/M/17	26.09.2018	11
15	Hitesh S. Mehta	2012-13	4430/M/17	27.12.2017	25
16	Jyoti H Mehta	2006-07	1732/M/15	18.06.2017	13
17	Jyoti H Mehta	2007-08	6832/M/13	30.09.2015	15 to 16
18	Jyoti H Mehta	2008-09	6155/M/13	30.09.2015	11 to 12
19	Jyoti H Mehta	2010-11	419/M/16	27.12.2017	54
20	Jyoti H Mehta	2011-12	420/M/16	27.12.2017	54
21	Rasila S. Mehta	2007-08	6600/M/13	31.05.2016	10 to 11
22	Rasila S. Mehta	2009-10	6828/M/13	27.04.2015	7 to 8
23	Rasila S. Mehta	2011-12	5806/M/15	27.12.2017	30
24	Rasila S. Mehta	2012-13	2378/M/17	27.12.2017	30
25	Rasila S. Mehta	2013-14	2379/M/17	27.12.2017	30
26	Rina S. Mehta	2004-05	4570/M/17	27.12.2017	35
27	Rina S. Mehta	2005-06	4571/M/17	27.12.2017	35

Sr. No.	Name	A.Y.	ITA No.	Order date	Para
28	Rina S. Mehta	2009-10	3342/M/15	21.04.2017	8 to 10
29	Rina S. Mehta	2010-11	5804/M/15	27.12.2017	35
30	Rina S. Mehta	2011-12	5805/M/15	27.12.2017	35
31	Rina S. Mehta	2012-13	2600/M/17	27.12.2017	35
32	Rina S. Mehta	2013-14	2601/M/17	27.12.2017	35
33	Sudhir S. Mehrta	1995-96	2452/M/14	18.11.2016	5.1 to 6
34	Sudhir S. Mehrta	2004-15	6833/M/13	11.12.2015	14 to 17
35	Sudhir S. Mehrta	2005-16	6834/M/13	11.12.2015	14 to 17
36	Sudhir S. Mehrta	2006-07	6835/M/13	11.12.2015	14 to 17
37	Sudhir S. Mehrta	2009-10	5799/M/15	27.12.2017	20 to 21
38	Sudhir S. Mehrta	2010-11	5800/M/15	27.12.2017	20 to 21
39	Sudhir S. Mehrta	2011-12	5801/M/15	27.12.2017	20 to 21

The above list is not exhaustive.

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To
Shri Pankaj Mehta,
Dy. Commissioner of Income Tax,
Central Circle-4(3), Central Range -4,
19th Floor, Air India Building,
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URGENT



Dear Sir,

Re: Pending adjudication in respect of reliefs granted by Hon'ble ITAT under numerous orders granting relief in respect of levy of interest u/s 234-B of Income Tax Act and directing AO to give credit to the extent of taxes paid in the form of TDS

1. I am addressing this letter in the capacity of Director and as the Constituted Attorney of corporate entities promoted by the family members of late Harshad S Mehta all of whom have been granted reliefs by Hon'ble ITAT through a number of orders passed in their favour holding that interest levied by the AO u/s 234-B of the Income Tax Act is leviable by the department only after giving credit in regard to the tax paid in the form of TDS. The Hon'ble ITAT for the purpose has restored back the issue to the file of AO for fresh adjudication wherein the AO is directed to decide the issue after considering the amount of taxes deductible at source on the income assessed and after affording a reasonable opportunity of hearing to the assessee.
2. I am pleased to enclose at **Exhibit A**, a chart giving complete particulars of 20 orders passed by Hon'ble ITAT till date together with copies of the orders of Hon'ble ITAT which list is not exhaustive during past several years starting from the year 2013 onwards. Even after the said orders have been passed, neither your kindself nor any of your predecessor

have made compliance with the said orders and directions given therein despite passage of considerable period, and therefore all these notified entities are aggrieved by the suffering.

3. It is respectfully submitted that all the notified entities have paid large amounts of taxes as and by way of Tax Deducted at Source ("TDS"), and therefore they are entitled to the credit of the said taxes paid while computing levy of interest u/s 234-B. That if the effect of above orders of relief of Hon'ble ITAT is given, the interest levied by A.O is expected to fall down sharply, but yet the proceedings have not been initiated by your department because of which all the aforesaid notified entities are suffering on account of false levy of interest u/s 234-B.
4. It is reasonably expected by us that once effect is given, the demands raised by your department will fall down sharply, and therefore by this common letter, I call upon your kindness to kindly initiate the above proceedings and re-compute the levy of interest u/s 234-B and make full compliance with the orders of Hon'ble Tribunal at the earliest particularly since considerable delay has already taken place and no compliance is made till date.
5. Please note that I am forwarding a copy of this letter to the Custodian with a request to seek compliance with the orders of Hon'ble ITAT and to revise the picture of demand after giving effect to the reliefs as explained above. In this regard I state that if your kindness initiates the proceedings, the notified entities are ready to fulfil the requirements as may be directed to them by your kindness.

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IN RESPECT OF LEVY OF INTEREST U/S 234B OF I.T. ACT

Sr. No.	Name	A.Y.	ITA No.	order date	Para
1	Eminent Holdings Pvt. Ltd.	2002-03	2139/M/13	18.06.2014	3
2	Topaz Holdings Pvt. Ltd.	2001-02	2146/M/13	18.06.2014	3
3	Aatur Holdings Pvt. Ltd.	1991-92	1092/M/15	04.10.2017	7
4	Aatur Holdings Pvt. Ltd.	1992-93	947/M/15	04.10.2017	11
5	Aatur Holdings Pvt. Ltd.	1993-94	1093/M/15	04.10.2017	17
6	Aatur Holdings Pvt. Ltd.	2007-08	8352/M/10	23.09.2015	7
7	Aatur Holdings Pvt. Ltd.	2008-09	846/M/10	23.09.2015	6
8	Aatur Holdings Pvt. Ltd.	2009-10	1032/M/10	23.09.2015	6
9	Aatur Holdings Pvt. Ltd.	2010-11	2147/M/10	23.09.2015	6
10	Aatur Holdings Pvt. Ltd.	2011-12	599/M/15	08.08.2016	5 to 6
11	Growmor exports Ltd.	1992-93	3491/M/14	15.01.2016	7 to 7.3.2
12	Growmor exports Ltd.	2008-09	3492/M/14	15.01.2016	15 to 13.3.2
13	Growmor exports Ltd.	2011-12	1220/M/17	06.07.2018	13 to 14
14	Growmore Leasing	1992-93	2192/M/15	17.11.2017	23 to 25
15	Growmore Leasing	2002-03	1310/M/14	16.10.2015	8
16	Growmore Leasing	2006-07	1311/M/14	16.10.2015	8
17	Growmore Leasing	2012-13	1219/M/17	27.12.2017	62
18	Growmore Reaserch	2001-02	3341/M/15	07.04.2017	5
19	Growmore Reaserch	2008-09	1312/M/14	16.10.2015	12
20	Harsh estates Pvt. Ltd	1999-2000	673/M/14	28.08.2015	2 to 4

The above list is not exhaustive.