

"Mehtas addressed a letter to AO to give effect to the combined order of relief passed in their favour by Hon'ble ITAT on 27.12.2017 covering 21 cases by allowing the expense of interest which was not being allowed by the department for more than 25 years and which would considerably reduce the demands in these cases. Grievance was made that despite passage of 10 months the OGE was not passed in violation of Sec.240 of the I.T. Act."

ASHWIN MEHTA

1

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

19th October 2018

To,

Smt. Madhura M. Nayak,
Dy. Commissioner of Income Tax,
Central Circle 4(1), Central Rane-4,
19th Floor, Air India Building,
Nariman Point, Mumbai 400 021.



1ST REMINDER

Dear Sir,

Re: Request to pass OGEs for the reliefs granted by Hon'ble ITAT under combined order dated 27.12.2017 allowing the claims for expense of interest.

1. I am addressing this letter on my own behalf and on behalf of my family members representing them as their authorized signatory and have to address you as under:-
 - a) That earlier I have addressed letter to your Predecessor on 05.02.2018 placing in his hand a copy of combined order of Hon'ble ITAT dated 27.12.2017 in respect of 21 Appeals whose list so far as it pertains to jurisdiction of Your Kindself is enclosed at **Annexure-A** together with a chart disclosing complete particulars of relevant assessment years for which the reliefs have been granted by Hon'ble ITAT. That your attention is drawn to the letters already addressed by the notified entities to your predecessor on 05.02.2018 containing request to pass Order Giving Effect (OGE) pursuant to the order passed by Hon'ble ITAT.
 - b) That despite passage of more than 9 months Your Kindself have not passed the Order Giving Effect (OGE) despite the fact that all the entities have been allowed their claims for expense of interest incurred by them which genuine expense was disallowed by your


predecessor. That though u/s 240 of the Income Tax Act Your Kindself has a duty and obligation to pass the order of relief and refund whenever the Appellate authority passes any order in favour of an assessee **without the assessee making an Application** in that regard yet Your Kindself have failed to pass the OGE in respect of relief secured by the above entities. That despite above yet letters were addressed by me on 5.2.2018 calling upon Your Kindself to issue the OGE which letter remains un-responded till date.

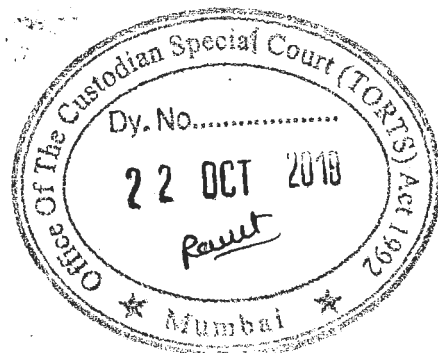
- c) That I draw your attention to 6 orders passed by Hon'ble Special Court in MA 205 of 2003 dated 03.11.2017, 08.12.2017, 18.01.2018, 01.03.2018, 09.03.2018 and 26.04.2018 wherein the Advocate representing the revenue had recorded his statement and assured the Hon'ble Special Court that all the OGEs wherever they are pending will be passed by your department but so far as the above 21 cases are concerned no steps have been taken till date and the orders of the Hon'ble Special Court dated 03.11.2017 and 08.12.2017 in MA 205 of 2003 directing the A.O. to pass all OGEs remains pending to be complied with.
- d) That the notified entities in my family are already aggrieved on this issue as in past in a number of cases particularly involving large reliefs or refund of monies your department has not been passing the OGEs in time only in order to present the inflated picture of our demands to the Custodian and thereby to the Hon'ble Special Court and Hon'ble Supreme Court. That present is one more example where despite the order of Hon'ble ITAT and Hon'ble Special Court, OGE is now remaining pending to be passed for a period of 10 months though as per the time limits set out by CBDT for passing the OGE the same is required to be passed in a period of not more than 3 months from the date of order of the Appellate Authority. In the aforesaid circumstances, I once again call upon you to forthwith take steps and pass the OGE failing which we will be constrained to raise the issue before

Hon'ble Special Court though until now in the hope that Your Kindself will pass the said OGE we have not made any complaint in respect of above 21 cases.

2. Your Kindself ought to also appreciate the fact that in the meantime your department has been regularly presenting inflated picture of our pre-relief demands and such a false picture is being regularly presented by the Custodian before Hon'ble Special Court and Hon'ble Supreme Court and the same is distorting the picture of our liabilities which stand exaggerated despite the fact that Hon'ble ITAT has already granted relief to us. That the question of your demands are integrally related and directly affecting several proceedings before Hon'ble Special Court and even therefore you are duty bound to present the correct picture to Hon'ble Special Court through the Custodian and hence this reminder letter.
3. Please note that I am once again forwarding a copy of this letter to the office of Custodian with a request to them to secure the OGE as also the correct and up-to-date picture of demands on us.

Yours truly,


(Ashwin S Mehta)
Constituted Attorney



Encl: As above

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

This is in continuation of our previous letter dated 05.02.2018 and we are aggrieved that despite securing substantial reliefs

from Hon'ble ITAT in 21 cases and our placing in your hand a copy of the order of Hon'ble ITAT no steps are being taken by your office to secure the revised picture of demands on us which will get reduced drastically after the effect of the relief granted to us is taken into account. Your Kindself will appreciate that even Hon'ble Special Court has directed the department to pass OGEs in each and every case wherever it is pending but the said orders also remains pending to be complied with by the AO. I therefore once again call upon you to discharge your duties and obligations and secure both the OGEs and correct demand picture in respect of entities cited in the present letter.

**PARTICULARS OF CASES FORMING PART OF COMBINED ORDER OF RELIEFS
GRANTED BY HON'BLE ITAT DATED 27.12.2017**

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	Deepika A. Mehta	2011-12	418/M/16	27.12.2017	40
4	Deepika A. Mehta	2012-13	2736/M/17	27.12.2017	40
5	Hitesh S. Mehta	2012-13	4430/M/17	27.12.2017	25
6	Jyoti H Mehta	2010-11	419/M/16	27.12.2017	54
7	Jyoti H Mehta	2011-12	420/M/16	27.12.2017	54
8	Rasila S. Mehta	2009-10	6828/M/13	27.04.2015	7 to 8
9	Rasila S. Mehta	2011-12	5806/M/15	27.12.2017	30
10	Rasila S. Mehta	2012-13	2378/M/17	27.12.2017	30
11	Rasila S. Mehta	2013-14	2379/M/17	27.12.2017	30
12	Rina S. Mehta	2004-05	4570/M/17	27.12.2017	35
13	Rina S. Mehta	2005-06	4571/M/17	27.12.2017	35
14	Rina S. Mehta	2010-11	5804/M/15	27.12.2017	35
15	Rina S. Mehta	2011-12	5805/M/15	27.12.2017	35
16	Rina S. Mehta	2012-13	2600/M/17	27.12.2017	35
17	Rina S. Mehta	2013-14	2601/M/17	27.12.2017	35
18	Sudhir S. Mehta	2009-10	5799/M/15	27.12.2017	20
19	Sudhir S. Mehta	2010-11	5800/M/15	27.12.2017	20
20	Sudhir S. Mehta	2011-12	5801/M/15	27.12.2017	20