



23rd day of January, 2019

To,
Justice Sri P.P. Bhatt,
Honourable President,
Income Tax Appellate Tribunal
Pratishtha Bhavan, 4th Floor,
101, M. K. Road
Mumbai - 400020,

Respected Sir,

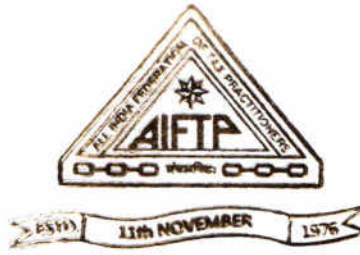
Sub: Suggestions for better administration of Appellate Tribunal

Sir, I would take this opportunity to wish you a Happy and Prosperous New Year.

All India Federation of Tax Practitioners (AIFTP) is an Apex body of Tax Practitioners of India. It has more than 7500 members across the country and 150 associations as its members. One of the main object of the Federation is to make representations for better administration of tax laws.

Sir, I am making this representation on behalf of the All India Federation of Tax Practitioners for achieving fully systematic and better administration of the Appellate Tribunal. Our suggestions are discussed as under:

1. Selecting the new Members for the ITAT,
 - 1.1. A case study may be given to the candidates and they may be requested to draft the order;
 - 1.2. The Selection Committee may consider getting information from the senior members of the Tax Bar of respective places, which may also help in knowing about the integrity of the candidates from the respective places;

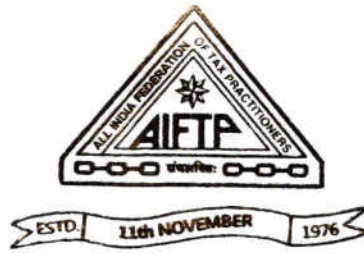


- 1.3. The professionals, who are practicing from their respective places, if selected may not be posted in the places where he or she was practicing. It is desired that the same principle may also be applied to the Departmental Officers, who are selected for the post of Accountant Members.
2. Before newly appointed ITAT Members start sitting on benches, there should be an orientation programme undertaken for them whereby training is provided to them for functioning as Tribunal members and also provide knowledge as to TP/ IT issues. This will help in reducing pendency.
3. It is seen that many times new members start sitting on the benches and are allotted various heavy matters to pass orders. It is suggested that senior members may discuss the matter and guide the junior members before allotting matters to them. Apart from this many times it is seen that the division bench functions like a single member bench. Further a member simply signs the order without application of the mind only for the reason that he/she is not the author of the order and may not want to take conflicting views. This defeats the basis of having a division bench and having specialised members in the field of law and accountancy. Such a situation needs to be avoided.
4. At present, there is not much assistance available to the Tribunal Members for performing their functions. There should be a qualified assistance provided to them, as is available in the High Courts/other Tribunals. Interns from law school could be appointed as "Legal Assistants" for a minimum period of 15 months. This would serve dual purpose. It would be cost effective as well as 15 months period would be



a good time to train them and utilize their services. From the students perspective they would have a better understanding of the working/functioning of the court and laws which make them better professionals.

5. Further the members are given a target of 50 orders per month which creates unnecessary pressure on the Members, which forces them to apply short cuts and pass short orders instead of well-reasoned orders. Many times the orders are having spelling and grammar mistakes which tarnishes the image of the Tribunal. Further this also affects health of members, who have been burdened with so much work and to further stay away from their home town and family.
6. Priority should be given to Special bench cases/Third member cases. Where a request for special bench is made before the Tribunal, then such decisions should be taken on priority basis and matter should also be decided within a frame of 6 – 9 months from the date of filing. Also, in cases where reference is made to the Third Member in case of conflicting views of the Bench, then such matters should be fixed and disposed-off in 6-8 months.
7. It is suggested that double shift of benches (i.e. combined benches) should be avoided as far as possible as lot of matters get adjourned for want of time. Further benches waiting for first available member should also be avoided.
8. The Tribunal may consider sending notices through email and sms. It is suggested that at the time of appeal filing email id and mobile number be asked and notice for hearing can be issued through email by registry in



addition to sending physical notices. Over a period of time, looking at response, registry may consider whether to discontinue sending notices physically.

9. There is urgent need for total computerization of entire functioning of the Tribunal, across the country.
10. All the orders of ITAT should be compulsorily uploaded on the website (ITAT.nic.in). There is a persistent lag on this front. Stay orders and miscellaneous application orders are completely left out. All the orders should be uploaded within 3 working days from the date of pronouncement. Further at present it is seen that ITAT orders for recalled matters, or matter that having been remanded by High Court or third member orders, are not getting uploaded on the website (as there are multiple number of orders of same appeal numbers). A provision should be made to upload more than one order for same appeal numbers.

11. Stay orders

Many times stay orders are delayed and in the meanwhile department takes coercive actions. Hence it is suggested that stay orders be passed and be uploaded on the website on the same day. If the matter is adjourned and interim order is passed, then it may be noted in the proceeding sheet and the representatives be allowed to take the copy of the proceedings sheet.

12. Pronouncement of orders

Pronouncement of orders is not a mere procedural formality. Many times order is not even pronounced in open court and is pronounced in chambers. The causelist does not list each and every case of



pronouncements, which otherwise is mentioned in the orders. It also happens that decision/view is pronounced at the time of hearing, however the ultimate order is completely different. Hence it is requested that procedure of pronouncements may be followed in letter as well in spirit.

13. Discharging the board

In High Courts, if a matter which is being heard is likely to take considerable time, rest of the Board is discharged. It is suggested that a similar practice be adopted in Tribunal.

14. E-bench of Tribunal

The Income-tax Appellate Tribunal had started the e-Court at Mumbai through which the matters of Nagpur were heard by members sitting at Mumbai. The experience has been very good and both the tax payers and the Department have found the functioning of this bench satisfactory. Request that it may be started again.

I request your Honour to kindly consider the afore-mentioned suggestions.

Thanking you.

For All India Federation of Tax Practitioners

Ashok Saraf

Dr. Ashok Saraf
Sr. Advocate
National President