

CIRCULAR NO. 76 /2023

DATE : 09.10.2023

TO,
ALL MEMBERS

**ONGOING WRIT PETITION (CWP-12876-2023) - COMPLIANCE WITH
COURT DIRECTIONS**

We reproduce hereunder the text of the **AISBOF Circular No. 76** dated 09.10.2023, the contents of which are self-explicit.

With warm greetings,

(Amaresh Vikramaditya)
GENERAL SECRETARY

OUR UNITY : ZINDABAD-ZINDABAD
S.B.I.O.A. : ZINDABAD-ZINDABAD

TEXT

**ONGOING WRIT PETITION (CWP-12876-2023) - COMPLIANCE WITH
COURT DIRECTIONS**

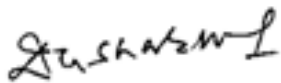
We have sent a communique to the Chief Commissioner, Commissioner of Income Tax, on the captioned subject.

Text of communication has been reproduced below along with copies of the interim stay. Kindly apprise members to be guided accordingly.

#OurUnityLongLive

With greetings

Yours comradely,



(Deepak Kumar Sharma)
General Secretary

TEXT OF COMMUNICATION

Ongoing Writ Petition (CWP-12876-2023) - Compliance with Court Directions

Most respectfully, we are writing to apprise the details regarding the ongoing writ petition CWP-12876-2023, Vipan Kapoor and Another V/S State Bank of India and others. In the above case petitioner No. 2 is All India State Bank Officers' Federation and respondent no. 2 is Income Tax Department.

2. The central issue before the Hon'ble Court of Punjab & Haryana in the referenced petition revolves around whether the Income Tax Department, designated as Respondent No. 2, could continue to pursue proceedings for the recovery of Income Tax related to the LTC (Leave Travel Concession) amount extended to employees in connection with journeys to foreign destinations enroute, specifically before the date of April 15, 2014. It is essential to note that this benefit was accorded to employees in accordance with the circular issued on September 18, 1982, which the Bank consistently adhered to from 1982 until its subsequent withdrawal on April 15, 2014. This LTC benefit had been deemed valid and legally sound for an uninterrupted period spanning over three decades.

3. During the hearing on 02.06.2023, Hon`ble Court while appreciating the fact that the officers/members of Petitioner Federation availed of the LTC facility extended by the Bank towards employees as per Bank's own circulars and letters and, thus, no liability could be attributed to innocent employees who availed of the facility as per the circular/norms which were being followed at the instructions of the Bank at the material time. The Hon`ble Court even noted the said contention in the order passed on the said date i.e. 02.06.2023 and also observed that vide e-circular dated 15.04.2014, it was decided by the Bank that the employees shall not be entitled to visit overseas countries/centres as part of LTC/HTC which circular was to be made effective prospectively.

4. The Hon`ble Court taking note of the Notice dated 11.03.2023, (issued by Income Tax Department/Respondent No.2), vide which the recovery was being sought with regard to visit of an employee prior to 15.04.2014 for effecting recoveries with retrospective effect, passed interim order to the effect that no recovery shall be made retrospectively prior to the date of Circular dated 15.04.2023 (typographical error, actually dated 15.04.2014), Annexure P/7. This Hon`ble Court also stayed recovery proceedings prior to Circular dated 15.04.2014 qua Petitioner No.1 because the Notice Annexure P/14 along with assessment order passed in the case of Petitioner No.1 only was annexed with the writ petition. The copy of order is attached as "Annexure A".

5. Despite the order passed by Hon`ble Court of Punjab & Haryana on 02.06.2023, the Income Tax Department (Respondent No.2) continued with assessment/penalty proceedings, erroneously assuming that the Court had only stayed the recovery of LTC reimbursement by the Bank authorities. The assertion is erroneous which is evident from the bare perusal of the writ petition and even the interim order dated 02.06.2023 passed by Hon`ble Court. Nowhere in the writ petition, the petitioners have challenged any circular issued by the Bank Authorities. In fact, the petitioners have sought

issuance of a writ in the nature of mandamus directing the Income Tax Department not to proceed with the recovery of the Income Tax on the amount reimbursed to the petitioners towards LTC in pursuance of circular dated 18.09.1982, which had been admittedly followed in letter and spirit till the withdrawal of the said benefit vide communications dated 15.04.2014.

6. The All India State Bank Officers' Federation filed an appeal before the Hon'ble High Court of Punjab & Haryana in response to such orders/notices issued by the Income Tax department. This appeal was filed to correct a typographical error found in the order from June 2, 2023, and to obtain an interim stay to all Income Tax department proceedings involving members of Federation who were placed in a similar situation.

7. We wish to inform that our application was allowed, and an interim stay has been granted by the Hon'ble Court in this matter. The court, in its order dated 3rd October 2023, has directed certain necessary corrections and clarifications to be made regarding the recovery proceedings and modified the interim order dated 02.06.2023. It has been clarified that since petitioner No. 2 is All India State Bank Officers' Federation, no recoveries shall be made prior to the date of circular dated 15.04.2014 and no recovery proceedings shall be initiated with regard to any member of petitioner No. 2 – Federation by Income Tax department (respondent No. 2) in the meantime.

8. We humbly request you to facilitate the issuance of appropriate directives to ensure the prompt dissemination of the court's instructions to all officials within the Income Tax Department, including those engaged in the realm of faceless assessments. It is our earnest plea to emphasize the importance of compliance with these directions and to refrain from initiating any proceedings against the members of AISBOF, a significant portion of whom have already retired, and who had availed themselves of the LTC facility during the stipulated years.

Thank you for your understanding and consideration.

Yours Sincerely,

Sd/-
(Deepak K Sharma)
General Secretary

Annexures: a) Hon'ble Punjab and Haryana High Court, Chandigarh order dated 02.06.2023.
b) Hon'ble Punjab and Haryana High Court, Chandigarh order dated 03.10.2023.

156 CWP-12876-2023

VIPAN KAPOOR AND ANOTHER V/S STATE BANK OF INDIA AND OTHERS

Present: Mr. A.K.Chopra, Sr. Advocate with
Mr. Akshit Chaudhary, Advocate for the petitioners.

Learned Sr. counsel for the petitioner stated that pursuant to circular dated 15.04.2014 (Annexure P-7), the respondents are now making attempts to recover LTC granted to the employees w.e.f.1982 vide circular dated 18.09.1982 (Annexure P-1).

Learned Sr. Counsel in the present case is impugning the notice dated 11.03.2023 (Annexure P-14) issued to the petitioner, for recovery of LTC period for the visit to London and LTC claimed for the period w.e.f. 27.06.2012 to 11.07.2012 and the amount assessed to be recovered is Rs.3,46,873/-.

Vide e-circular dated 15.04.2014 (Annexure P-7) a decision was taken by the State Bank of India that the officer employees shall not be entitled to visit overseas countries/centres as part of LTC/HTC. This circular was to be made effective prospectively.

However, as per the notice dated 11.03.2023 (Annexure P-14), recovery is being sought with respect to visit of an employee prior to 15.04.2014 and even this notice has been issued after a gap of 9 years of the circular dated 15.04.2014 (Annexure P-7) and that too recoveries are being effected with retrospective effect.

Since petitioner No.2 is-All India State Bank Officers' Federation, an interim order is being passed that no recovery shall be made by respondent No.1, retrospectively prior to the date of circular dated 15.04.2023(Annexure P-7).

Adjourned to 07.11.2023.

In the meantime, recovery proceedings prior to circular dated 15.04.2014 (Annexure P-7) qua petitioner No.1 shall remain stayed.

(RITU BAHRI)
JUDGE

June 02, 2023
Jyoti-IV

(MANISHA BATRA)
JUDGE



110

**CM-16885-CWP-2023
CM-16886-CWP-2023 in
CWP-12876-2023**

VIPAN KAPOOR AND ANOTHER V/S STATE BANK OF INDIA AND OTHERS

Present: Mr. A.K. Chopra, Senior Advocate,
with Mr. Akshit Chaudhary, Advocate,
for the applicant-petitioners.

CM-16885-CWP-2023

Exemption is allowed as prayed for.

Misc. application stands allowed accordingly.

CM-16886-CWP-2023

By way of present misc. application, applicant-petitioners are seeking correction/clarification of the order dated 02.06.2023 passed by this Court.

For the reasons mentioned in the application, interim order dated 02.06.2023 is modified and it is clarified that since petitioner No.2 is All India State Bank Officers' Federation, no recovery shall be made by respondent No.2 prior to the date of circular dated 15.04.2014 (Annexure P-7). It is further clarified that no recovery proceedings shall be initiated with regard to any employee of petitioner No.2-Federation in the meantime.

Misc. application stands allowed accordingly.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

03.10.2023
ajp