

भारत सरकार  
प्रधान मुख्य आयकर आयुक्त का कार्यालय  
आन्ध्र प्रदेश एवं तेलंगाना  
10 वी मंजिल, 'सी' ब्लॉक, आयकर शिखर  
ए.सी. गार्ड्स, हैदराबाद - 500004.  
दूरभाष : 040-040-23237946  
टेलीफैक्स : 040-23240403



GOVERNMENT OF INDIA  
Office of the  
Pr. Chief Commissioner of Income Tax  
Andhra Pradesh & Telangana  
10th Floor, 'C' - Block, Income Tax Towers,  
A.C. Guards, Hyderabad - 500 004,  
Phone : 040-23237946  
Telefax : 040-23240403

F. No. CCAP/1(28)(a)/2019-20

Dated : 14.08.2019

To,  
All the DDOs,  
AP & TS Region.

Madam/Sir,


Sub: Payment of Casual Workers from Wages Head -Regarding.

\*\*\*\*\*

In connection with 'Payment of Casual Workers', I am directed to forward herewith the letter of the CBDT in F.No.HRD/CMD-1/160/8/2018-19/2835 dated 30.07.2019 for immediate necessary action and compliance.

Yours faithfully,

Encl: as above

  
(SUBRAHMANYAM TOTA)  
Deputy Commissioner of Income Tax,  
(Hqrs.)(Admin.),  
O/o Pr.CCIT, AP & TS, Hyderabad

Copy submitted to

1. The Chief Commissioner of Income Tax, Visakhapatnam.
2. The Chief Commissioner of Income Tax, Vijayawada.
3. The Chief Commissioner of Income Tax, Hyderabad.
4. The Director General of Income Tax(Inv), Hyderabad.

Copy to

5. The ITO(Finance), Hyderabad.
6. The ZAO, CBDT, Hyderabad.

144  
CIT (A/TD)  
- for y/a.  
Addl. CIT  
Examine & put up.  
6/8



**DIRECTORATE OF INCOME TAX  
HUMAN RESOURCE DEVELOPMENT  
CENTRAL BOARD OF DIRECT TAXES**

2nd Floor, Jawaharlal Nehru Stadium, Pragati Vihar  
New Delhi- 110003. Ph. 26125213, Fax 26130594.



F.No. HRD/CMD-1/160/8/2018-19/ 2835

Dated: 30.07.2019

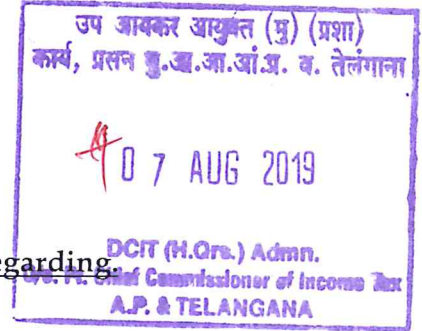
To,

All the Pr. CCsIT (CCAs) Regions.

Sir/Madam,

**Subject: Payment of Casual Workers from Wages Head- regarding.**

Kindly refer to subject cited above.



2. The undersigned is directed to submit that as per the communications received by the Board, it has been observed that some of the CCA charges are making payments to the Casual Workers from the head wages while few others are making the payment from head office expenses. Some of the regions which are making payment from the head wages are NER, Mumbai, UP(east), Nagpur, Odisha, UP(West) & Uttarakhand, Bihar & Jharkhand, and NWR. In this regard, the undersigned is directed to inform that as per the extant OMs/Instructions of DoPT and DoR the position as on date is as under:

3. As per the DoPT OM No 49014/2/86 Estt.(C) dated 07.06.1988 (copy enclosed as Annexure-1), the following instructions have been given in respect of Casual Workers, relevant extract of which is reproduced as below.

".....

(i) *Persons on daily wages should not be recruited for work of regular nature.*

(ii) *Recruitment of daily wagers may be made only for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.*

(iv) *Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at rate of 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.*

(v) *In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State*

DCIT Admn

Cons. to Exm

M. put up



Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

.....”.

4. Attention is also invited to the Department of Revenue (DoR) OM no. D.O.F.No.A-12034/1/2004-Ad.1A issued through Ad.IA Section dated 04-10/12/2008 (copy enclosed as Annexure-2) on the subject of “Complete ban on engaging Casual Labour in offices under the Department of Revenue” which reiterates the policy guidelines issued by the DoPT from time to time. In para-3 it refrains from engaging any new person on a casual/daily wage basis for carrying out any type of work, even against vacant posts or even in the place of existing casual/daily wage workers. The only exception shall be continuing to engage on casual/daily wage basis those persons who are already being engaged on a continuous basis for a substantial period of time. In para 4, it calls for strict compliance stating that any violation of this order will be viewed very seriously. Attention is also invited to DoPT OM No. F.49019/1/95-Estt-(C) dated 14.06.2016 (copy enclosed as Annexure-3) on the subject.

5. Subsequent to it, the V & L Section, CBDT came out with a letter no F.No.C-30014/29/2013-V&L dated 09-13/05/2013 (copy enclosed as Annexure-4) on the subject “Outsourcing of services under GFRs-Prohibition of direct deployment of Casual Workers and fixing of responsibility”. It says that the Board after compiling the data from all regions observed that orders/instructions emanating from DoPT’s OMs dated 07.06.1988, 10.09.1993, 12.07.1994 and 11.12.2006 which are binding on all offices of the Central Government had been ignored. It mentions in para 3 that Apex Court in the case of Uma Devi had held then direct deployment of Casual Workers and regularizing them in government posts is contrary to the Constitution and is therefore illegal. In para 5 it state as under:-

*“The Board took a serious view of the matter. I am therefore directed to request that all the CCITs/DGITs may kindly immediately ensure that none of the DDOs working in their region make any payments to the directly deployed Casual Workers in contravention to the Government/DoPT orders and the judgment of the Supreme Court failing which that they will be held personally reliable/responsible.”*

Subsequent to it, the said letter was contested in number of cases all over the Country and was quashed and set aside by Hon’ble CAT in several cases.

6. Thereafter, V & L Section, CBDT issued a letter No F.No.C-30014/41/2015-V&L dated 16.10.2015 (copy enclosed as annexure-5) which was issued subsequent to the judicial pronouncement of superior courts in various cases which led to constitution of a committee to look into plethora of issues concerning Casual Workers. It gave clarification/instruction on various issues concerning Casual Workers. In para 3.3 the Board felt wages have to be paid for the services of the Casual Labour availed and advised no further appeal on the issue.

The para 3.3 of the said letter is reproduced below:

*"In the aforesaid letters there was a direction to CCsIT and DGsIT that they should ensure that none of the DDOs make any payment to the directly deployed Casual Worker. The said letters were challenged in number of cases all over the country. These letters were quashed and set aside by Hon. CAT in several cases including the case of Udayanand Thakur in OA No. 20122013 in CAT, PB, Delhi. It is felt the wages have to be paid for the services of the casual labour availed. Therefore, no further appeal may be filed on this issue."*

The para 3.5 of the said letter is reproduced below:

*"In several cases, the issue was of entitlement of wages equal to 1/30<sup>th</sup> of the pay in relevant pay scale w.e.f. 01.07.2008 and applicability of the pay as per 6<sup>th</sup> CPC has been raised.*

*The DoPT OM dated 07.06.1988 speaks about the nature of work entrusted to Casual Worker and that where the nature of their work is same as that of Regular Employees, then the casual workers may be paid at the 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale. This OM does not differentiate between a Casual Labour with Temporary Status and Casual Labour without Temporary Status(CL-TS). However the OM dated 23.01.2012, only regulated the wages of Casual Labour with Temporary status wherein it is stated that CL-TS should be paid wages based on pre-revised S-I scale as on 01.01.2006 i.e. in 6<sup>th</sup> Pay Commission in PB-I with GP-1800/- w.e.f. 01.01.2006."*

*In this connection, I am directed to state that if the supervisory officers certify that the particular casual labour is doing same nature of work as assigned to the regular employee, then such casual labour be paid wages equal to 1/30<sup>th</sup> of the pay at the minimum of the scale admissible to such employees in light of the DoPT's OM dated 07.06.1988. As draft proforma of the certificate to be issued by the Supervisory Officer is given at the end of this letter marked as Annexure -A.*

*However, if the casual labour is not assigned same nature of work as assigned to regular employee, then order of the CAT/High Court directing payment of*



*daily wages @1/30<sup>th</sup> of the lowest of the scale of Group D should be contested in higher Courts."*

Subsequent to it, a corrigendum was issued by V & L Section, CBDT vide letter no. F.No.C-30014/41/2015-V&L dated 23.11.2015 (copy enclosed as annexure-6), which inter alia modified the draft proforma of the certificate to be issued by the supervisory officer as mentioned as Annexure - A in para 3.5 of the earlier letter dated 16.10.2015.

7. The Board, vide its letter no. F.No.C-30014/41/2015-SO(VNL)/4337 dated 23.10.2018 (copy enclosed as annexure-7), withdrew the para 5 of the instruction dated 13.05.2013 of CIT (V&L), CBDT. The relevant part of it is reproduced below :-

*" The above mentioned letter F.No. C-30014/29/2013-V&L dated 13.05.2013 addressed to all CCsIT & DGsIT vide which directions were issued to ensure that none of the DDOs make any payment to the Casual Labourers, stands deleted."*

8. This office in a related issue sought the opinion of the DoPT. The advice of the DoPT issued vide DoPT I.D.No. 1347374/CR/18 dated 07.02.2019 (copy enclosed as annexure-8) is as under:

- i. *"Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.*
- ii. *In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.*
- iii. *To strictly discontinue the engagement of casual labourers for attending work of a regular nature. "*

9. In view of the above, the undersigned is directed to convey that the payment of remuneration to Casual Workers from the head wages may be made by the HODs/Supervisory Officers in accordance with the instructions/directions issued by DoPT vide its OM dated 07.06.1988, OM dated 14.06.2016, the DoPT's opinion issued vide I.D. No. 1347374/CR/18 dated 07.02.2019 and Department of

Revenue/CBDT instructions/directions issued vide letter dated 10.12.2008, 16.10.2015, 23.11.2015 and 23.10.2018 and other letters issued on the given subject.

Yours faithfully,

Encl: As above.



(Chanchal Meena)

Jt. Director of Income-tax (CMD-I),  
Directorate of Income Tax(HRD), CBDT,  
New Delhi.



**Ministry of Personnel, Public Grievances and Pensions (Department of Personnel  
and Training)**

**OM No. 49014/2/86 Estt.(C )  
dated 7<sup>th</sup> June ,1988.**

**(XVI)**

**Subject: Recruitment of casual workers and persons on daily wages –Review of policy.**

The policy regarding engagement of casual workers in Central Government offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17<sup>th</sup> January, 1986 in the Writ Petition filed by Shri Surinder Singh and others vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis:-

- i) Persons on daily wages should not recruited for work of regular nature.
- ii) Recruitment of daily wagers may be made only for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.
- iii) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised. If considered necessary.
- iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
- v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.
- vi) The casual workers may be given one paid weekly off after six days of continuous work.
- vii) The payment to the casual workers may be restricted only to the days on which they actually perform duty under the Government with a paid weekly off as mentioned at (vi) above. They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.

ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.

x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age limit for the relevant post.

xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training. All the administrative Ministries /Deptts. Should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:-

a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.

b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines .

c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

2. The following time limit for completing the review has been prescribed in respect of the various Ministries/Deptts:-

a) Ministry of Railways 2 Years

b) Department of Posts, Department of 1 Year Telecommunications and Department of Defence Production

c) All other Ministries / Deptts./Offices 6 months

Each Ministry should furnish a quarterly statement indicating the progress of the review in respect of the Ministry (Proper) and all Attached / Subordinate offices under them to the Department of Personnel and Training in the proforma attached. The first quarterly return should be furnished to this Department by the 10<sup>th</sup> October. 1988.



3. By strict and meticulous observance of the guidelines by all Ministries/Depts, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which is being employed to determine whether the work is for casual nature or not.

4. Ministry of Finance etc. are requested to bring the contents of this Office Memorandum to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

**Sd./-**

**D.P. Bagchi**

**Joint Secretary to the Government of India**

\* Annexure not printed.

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C.R. CDDT - O. leave

D.O.F.No.A-12034/1/2004-Ad.1A  
 Government of India  
 Ministry of Finance  
 Department of Revenue  
 \*\*\*\*\*

L-2738/JT(P)07/08  
 18/12/08

N(P&amp;V)

17/12/08

SS (Am)  
 DSP (A&T)

New Delhi, 4<sup>th</sup> December, 2008.  
 10<sup>th</sup>

**OFFICE MEMORANDUM**

**Subject:- Complete ban on engaging Casual Labour in offices under the Department of Revenue - regarding.**

\*\*\*\*\*

Through various policy guidelines issued by the Department of Personnel & Training from time to time, the Government have laid down that casual labour may not be engaged for work of a permanent nature. It has also been laid down that even where casual workers are engaged against duly approved vacant posts, the recruitment shall be through the Employment Exchanges only.

2. It has come to the notice of the Government that completely disregarding the above instructions, several offices coming under the administrative control of the Department of Revenue have been engaging casual workers, daily wagers, etc. and even continuing such engagement on the basis of orders of Courts or even otherwise. Since most of these persons are being engaged against non-existent posts, it also constitutes a financial irregularity, in so far as wages are being paid to persons recruited otherwise than through constitutionally laid down recruitment rules and without duly sanctioned posts.

3. It is, therefore, decided with immediate effect that all offices coming under the administrative control of the Department of Revenue shall henceforth refrain from engaging any new person on a casual/ daily wage basis for carrying out any type of work. Such persons shall not be engaged even against vacant posts or even in the place of the existing casual / daily wage workers. The only exception shall be continuing to engage on casual/daily wage basis those persons who are already being engaged on a continuous basis for a substantial period of time. Needless to mention, that this will be subject to the orders issued by DOPT from time to time.

R-1196/Oinadg/08  
 18/12/08

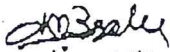
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4. Any violation of this order will be viewed very seriously. The responsibility to ensure compliance of this order shall be with the officer who actually orders engaging of such employees and also with the officer who authorizes payment to such employees. The Head of Office shall also be responsible as it is his duty to ensure at all times in future that no new casual/ daily wage employees are being engaged by officers under his control. The entire expenditure incurred by the Government towards payment of wages to such irregular appointees as well as incidental expenditure incurred, including cost of litigation, if any, is liable to be recovered from the officers responsible.

  
10.XII.08  
(K.M. Brahme)

Deputy Secretary to Govt. of India

- ✓ 1. Chairman, CBDT
- 2. Chairman, CBEC
- 3. All officers under the administrative control of the Deptt. of Revenue.

No. F. 49019/1/95-Estt-(C)  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training  
\*\*\*\*\*

New Delhi, North Block  
Dated 14<sup>th</sup> June, 2016

OFFICE MEMORANDUM

Subject: Recruitment of casual workers and persons on daily wages.

The undersigned is directed to refer to the provisions of the of Department of Personnel and Training OM No. 49014/2/86-Estt (C) dated 7<sup>th</sup> June, 1988 on recruitment of Casual Workers and daily wages. Attention is invited to the provisions of the referred O.M at para 1(iii) which lays down "that work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees".

2. It has been observed that in spite of strict guidelines on engagement of Casual Labour vide the above referred O.M, various Ministries/ Departments continue to engage casual workers for attending work of regular nature against the Government's policies. It is, therefore, reiterated that all Ministries/ Departments may ensure strict compliance of the guidelines on engagement of Casual Labours. Negligence in the matter of implementing these guidelines should be viewed seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

  
(Mukesh Chaturvedi)  
Director (E)  
Telefax: 23093176

To  
All Secretaries of Ministries / Departments.



F.No.No. 49019/1/95 Estt-(C)

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Registrar General, the Supreme Court of India, New Delhi.
7. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.
8. The Comptroller and Auditor General of India, New Delhi.
9. The Secretary, Union Public Service Commission, New Delhi.
10. Central Vigilance Commission, New Delhi.
11. Central Bureau of Investigation, New Delhi.
12. All Union Territory Administration
- ✓ 13. NIC cell with request to upload it under OMs and Orders, Establishment, Daily Wage Casual Labours and also 'What is New'.



(Mukesh Chaturvedi)  
Director (E)

170 (H)  
FTS(R)-90118/2013-Comm(Vig.)

IMMEDIATE

F. No. C-30014/29/2013-V&L  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes  
\*\*\*\*\*

Room 245-B, North Block  
New Delhi, 9<sup>th</sup> May 2013  
12.

To  
All Chief Commissioners of Income Tax (CCA) / Director Generals of Income Tax

Sir/Madam,

Subject: Outsourcing of services under CRRs - Prohibition of direct deployment of casual workers and fixing of responsibility regarding.

Please refer to this office letter FTS(R) No. 60503/2013-Comm(Vig) dated 28.03.2013 and reminder letter FTS (R) No. 74133/2013-Comm(Vig) dated 17.04.2013 on the above subject.

2. On compilation of the data received from all the CCIT/DGIT regions, it is noticed that the offices continue to ignore government orders/instructions on the subject including DoPT's OMs No. 149014/2/86-Estt (C) dated 07.06.1988, OMs dated 10.09.1993, and 12.07.1994 and 11.12.2006 which are binding on all offices of the central government.

3. The law on the subject has been clarified by the Hon'ble Supreme Court in their several judgements including the case of Secretary, State of Karnataka and Others vs Uma Devi and others in Civil Appeals no. 3595-3612/1999, holding that direct deployment of casual workers and regularising them in government posts is contrary to the Constitution and is therefore illegal. The only exception that has been made is in respect of the 1993 scheme formulated and circulated by the DoPT for grant of temporary status and regularisation of casual workers in its OM dated 10<sup>th</sup> September, 1993. The said scheme was applicable only to the casual workers in employment on the date of issue of that OM that is 10<sup>th</sup> September, 1993. The temporary status was to be conferred on the casual workers who had been deployed for at least one year as on the date issue of the OM. The said casual workers with temporary status alone could be regularised against regular vacancies of the group 'D' posts. Even these group 'D' posts stand abolished after the Sixth Pay Commission.

4. Despite emphatic reiteration / clarification of the above position in the CIT (C&S)'s DO letter FTS(R) No. 137174/2011-Comm(Coord) dated 04.07.2011 and the letter F. No. A 12033/7/2012-Ad VII dated 31.08.2012, it is noted that there is continued non-compliance thereof by the offices of the Income Tax Department.

This letter was stayed by unknown CAT order 31.5.13

Page 1 of 2

Later it was quashed


IMMEDIATE

5. The Board has taken a serious view of the matter. I am, therefore, directed to request that all the CCITs/DGITs may kindly immediately ensure that none of the DDOs working in their region make any payments to the directly deployed casual workers in contravention of the government/DoPT's orders and the judgements of the Supreme Court failing which they will be held personally liable/responsible.

6. As regards, the deliberate non-compliance with the above mentioned government/DoPT's orders and the judgement of the Supreme Court, I am directed to state that the CCITs/DGITs may fix responsibility in this regard, at least at the level of the CIT. For this purpose, they may refer to the information furnished in response to Board's letter F. No. A-12033/7/2012-Ad VII dated 31.08.2012.

7. A compliance report in the matter may be furnished latest by 30<sup>th</sup> June 2013 to DGIT (Logistics) under intimation to this office.

Yours faithfully,

  
(Madhu Mahajan)  
CIT (Vigilance), CBDT

Copy forwarded for necessary action:

- (i) DGIT (Logistics)
- (ii) DGIT (Vigilance)
- (iii) CIT (C&S), CBDT

Copy also forwarded for information to the Zonal Members and the Chairperson, CBDT.

(Madhu Mahajan)  
CIT (Vigilance), CBDT



F.No.C-30014/41/2015-V&L  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

New Delhi, the 16<sup>th</sup> October, 2015

To

All the Pr. Chief Commissioners of Income Tax (CCA)  
All the Pr. Directors General of Income Tax.

Sub: Filing of further appeals in Higher Courts on the issues related to Casual Labours-Reg.-

Sir,

I am directed to request you to refer to the subject cited above.

2. On perusal of different OAs and Orders of various Courts related to above matter, it was found that following issues are involved:

- i) Regularization in accordance with Apex Court decision in Uma Devi 2006(4) SCC 1.
- ii) Absorption of Casual Labour in MTS cadre.
- iii) Litigation on the issue of CBDT's letters dated 04.07.2011 and 09/13.05.2013.
- iv) Litigation on re-engaging Casual Labour through Contractors/Placement Agencies.
- v) Entitlement of Casual Labour to 1/30<sup>th</sup> of pay in relevant pay scale w.e.f. 01.01.2008

3. On the issues mentioned above, I am directed to state that the Competent Authority has approved following course of action:-

3.1 Regularisation in accordance with Apex Court decision in Uma Devi case 2006 (4) SCC 1

On this issue, it has been observed that in almost all the decisions, Hon'ble CAT / Courts have directed the respondents to consider the regularization of the applicants in accordance with the decision in Uma Devi Case. The Constitutional Bench of the Supreme Court unequivocally declared in para 44 of its judgment as under :

*"there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."*

The Bench did allow one time regularization of those working for more than 10 years subject to fulfillment of following conditions as on the date of judgment i.e. the 10<sup>th</sup> April, 2006 :

- a) They were engaged against a regular vacancy.
- b) They have worked for 10 years or more as on 10.04.2006 in duly sanctioned post but not under cover of orders of Court/Tribunals.
- c) They are qualified in term of Statutory Recruitment Rules for the post in terms of Educational qualifications.
- d) They were engaged as Casual Employee through Employment Exchange.

Considering the judgment of the Constitutional Bench in the Uma Devi case & OMs of DoPT, the following course of action is to be followed:

- (i) In case, the exercise of one-time regularization, as mandated by the DoPT OM dated 11.12.2006, has not been carried out, then the Pr. CCIT may determine fulfillment of all conditions laid down therein & proceed to implement the mandate. It may be noted that the regularization is not an ongoing process. If it was done earlier in terms of the aforesaid OM, then the same cannot be done again.
- (ii) In such cases where CAT / High Court has / have directed consideration for regularization, a detailed order, specifying factual matrix of each case, particularly whether or not the casual engagement against a regular vacancy was made by the competent authority and conditions laid down in the DoPT OM dated 11.12.2006 were fulfilled or not, should be passed. The order should also refer to the operative sentence of judgment of the Constitutional Bench in Uma Devi case as under :  
*"there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."*
- (iii) The orders of the Central Administrative Tribunals / judgments of High Courts directing regularization should be contested in appellate Courts by placing reliance on the Constitutional Bench Judgment in the case of Uma Devi (supra).

### **3.2 Absorption of Casual Labour in cadre of MTS**

The fundamental issue is whether absorption of casual labour is possible in light of the judgment of the Constitutional Bench in the case of Uma Devi. The recruitment to MTS cadre is to be made through SSC as per the Recruitment Rules. It will not be possible to absorb Casual Labour in MTS cadre in view of Uma Devi decision. The field authorities may decide the issue accordingly if required to do so by any court order. In case the CAT/Court has directed absorption of casual labour in MTS cadre, then such orders must be appealed against forthwith.

### **3.3 Litigation on the issue of the CBDT's letters dtd. 04.07.2011 & 09/13.05.2013.**

In the aforesaid letters there was a direction to CCsIT and DGsIT that they should ensure that none of the DDOs make any payment to the directly deployed casual worker. The said letters were challenged in number of cases all over the country. These letters were quashed and set aside by Hon. CAT in several cases including the case of Udayanand Thakur in OA No.201212013 in CAT, PB, Delhi. It is felt the wages have to be paid for the services of the casual labour availed. Therefore, no further appeal may be filed on this issue.



#### 4 Litigation on re-engaging Casual Labour through Contractors/ Placement Agency

On the issue whether casual labour already working for several years can be re-engaged through contractors/ placement agency, if required, the Principal Bench of the Central Administrative Tribunal has held that it is not permissible to do so in the case of Udayanand Thakur & Ors.

However, the policy of outsourcing of services like data entry/ typing/cleaning/security on contract without employing casual workers individually was challenged in the Jabalpur Bench of the Hon'ble CAT in the case of Sh Laxmi Prasad Dubey, but the same was dismissed. Further challenge in the High Court failed. Even the Hon'ble Supreme Court dismissed the Special Leave Petition filed against this judgment of the High Court.

Therefore, all orders of the Tribunal quashing the scheme of outsourcing of services on contract should be contested, as the method of engaging is the sovereign right of the Government. Reliance should be placed on the Judgment of the Hon'ble M.P. High Court in the case of Sh. Laxmi Prasad Dubey, upheld by the Apex Court. Hon'ble High Court has clearly stated that *"the petitioners have no right to stop the respondents from outsourcing their certain services in the interest of economy and efficiency"*.

Further, it may also be brought to the notice of the Courts that:

- (i) These casual labours may have to be laid off as & when regular recruitment is made.
- (ii) These casual labours cannot be regularized as they do not fulfill criteria laid down in the judgment of the Constitutional Bench in the case of Uma Devi. It would be in their interest to be engaged through contract agencies so that they have safety under labour laws as long as their services are required by the Department.

#### 3.5 Issue of entitlement of Casual Labour to 1/30<sup>th</sup> of pay in relevant pay scale w.e.f 01.07.2008

In several cases, the issue was of entitlement of wages equal to 1/30<sup>th</sup> of the pay in relevant pay scale w.e.f. 01.07.2008 and applicability of the pay as per 6<sup>th</sup> CPC has been raised.

The DoPT OM dated 07.06.1988 speaks about the nature of work entrusted to Casual Workers and that where the nature of their work is same as that of Regular Employees, then the casual workers may be paid at the 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale. This OM does not differentiate between a Casual Labour with Temporary status and Casual Labour without Temporary status (CL-TS). However the OM dated 23.01.2012, only regulates the wages of Casual Labour with Temporary status wherein it is stated that CL-TS should be paid wages based on pre-revised S-I scale as on 01.01.2006 i.e. in 6<sup>th</sup> Pay Commission in PB-I with GP-1800/- w.e.f. 01.01.2006.

In this connection, I am directed to state that if the supervisory officers certify that the particular casual labour is doing same nature of work as assigned to the regular employee, then such casual labour be paid wages equal to 1/30<sup>th</sup> of the pay at the minimum of the scale admissible to such employees in light of the DoPT's OM dated 07.06.1988. A draft proforma of the certificate to be issued by the Supervisory Officer is given at the end of this letter marked as Annexure-A.

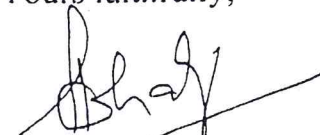
However if the casual labour is not assigned same nature of work as assigned to regular employee, then order of the CAT/High Court directing payment of daily wages @



30<sup>th</sup> of the lowest of the scale of Group D should be contested in higher Courts.

4. In view of the above, I am directed to request you to examine, the orders of CAT/High Court in the light of the above facts and a decision on filing of further appeal on issues mentioned above may be taken by the concerned Office. An action taken report in this regard may also be sent immediately.

Yours faithfully,

  
(P. R. Mohanty)  
DCIT (OSD)(V&L)  
C.B.D.T

Annexure-A

CERTIFICATE

It is certified that (---- *Name of the person*----) working as Casual Labour since ( --- *date* --- ) has been assigned the same nature of work, which has been assigned to a regular employee namely (---*Name of the regular employee*--- ) for the purpose of payment of wages, in terms of DoPT's OM dated 07.06.1988.

Seal and Signature of  
Supervisory Officer

F.No.C-30014/41/2015-V&L

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Direct Taxes

New Delhi, the 23<sup>rd</sup> November, 2015

To

All the Pr. Chief Commissioners of Income Tax (CCA)  
All the Pr. Directors General of Income Tax.

**Sub: Filing of further appeals in Higher Courts on the issues related to Casual Labours-Reg.-**

Sir,

I am directed to request you to refer to this office letter dated 16.10.2015 on the subject cited above.

2. In this connection I am directed to state that the issue of absorption of Casual Labour in the cadre of MTS is under examination and therefore for the time being, Para 3.2. and following part of Para 3.4 of the above mentioned letter dated 16.10.2015 may be treated as deleted.

Part of Para 3.4 to be treated as deleted for the time being :

*"Further, it may also be brought to the notice of the Courts that:*

(i) *These casual labours may have to be laid off as & when regular recruitment is made.*

(ii) *These casual labours cannot be regularized as they do not fulfill criteria laid down in the judgment of the Constitutional Bench in the case of Uma Devi. It would be in their interest to be engaged through contract agencies so that they have safety under labour laws as long as their services are required by the Department."*

3. I am further directed to state that the draft proforma of the certificate to be issued by the Supervisory Officer as mentioned as Annexure-A in Para 3.5 of above referred letter dated 16.10.2015 is modified as under:

"Annexure-A

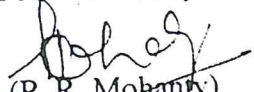
CERTIFICATE

*It is certified that (--- Name of the person---) working as Casual Labour since ( --- date --- ) has been assigned the same nature of work akin to the nature of work which is generally assigned to a regular employee namely ( name of post and work assigned) for the purpose of payment of wages, in terms of DoPT's OM dated 07.06.1988.*

Seal and Signature of  
Supervisory Officer "

4. In view of above, the letter issued vide F.No. C-30014/41/2015-V&L dated 16.10.2015 stands modified to the extent mentioned above.

Yours faithfully,

  
(P. R. Mohanty)  
DCIT (OSD)(V&L)  
C.B.D.T.





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DIRECTORATE OF INCOME TAX  
HUMAN RESOURCE DEVELOPMENT  
CENTRAL BOARD OF DIRECT TAXES

Jawaharlal Nehru Stadium, Second Floor, Lodi Road,  
New Delhi- 110003.

F.No. C-30014/41/2015-SO(VNL)/ 4337

Dated: 23.10.2018

To

All The Pr. Chief Commissioner of Income Tax,

Sir/Madam,

Subject: Issues related to the Casual Labourers in the Income-tax Department-reg.

Kindly refer to the above mentioned subject.

2. In this regard, I am directed to convey that the Competent Authority has approved the recommendations of the Committee constituted to examine the issues related to Casual Labourers in the Income Tax Department. The issues related to Casual Labourers and clarifications on the same are as under:

1. Withdrawal of para 5 of Instruction dated 13<sup>th</sup> May, 2013 of CIT (V&L), CBDT:

The above mentioned letter F.No. C-30014/29/2013-V&L dated 13.05.2013 addressed to all CCsIT & DGsIT vide which directions were issued to ensure that none of the DDOs make any direct payment to the Casual Labourers, stands deleted. The relevant para of the above mentioned letter is as under:

*"5. The Board has taken a serious view of the matter. I am, therefore, directed to request that all the CCITs/DGITs may kindly immediately ensure that none of the DDOs working in their region make any payment to the directly deployed Casual Workers in contravention of the Government/DoPT's orders and the judgement of the Supreme Court failing which they will be held personally liable/responsible".*

3. The above para stands withdrawn from the date of issue of the above letter i.e. 13.05.2013.

4. This issues with the approval of the Chairman, CBDT.

Yours faithfully,

Encl: As above

(Chanchal Meena)

Jt. Director of Income Tax (CMD-I),  
HRD, New Delhi



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F. No. 30014/41/2015-V&L  
Department of Personnel & Training  
Establishment C Section

\*\*\*\*\*

Reference preceding notes.

2. The matter has been examined. It is advised to take further action in this matter in the light of existing instructions (O.M. dated 07.06.1988 and 14.06.2016) (copies enclosed) on the following lines:
  - i. Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30<sup>th</sup> of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.
  - ii. In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.
  - iii. To strictly discontinue the engagement of casual labourers for attending work of a regular nature.
2. This issues with the approval of JS (Establishment).

*Surya Narayan Jha*  
7.2.19  
(Surya Narayan Jha)  
Under Secretary to the Government of India  
Telefax: 23094248

D/o Revenue, ITO(OSD)(V&L), North Block, New Delhi.  
DOPT I.D. No. 1347374/CR/18 Dated: 07.02.2019

*Recd on 11.2.19*  
*Bac*  
*11.2.19*

DOPT(OSD)(V&L) L. Arany

*Please put up*

Sh. Gayamondar, ITI(V&L)

*Imp*  
*12.2.19*  
*170(OSD)(V&L) 313*