

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.503/2017

Date of Decision: 08.10.2018.

CORAM:HON'BLE DR. BHAGWAN SAHAI, MEMBER (A)
HON'BLE SHRI R.N. SINGH, MEMBER (J)

1. Kumar S. Krishnamurthy,
DOB 07.11.1970, Son of Shri S.
Krishnamurthy, Working as
Superintendent of Central Tax,
(Group B Post) presently posted
at GST Mumbai East Commissionerate,
Mumbai. R/at Flat No.19, Bldg.No.15,
Radha Nagar CHS, Barave Road,
Near Khadakpada, Kalyan (W),
Dist. Thane 421 301.
2. Ravindra K Rane,
DOB 05.04.1972 S/o Shri Kashiram
G. Rane, Working as Superintendent of
Central Tax (Group B Post) Presently
Posted at GST Thane Commissionerate.
R/at Flat No.5, Yamuna CHS, Third Floor,
Govind Bachchhaji Road, Charai,
Thane (W) 400 601.
3. Rammohan R. Adepur,
DOB 03.06.1968 Son of Shri Adepur
Ramalingam, Working as Superintendent
of Central Tax (Group B Post), Presently
Posted at GST Pune Zone and R/at 602,
Nav Chetana-B, Sec-3, CGS Colony,
Antop Hill, Mumbai 400 037.
4. Rajashekar K Nair,
DOB 31.03.1968, Son of Shri Kutty
Sankaran Nair, Working as Superintendent of
Central Tax (Group B Post) presently posted
at Raigad GST Commissionerate.
R/at 402, 5th Floor, Sai Shraddha Avenue,
Plot No.65, Sector 20, Kamothe,
New Panvel 410 209.

5. V.M. Jayaprakash,
DOB 15.10.1966, S/o Shri V.K. Madhavan,
Working as Superintendent of Central Tax,
(Group B Post) Presently posted at Commissioner
(Appeals-II), Mumbai GST.
R/at B-11/304, Silver Tower, Silver Park Complex,
Mira Road (East) – 401 107.
6. Nirmal Raghani,
DOB 23.03.1967, Son of Shri Naraindas T.
Raghani, Working as Superintendent of
Central Tax (Group B Post) Presently posted
at GST Thane Rural Commissionerate.
R/at A-2/1202, Mohan Pride Co. Hsg. Soc. Ltd.,
Wayale Nagar, Khadakpada, Kalyan (W)- 421 301.
7. Prakash E Mhalsekar,
DOB 09.09.1967, Son of Shri Eknath N. Mhalsekar
Working as Superintendent of Central Tax,
(Group B Post) Presently posted at Mumbai
Central GST Commissionerate, Mumbai.
R/at A-404, Chandraprabha, Udayshree Road,
Bhandup (E), Mumbai 400 042.
8. Benhor Solomon,
DOB 10.10.1966, Son of Shri Solomon,
Working as Central Tax, (Group B Post),
Presently posted at Thane, GST Commissionerate.
R/at B/103, Sita Vihar CHS, Damani Estate,
Naupada, Thane (W) – 400 602.
9. Shaji U,
DOB 07.05.1967, Son of Shri R. Unnikrishna Warriar
as Superintendent of Central Tax (Group B Post),
Presently posted at Raigad GST Commissionerate.
R/at NL-6/12/14, Sector-15, Nerul,
Navi Mumbai 400 706.
10. Amitabh Kumar,
DOB 19.8.1969 Son of Shri Akhileshwar Prasad,
Working as Superintendent of Central Tax,
(Group B Post) presently posted at Thane GST
Commissionerate. R/at Kiran/603, Vasant Leela,
Ghodbunder Road, Thane (W) – 400 615.
11. Ramesh Goswami,
DOB 17.12.1968, Son of Late Nepal Chandra
Yogi, working as Superintendent of Central Tax,

(Group B Post) presently posted at Pune Commissionerate. R/at Flat No.1, Bldg. No.1, Sector VII, CGS Colony, Antop Hill, Mumbai 37.

12. Rizwan Ahmad,
DOB 02.01.1969 Son of Shri Abdul Ghani,
Working as Superintendent of Central Tax,
(Group B Post) presently posted at Audit-III GST,
Mumbai Commissionerate. R/at Flat No.104
Bld. No.26, MHADA, Oshiwara, New Link Rd.,
Andheri (W), Mumbai 400 053.
13. Sanjay V. Kharat,
DOB 27.06.1968, Son of Shri Vishwanath P. Kharat,
Working as Superintendent of Central Tax,
(Group B Post), presently posted at Navi Mumbai
GST Commissionerate. R/at A/2, Ashokanil CHS,
Shree Nagar, Wagle Estate, Thane (W) 400 604.
14. Dharmendra B. Chaubey,
DOB 01.05.1971, Son of Shri Baijnath F. Chaubey,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai West
GST Commissionerate. R/at Flat No.204, Bldg.No.26,
MHADA, Oshiwara, New Link Road, Andheri (W),
Mumbai 400 053.
15. Ajoy Kumar
DOB 25.12.1968, Son of Shri S.N. Ambast,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Audit-III, Mumbai
GST Commissionerate. R/at Flat No.401, Bldg.No.26,
MHADA, Oshiwara, Police Station, Oshiwara,
Andheri (W), Mumbai 400 053.
16. Raghunath P.
DOB 30.11.1964, Son of Shri K.K. Madhavan Nair,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Thane GST
Commissionerate. R/at E1- 1901, Snowdrop, Neelkanth
Greens, Manpada, Thane (W) – 400 610.
17. P.A. Vincent,
DOB 02.01.1960, Son of Shri P.I. Anthony,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Navi Mumbai
GST Commissionerate. R/at 30/502, Ashirwad CHS
Ltd., Subhash Nagar, Chembur, Mumbai 400 071.

18. Chandran P.
DOB 29.04.1963, Son of Shri Subbiah Pichumani,
Working as Superintendent of Central Tax,
(Group B Post), Presently posted at Palghar
GST Commissionerate. R/at A/001, Gokul
Concorde, Agarwal Garden, Agashi Road,
Virar (W) Palghar – 401 303.
19. Rajesh Kumar Sahu,
DOB 06.12.1970, Son of Shri Rajendra Prasad Sahu,
Working as Superintendent of Central Tax,
(Group B Post), Presently posted at Audit-I Mumbai
GST Commissionerate. R/at B-1604, Swastik Alps,
Brahmand, Thane (W) 400 607.
20. Bharati M. Bakhtiani,
DOB 10.05.1967, Wife of Shri Shyamlal B. Vaswani,
Working as Superintendent of Central Tax
(Group B Post) presently posted at Thane Rural GST
Commissionerate. R/at B-5, Ranjit Society, Sarojini
Naidu Road, Mulund West, Mumbai 400 080.
21. Rajesh Ramekar,
DOB 27.02.1969, Son of Shri Madhusudan Ramekar,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Commissioner
Appeals-III, Mumbai. R/at 4/103, Surya Enclave,
Tulsidham, Pokharan Road No.2, Thane (W) 610.
22. Sunil Damodaran Pisharody,
DOB 01.01.1971, Son of Shri Damodaran T.,
working as Superintendent of Central Tax,
(Group B Post) presently posted on Deputation in
Enforcement Directorate, Mumbai Zone-II.
R/at A-15, CGS Colony, Bhandup (E), Mumbai 042.
23. Arvind Kumar Chanchal,
DOB 25.02.1968, Son of Shri Badri Prasad,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Belapur GST
Commissionerate. R/at Flat No.2, Vishrantigrh,
Plot-56, Sec-19, Nerul, Navi Mumbai 400 706.
24. Canute Menezes,
DOB 19.01.1963, Son of Shri Paul Menezes,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Thane GST

Commissionerate. R/at 9/401, Siddharth Nagar,
Station Road, Mira Road (E) 401 107.

25. Ramdas Vanzul,
DOB 01.06.1960, Son of Shri Mahadeo Maruti Vanzul
working as Superintendent of Central Tax,
(Group B Post) presently posted at Raigad GST
Commissionerate. R/at 403, Sri Ganesh Plaza, II,
Sector 1, Khanda Colony, New Panvel- 410 206.
26. Gautam Bhar,
DOB 01.05.1966, Son of Shri G.C. Bhar,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Commissioner
(Appeals), Thane. R/at Flat No.202, Chandan Upvan
CHS Ltd., Gawand Baug, Pokhran Road No.2,
Thane (W) – 400 610.
27. Gangadhar T. Kohad,
DOB 19.07.1967, Son of Shri Tulshiram Maroti Kohad,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai East
GST Commissionerate. R/at 1/11, Om Shiv Sadan,
Dayal Nagar, Khadakpada, Kalyan (W) 421 301.
28. Manoj Kumar,
DOB 19.12.1966, Son of Shri A.K. Sudhanshu
working as Superintendent of Central Tax,
(Group B Post) presently posted at Navi Mumbai, GST
Commissionerate. R/at Flat No.B-21, Type IV, Ekta
Vihar, Sector 25, CBD Belapur, Navi Mumbai 400 614.
29. Manoranjan Kumar Mishra,
DOB 10.03.1970, Son of Shri Akshaibar Nath Mishra,
working as Superintendent of Central Tax,
presently posted at Audit-II GST Mumbai Commissionerate.
R/at E1- New Parijat/B/302, Near Jakat Naka,
Agashi Road, Virar (W) 401 303.
30. Niraj R. Rai,
DOB 05.08.1970, Son of Shri Ravindranath,
Working on Deputation as Deputy Superintendent
of Police (Group A Post) presently posted at
National Investigation Agency, Mumbai.
R/at A-73, Yamuna Sector – 3, Srishti Complex,
Mira Road, Dist. Thane 401 107.

31. Harihar M. Zaavde,
DOB 27.10.1967, Son of Shri Motiram Bhaskar Zaavde,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Thane Rural GST
Commissionerate. R/at Malkauns, Plot No.21,
Vivek Anand Society, Kulgaon, Badlapur (E) 421 503.
32. Kalidas Kairamkonda,
DOB 22.05.1967, Son of Shri Laxminarayana Kairamkonda,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Audit-I GST Mumbai
Commissionerate. R/at 504, Nav Chetana-B,
Sec-3, CGS Colony, Antop Hill, Mumbai 400 037.
33. Shoba V. Iyer,
DOB 02.06.1969, Daughter of Shri M.R. Natarajan
Working as Superintendent of Central Tax,
(Group B Post) presently posted at (Appeals)-III,
Mumbai. R/at B-2/101, Durga Sadan, Bldg. no.10,
Tilak Nagar, Chembure, Mumbai 400 089.
34. Meritta Suni,
DOB 15.08.1968, Daughter of Shri Thomas Mathew,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai East GST
Commissionerate. R/at C-2/1001, Neelyog Apartments,
Pant Nagar, Ghatkopar (E), Mumbai 400 075.
35. Girish A Sariputra,
DOB 25.04.1965, Son of Shri Anand Mahadeo Waghmare,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Bhiwandi GST
Commissionerate. R/at Plot No.26, Central Railwaymen's
Co-op. Housing Society, Kalyan Road,
Dombivli (E) – 421 201.
36. Sheela Dayanandan,
DOB 12.10.1966, Daughter of Shri V.A. Asokan,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Raigad GST
Commissionerate. R/at Flat No.703, Royal Heights
CHS Ltd., Plot No.198-199, Sector 21, Kamothe,
Navi Mumbai 410 209.
37. Sujata Sounderrajan,
DOB 21.05.1971, Daughter of Shri Suresh Kale,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Pune Commissionerate.

- R/at 603, Church View, Vakola, Santacruz (E),
Mumbai 400 055.
38. Sreelatha V. Nair,
DOB 22.07.1970, Daughter of Shri K.R.K. Menon,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai South GST
Commissionerate. R/at b-402, Bldg. No.95,
Tilak Nagar, Chembur, Mumbai 400 089.
39. Rajesh B Sharma,
DOB 22.01.1965, Son of Shri Bhagwandas Sharma,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai West GST
Commissionerate. R/at 1-C/304, Green Meadows,
Lokhandwasa Township, Kandivli (E),
Mumbai 400 101.
40. Ganesh B. Moholkar,
DOB 16.09.1969, Son of Shri Balkrishna Moholkar,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai West GST
Commissionerate. R/at 27/404, Central Excise Officers
Quarters, Oshiwara Mhada, New Link Road,
Andheri (W), Mumbai 400 053.
41. Sathyajit M. Rai,
DOB 21.01.1968, Son of Shri K. Mahabala Rai,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Audit-III GST
Commissionerate. R/at B-302, Shanti Apts, Charkop
Village, Kandivali – West, Mumbai 400 067.
42. Smita M. Nair,
DOB 16.06.1971, Daughter of Shri V.K.G. Nair,
working as Superintendent of Central Tax,
(Group B Post) presently posted at CCO/CCA Mumbai
Central Commissionerate. R/at B-202, Allan Villa,
Kalina Church Road, Kalina, Mumbai 400 029.
43. Manish Roy,
DOB 08.09.1967, Son of Shri Prakash Chandra Roy,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Pr.Chief Commissioner
Office, CGST, Mumbai. R/at 102, Garden View,
Kastur Park, Borivali (W), Mumbai 400 092.
44. Simrann D. Karamchandani,
DOB 18.3.1971, Daughter of Shri Tarachand Menghani,

working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai South GST
Commissionerate. R/at 102/27, Central Excise
Quarters, New Link Road, Oshiwara Andheri (W),
Mumbai - 400 0563.

45. Sandesh V. Dhotre,
DOB 23.02.1971, Son of Shri Vijay R. Dhotre,
working as Superintendent of Central Tax,
(Group B Post) presently posted at Mumbai West GST
Commissionerate. R/at 301, Pitale Niwas, Annasaheb
Vartak Road, Virar (W), Palghar 401 303. ... **Applicants**
(Advocate Shri R.G. Walia)

VERSUS

1. Union of India, through
The Revenue Secretary to the
Govt. of India, Ministry of Finance
Department of Revenue, North Block,
New Delhi 110 001.
2. The Chairperson,
Central Board of Excise & Customs (CBEC)
& GST, Ministry of Finance, Dept. of Revenue
North Block, New Delhi 110 001.
3. The Principal Chief
Commissioner of Central Tax,
CGST and Central Excise, Mumbai Zone,
Cadre Controlling Authority (CCA),
115, M.K. Road, Central Excise Bldg.,
Churchage, Mumbai 400 020. ... **Respondents**
(Advocate Shri B.K. Ashok)

ORDER (Oral)

Per : Shri R.N. Singh, Member (J)

The Applicants (45 in number) have
filed this OA seeking the following reliefs:

“8.a) This Hon'ble Tribunal will be pleased to call for the records and proceedings of the case which led to the passing of the impugned letter/order dated 14.09.2015 i.e. Annexure A-1 and after going through its proprietary, legality and constitutional validity be pleased to quash and set aside the same with a direction to the respondents to grant Non-Functional

Grade (NFG) Scale i.e. Pay Band-2-Rs.9300-34800+ GP of Rs.5400/- after completion of 4 years of service of the applicants in Pay Band-2 Rs. 9300-34800/-GP Rs.4800/- with all consequential benefits of arrears of pay, pay fixation etc.

8.b) This Hon'ble Tribunal will be pleased to hold and declare that the applicants are entitled to get the benefit of the Non-Functional Grade (NFG) Pay Scale of PB2 Rs.9300-34800+ Grade Pay Rs.5400/- (revised) after 4 years of service in PB2 Rs.9300-34800+ Grade Pay Rs.4800/- (revised) along with arrears;

8.c) This Hon'ble Tribunal will be pleased to issue suitable direction to the respondents to extend the benefits to the applicants and kindly be directed to decide the applicants representations in light of order passed by the Hon'ble Madras High Court;

8.d) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

8.e) Cost of this Original Application be provided for.”

2. Learned counsel for the applicants submits that the claims of the applicants are squarely covered by the order/judgment dated 06.09.2010 of the Hon'ble High Court of Judicature at Madras in **WP No.13225/2010 in M. Subramaniam Vs. Union of India & Ors.**, (Annex. A-8). It is further contended by him that once the issue has been decided by the Hon'ble High Court and a decision has been taken by the respondents to implement the same in the case, it was incumbent upon them to extend

the benefit of that judgment in **M. Subramaniam (supra)** to all the similarly placed persons including the present applicants. However, the respondents have failed and neglected to do the needful, in spite of representations made by many of the applicants to the respondents to extend to them the benefit of the judgment of the Hon'ble High Court in **M. Subramaniam (supra)**. In response to such representations, the respondents have issued the impugned order/letter dated 14.09.2015 (Annex. A-1) which reads as under:

“Sub: Implementation of Hon'ble Madras High Court in Union of India Vs. M. Subramaniam (WP Nos.13225 of 2010) – regarding.

Please refer to representations made by all the above officers on the above subject.

In this regard, please find enclosed herewith CBEC letter F.No.A-23011/05/2009-Ad.IIA dated 8th November 2013, stating that Order No. dated 06.09.2010, in Writ Petition No.13225 of 2010 file by M. Subramaniam, is to be implemented for the applicant only (i.e. Shri M. Subramaniam), subject to the outcome of Civil Appeal No.8883 of 2011.

Accordingly, the representations given on basis of Hon'ble Madras High Court judgment dated 06.09.2010, cannot be implemented for others as this stage.

*Sd/-
(Rishi Goel)
Additional Commissioner (P&V),*

*Large Taxpayer Unit,
Audit Commissionerate, Mumbai.*

3. Aggrieved by the order dated 14.09.2015, the applicants have approached this Tribunal through the aforesaid OA and on receipt of notice, the respondents have filed their reply dated 25.04.2018. Para 4 thereof reads as under:

“...4. As regard to para no.1 of the OA is concerned, it is respectfully submitted that the applicant had submitted representations dated 24.03.2014 & 02.02.2015 seeking implementation of the decision dated 06.09.2010 of the Hon'ble Madras High Court in the case of M. Subramaniam since they were also similarly placed. Since the appeal filed by the Ministry before the Hon'ble Supreme Court was pending, the Ministry had vide letter dated 08.11.2013 informed that the decision would be implemented for the applicant only, subject to the outcome of the Civil Appeal No.8883/2011. Since the matter has now been decided by the Hon'ble Supreme Court vide their decision dated 10.10.2017, the respondents are awaiting the directions of the Ministry of Finance for implementation of the Hon'ble Madras High Court order. As soon as the same is received from the Ministry, the same would be implemented in respect of all similarly placed officers including the applicants.”

4. Today, the learned counsel for the respondents has submitted that after dismissal of the aforesaid Civil Appeal No.8883/2011 by the Hon'ble Apex Court, the respondents herein have filed a Review Petition (Civil) No. 2512/2018 which also stands dismissed by the Hon'ble Apex Court

vide order/judgment dated 23.08.2018. A copy of that order has been placed on record for our perusal and the same is taken note of.

5. It is trite law that once an issue has been decided by the competent Court, the Government being the Model employer should not compel all similarly placed individual employees to approach the Court/Tribunal for grant of the same benefits. However, in the present case, the respondents have not only failed and neglected to extend the benefit of the judgment of the Hon'ble Madras High Court in ***M. Subramaniam (supra)*** to the applicant, they have passed the impugned order dated 14.09.2015 to the effect that the extension of the benefit of that judgment cannot be extended for others at that stage. In their reply dated 25.04.2018 as noted above, the respondents have said that they are awaiting directions of the Ministry of Finance for implementation of the order/judgment of the Hon'ble Madras High Court for the applicants and the same would be implemented in respect of similarly placed other officers including the applicants. However, till date no such clarification has been received by them.

Learned counsel for the respondents submits that the respondents have been awaiting result of the Review Petition filed before the Hon'ble Apex Court which also has been dismissed on 23.08.2018. It may further be noted that though in their reply the respondents have specifically stated that the implementation of the directions of the Hon'ble Madras High Court in ***M. Subramaniam (supra)*** shall be made only on receipt of necessary instructions from the Ministry of Finance, even at this belated stage, considering the present OA, the respondents have filed ***MA No.544/2018*** for deletion of Respondent Nos.1 & 2 from the array of parties. We fail to understand as to how such an MA is maintainable. Accordingly, the MA is ***dismissed***. From the aforesaid, it appears that the respondents have acted in a very arbitrary and discriminatory manner and their action is result of slackness. In the aforesaid facts and circumstances, the ***OA is allowed*** with directions to respondents to extend benefit of the judgment of the Hon'ble Madras High Court in

M. Subramaniam (supra) to the applicants within six weeks from the receipt of certified copy of this order. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.