

F.No. 386/66/2000-JC

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Dated : 18-9-2000

Subject : Appeal to the Supreme Court by the assessee - need for timely filing of counter affidavits and briefing of panel advocates - instructions reg.

Please refer to Board's circular No. 519/15/2000-CX dated 03/03/2000 issued from F.No. 390/31/2000-JC vide which Commissioners were directed to forward comments on appeals filed by assessees in a prescribed proforma. Despite issue of aforesaid circular, there is no appreciable improvement in forwarding of relevant papers to the Board after receipt of the same in commissionerate. The Commissioners should be aware that the Central Board of Excise & Customs or the Central Agency Section of the Ministry of Law are not the respondent in the appeals filed by the assessees and it is the Commissioners alone to whom the notice of lodgement of appeal is sent. Hence in the absence of requisite papers it is impossible to cause appearance in the Court, because no advocate can represent the Commissioner without being aware of the facts of the case and the grounds/stand taken by the Department and the assessees thus stand a good chance of getting stay or a favourable order from the court. To avoid this, Commissioners should ensure that the Notice regarding filing or lodgement of appeal received from the Supreme Court Registry and copy of appeal received by them are sent to Board in duplicate within two weeks of receipt in the Commissionerate office as stipulated in Board circular cited *supra*.

2. The following instructions should also be scrupulously followed with regard to responding to party's appeals in the Supreme Court:-

i) Now that Supreme Court Cause-List is available on INTERNET on the site "***Supremecourtfindia.nic.in***" or "***http://causelists.nic.in***" the respective Commissioners may personally monitor the cases which are likely to be listed in the Court for hearing and keep abreast with cases pertaining to their Commissionerates coming up before the Court.

ii) In case they have received the notice but have not taken action to forward copy of the appeal paper book and parawise comments in duplicate to the Board or if they have not received the notice of Lodgement of petition of appeal and civil appeal copy from the Supreme Court registry, they should depute a well conversant officer with all relevant records to report to the Under Secretary, Judicial Cell of CBEC, who can be contacted at Telephone No. 3014182 in Room No. 227-B of North Block, New Delhi. Under Secretary (JC) will help the officer in contacting the official/advocate concerned. From CBEC, that officer can go to the Central Agency Section of the Law Ministry so that counter affidavit can be prepared/filed and the Panel Advocate suitably briefed, or it can be brought to the Court's notice has not been received.

iii) In those cases where Notice of Lodgement of Appeal has been received well in time (say within ten days of dispatch from registry), all the papers (together and not in bits and pieces) be sent within ten days of receipt of the same to Ministry by name to Joint Secretary (Review) or Under Secretary (Judicial Cell) so that necessary steps could be taken for filing counter affidavits in time.

3. All Chief Commissioners/Commissioners may note that we now have a Special Monitoring Cell headed by an Additional Director of the rank of Addl. Commissioner for appropriate liaison and follow up of C.B.E.C. cases in the Supreme Court. The said Cell is housed in a flat on the **ground floor of V.K.Krishna Menon Bhawan, 9, Bhagwan Das Marg, New Delhi-110001** and that building is opposite Supreme Court Complex. In case the officers coming to Delhi have any problem in contacting the Panel Advocates at the Central Agency Section they may take the help of the officers in the Monitoring Cell who can be contacted on Telephone No. **3381630, 3381825, FAX 3389524**.

Receipt of this circular may be acknowledged.

K.K.Jha

Director (Review)