

Circular No. 596/33/2001-CX
5-11-2001

F. No. 390/254/2001-JC.

Government of India

Ministry of Finance (Department of Revenue)

Central Board of Excise & Customs, New Delhi

Subject : Requirement of filing cross objection in CEGAT and of sending comments to the DR by the concerned Commissioners in cases involving law points or revenue of more than Rs. 20 lakhs.

It has been brought to the notice of the Board that the field Commissioners both in Customs as well as in Central Excise, in spite of Board's Circular No. 453/19/99-CX, dated 9-4-1999 [1999 (107) E.L.T. T41] issued vide F. No. 390/48/90-JC are neither filing Cross Objections under Section 35B(4) of the Central Excise Act or Section 129A(4) of the Customs Act against appeals filed by the assesseees or importers in CEGAT nor they are sending their comments along with the copies of relevant documents to the CDR/JCDR/SDRs (regional benches) within the stipulated period of 45 days.

The Board vide aforesaid Circular dated 9-4-99 had laid down that all field Commissioners shall ensure quick critical examination of all the appeals filed by assesseees or importers as the case may be in all cases involving important law points and/or revenue of more than Rs. 20 lakhs in each such case and

(i) file memorandum of Cross Objection in the Tribunal with copy to the concerned CDR/JCDR/SDR within the stipulated period of 45 days from the date of receipt of the notice from CEGAT in terms of Section 35B(4) of Central Excise Act or Section 129A(4) of Customs Act, or

(ii) send their comments along with copies of the relevant documents to the concerned CDR/JCDR/SDR as the case may be within the said 45 days, so that the Departmental Representatives can effectively represent department's side before CEGAT.

Board had further desired that if the CDR/JCDR/SDR desires comments on the memorandum of appeal or clarification on specific points involved in any particular case, the same may be attended to expeditiously so that department's case can be effectively contested in the Tribunal.

It has been brought to the notice of Board that most of the time, neither Cross Objections are being filed nor comments are being furnished. Even in cases where specific comments are sought for, by the Departmental Representative or *suo motu* comments sent by Commissionerates, the same are being furnished by a junior functionary without much application of mind and that too not expeditiously.

It is, therefore, once again reiterated that in all cases involving important law points or revenue of more than Rs. 20 lakhs as per Para No. 2 above, shall be immediately taken up for scrutiny on receipt of the notice from CEGAT and Cross Objections/comments shall be filed within prescribed time limit. It may be kept in mind that where the order under challenge is passed by the Commissioner as an Adjudicating Authority, authorisation for filing cross objection is to be given by Board, and therefore, the Zonal Chief Commissioner has to send draft Review Order along with the case records and the Memo of appeal filed by the assessee within ten days of receipt of notice from the CEGAT. Further, whenever any specific comments or clarification is asked for, it should be very expeditiously attended to and well considered comments shall be sent by the Commissioners themselves under their own signature.

All the Chief Commissioners should suitably advise Commissioners working under their charge, besides also devising suitable monitoring arrangements for due compliance of these instructions.

Receipt of this Circular may be acknowledged.