

F.No. 390/85/2003-JC

Government of India

Ministry of Finance & Company Affairs

Department of Revenue

Central Board of Excise & Customs**Sub : Effective handling of Central Excise & Customs Appeals - Recommendations of the Expert Group - instructions - reg.**

Attention is invited to Board's Circular No.710/26/2003-CX dated 23rd April 2002 issued from F.No.390/198(M-2)/2002-JC wherein field formations were sensitized on the need to remove the deficiencies and inadequacies in the manner of filing departmental Appeals. As you are aware, an Expert Group under the Chairmanship Shri R.K. Tiwari, Chief Commissioner of Customs & Central Excise, (Pune Zone) was constituted to carry out an indepth study of departmental procedure in appeal matter and to find out lacunae in dealing with appeal cases at all levels. The Expert Group while submitting its report has made some valuable suggestions based on which the following guidelines are being issued for strict compliance by the field formations.

1. In order to have a systemic check, the Chief Commissioner should scrutinize 10% of the orders of the Commissioner (Appeals). The Chief Commissioner should undertake periodical inspection in this regard, and devise his own method of such scrutiny.
2. The adjudicating authority should take adequate care in passing judicious, well reasoned orders, correct in law, irrespective of whether in favour of or against the Revenue.
3. For out-of-turn early hearing of the cases with high revenue stakes, the Commissionerates should make Miscellaneous Application indicating clearly the grounds for such prayer. Such Miscellaneous Applications are to be filed in terms of Rule 28C read with Rule 28A of the CEGAT(Procedure)Rules,1982.
4. Similarly in order to get the interim stay orders vacated, the commissionerate must take pro-active measures by filing miscellaneous petitions before Supreme Court/High Court/CESTAT for early hearing specifying the grounds clearly. The Commissionerates must follow up these matters at appropriate levels after filing of the miscellaneous petitions.
5. There should be prompt follow-up, particularly in respect of Civil Appeals/SLPs before the Supreme Court, through effective liaisoning between the Directorate of Legal Affairs and the Commissionerates on one hand and between the Directorate and the CAS of the Ministry of Law on the other hand. Commissioner should ensure that a mechanism is in place for constant interaction with Directorate of Legal Affairs with respect to appeals of their jurisdiction. Similarly, the Directorate should ensure facilitation of the Departmental Appeal matters with CAS and Ministry of Law.
6. The Directorate should also play an important role in getting the old cases listed for hearing in Supreme Court, in coordination with the concerned Commissionerates. In order to get interim stay orders vacated from the Supreme Court, the DLA should tie-up with the Commissionerates for filing of Misc. Application for early hearing. Necessary coordination in this respect may be ensured.
7. The Commissionerates should tie-up with the Directorate of Legal Affairs so that during the long vacation of Supreme Court and Delhi High Court, conversant officers of the Commissionerates are sent to the Directorate for reconciling the pending matters.
8. As regards cases before the Supreme Court and the Delhi High Court, the Commissioners must ensure that conversant officer from the Legal Section is deputed during the long vacation period, in coordination with the DLA, for reconciling the pending cases before Supreme Court and Delhi High Court. The DLA can thereafter pursue the Miscellaneous Petition filed for out of turn early hearing of the pending matters.
9. The Directorate should obtain information in respect of the Supreme Court orders/decisions in favour of the Revenue, and pursue with the Commissionerates for the implementation of the Supreme Court orders and recovery of Revenue.
10. A mechanism should be put in place by all Commissioners to track the fate of the Reference Applications filed in the past cases, prior to July, 2003.
11. A Special Watch Register may also be maintained which should contain inter alia the details of para-wise comments and Cross-objections, if any, filed by the Commissionerate.
12. The standard control register with standard columns relating to adjudication, appeal at different levels etc. as already prescribed, should be regularly maintained and abstracts drawn on a monthly basis, which will be seen by the incharge D.C./A.C.

and other senior officers on monthly basis.

13. A list of orders favourable to the Revenue relating to a particular Commissionerate must be prepared by the Addl. / Jt. Commissioners in charge of Legal and Tribunal Section of the Headquarters, and circulated to all the Divisions for getting the revenue recovered.

Receipt of the above circular may be acknowledged.

Hindi version will follow.

(B.K. GUPTA)
JOINT SECRETARY (R)