



**DIRECTORATE OF LEGAL AFFAIRS  
CENTRAL BOARD OF EXCISE & CUSTOMS  
4<sup>th</sup> FLOOR, RAJENDRA BHAWAN, 210, DEEN DAYAL UPADHY MARG  
NEW DELHI-110002**

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F. No. 1080/DLA/50/Tech/Monitoring/SLPs-Appeals/16/85970943 Dated: 31.05.2017  
T/6

To

The Pr. Chief Commissioner/Chief Commissioner of Central Excise (All)  
The Pr. Chief Commissioner/Chief Commissioner of Service Tax (All)  
The Pr. Chief Commissioner/Chief Commissioner of Customs (All)

Madam/Sir

**Subject – Monitoring of delay in filing of SLPs/Appeals by the department before the Hon'ble Supreme Court / High Courts. – reg.**

It is informed that as per the recommendations made by the Committee of Secretaries (Cos) in its meeting dated 15.09.2016 on the subject "Removing delays in filing of SLPs/Appeals" and as requested by the Law Secretary vide its letter dated 07.11.2016, Commissioner, Directorate of Legal Affairs (DLA) has been made Nodal Officer for CBEC to oversee and monitor cases before the High Courts/Supreme Court.

**2.0** It is pertinent to mention here that CBEC has already issued its Standard Operating Procedures (SoP) in litigation matters and the same is also hosted at department's website. Annexures - 1 and 3 to the said SoP provide/recommend timelines, respectively, for filing Civil Appeals / SLPs in the Supreme Court and Appeals in the High Courts.

**3.0** At Para-7 of the minutes of the meeting (CoS) dated 15.09.2016, *supra*, Department of Legal Affairs (DoLA) has suggested timelines for filing SLP, which are as under :-

- Examination and taking Administrative decision by the Ministries/Department – **15 days.**
- Examination and advice/opinion by the DoLA and Law officers – **15 days.**
- Drafting of SLP and forwarding the same to the concerned department – **15 days.**
- Approval of the draft SLP by the concerned departments and providing necessary documents – **5 days.**
- Preparing paper book and filing – **10 days.**

**(Total - 60 days)**

No such timelines have been suggested by the DoLA for filing Civil Appeals (CA) and Appeals in the High Courts.

O/c



4.0 Accordingly, timelines provided in the Standard Operating Procedures (SoP) of CBEC for filing of SLPs and Civil Appeals have been revised and approved by the competent authority, which are as under :-

**Revised timelines for filing Civil Appeal/ SLP**

<b>Civil Appeal (CA)</b>	<b>Special Leave Petition (SLP)</b>
Impugned order passed by CESTAT	Impugned Order-High Court
Receipt of impugned order through post (Day 0)	Application for Certified Copy same day
	Receipt of Certified Copy (Day 0)
Preparation and submission of proposal for challenging order in form of comments by concerned Commissionerate (7 days)	Preparation and submission of proposal for challenging order in form of comments by concerned Commissionerate (7 days)
All case papers including proposal sent to Judicial Cell, CBEC in cases relating to rate of duty and valuation papers, which takes decision to challenge order (6 days)	Examination of SLP proposal against High Court order by Legal Cell (6 days)
	Consultation with the concerned policy section (2 days)
Case papers sent to Central Agency Section for drafting Appeal	Case Papers to be examined by the Law Ministry and forwarding the same to Central Agency Section (CAS) with their opinion – CAS seeks the opinion of the Law Officer as to the feasibility of challenging the order by way of SLP. (15 Days)
CAS marks file to panel counsel for drafting Appeals /SLP (1 day)	
Drafting Counsel returns draft SLP/Appeal to CAS (13 days)	
CAS forwards draft SLP/Appeal to CBEC (Legal / Judicial Cell), D/o Rev., M/o Finance for vetting (1 day)	
Vetting of draft and the same are returned to CAS for filing with marked Annexures (5 days)	
Preparation of paper book (typing/copying) by CAS (10 days)	
<b>Total Time for filing the CA against the order of CESTAT – Total 43 days</b>	<b>Total Time for filing the SLP against the order of High Court – Total 60 days</b>

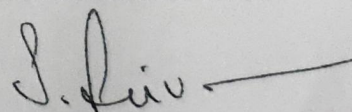
5.0 Since, no such timelines have been suggested by the DoLA for filing of Appeals in the High Courts, we can continue with the timelines as provided in our SoP, which are as under :-



**Timelines for filing of the Appeal to High Court**

S.No.	Stage	Number of days	
		Absolute	Cumulative
1	Receipt of CESTAT order in the office of Commissioner	0	0
2	Entry in the Records in Commissioner Office and linking with the earlier files and folders	2	2
3	Consultation within the Commissionerate, i.e. with the Division and Range etc and taking prima facie view on the order by the Commissioner	45	47
4	Consultation with the Chief Commissioner and Board, if required	15	62
5	Consultation with the Standing Counsel	10	72
6	Final Decision by the Commissioner to file Appeal in the High Court	3	75
7	Sending appeal folder to the Standing Counsel for drafting Appeal Memo by Commissioner	1	76
8	Drafting of Appeal Memorandum by the counsel	30	106
9	Obtaining Appeal Memorandum from Counsel, vetting, preparation of sets with annexures in the office of the Counsel and sending to the Standing counsel for filing	10	116
10	Actual filing in the High Court Registry	2	118
11	Intimation of Diary/Lodging No to the Office of the Commissioner and making of the entries in the relevant records and registers	2	<b>Total 120</b>

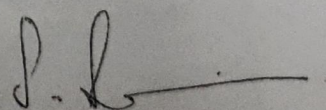
**6.0** In order to ensure timely filing of SLPs/CAs and Appeals in the High Court we need to adhere to above timelines in letter and spirit. Any delay at any stage on the part of department should entail satisfactory explanation from the concerned, failing which strict action shall ensue. Zonal Chief Commissioners are requested to submit detailed statement of the days involved at each stage in cases where filing of Appeals in the High Courts are delayed. The said delay statement should be shown to and concurrence thereon be taken from the Chief Commissioner.



(Sanjiv Srivastava)  
Commissioner. DLA

**Copy to :**

- 1.) The Commissioner, Legal Cell, CBEC to certify the delay against above timelines while informing the DLA about the details of SLPs/CAs affirmed and filed.
- 2.) The Joint Secretary (Review), CBEC to certify the delay against above timelines while informing the DLA about the details of SLPs/CAs affirmed and filed.



Commissioner. DLA