



**OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)**  
**NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 400001**

F.No.GEN/LGL/Misc/130/2020-LEGAL-O/o-COMMR-CUS-EXP-ZONE-I-MUMBAI

Date:13.05.2021

**STANDING ORDER NO. 02/2021**

**Sub: Standard Operating Procedure to deal with Cases in  
Centralised Legal Cell in New Customs House, Mumbai Zone-I -reg.**

1. At present, the Legal Cells are functioning independently in each Commissionerate dealing with cases pertaining to CESTAT, High Court and Supreme Court. For the purpose of uniformity of practice and for optimal utilisation of human resources, a Central Legal Cell is being created under the administrative control of the Export Commissionerate of Mumbai Customs Zone-I, in pursuance of Standing Order No. 50/2020 dated 18.03.2021 issued vide F.No. S/II-3(07)/2020-CCO-I(Unit-I) from office of the Pr. Chief Commissioner of Customs, Mumbai Zone-I.
2. The Centralised Legal Cell (CLC) shall look after the cases pertaining to the following Legal Fora:
  - i. **CESTAT**
  - ii. **High Court**
  - iii. **Supreme Court**
  - iv. **Prosecution**

The detailed procedure for a wise is as under:

3. **CESTAT:** CLC shall be responsible for coordination with all the sections falling under the jurisdiction of Export, Import-I, Import-II, General (except CAT Cell and CB Section), Mumbai Customs Zone-I, for all the matters relating to the appeals to be filed by the department or filed by the Party before CESTAT.
  - 3.1 All documents related to Appeals filed by the Party, shall be received by CRU(Export) in e-Office and CRU(Export) shall send the physical copies to CLC as well as a copy of the same to respective Commissionerate. Upon receipt of the appeal documents, the same shall be entered in the respective register, maintained commissionerate wise, by CLC. CLC shall forward

the same to the concerned sections for forwarding para-wise comments / cross objections duly approved by the Concerned Commissioner in-charge of that particular section. After approval, the same may be sent to the CLC for final submission to CESTAT. CLC shall maintain a register to enter the records such as diary no., Appeal No., Cross Objection No., being received during final submission before CESTAT.

- 3.2 Order-in-Originals /Order-in-Appeals passed by the jurisdictional Pr. Commissioner /Commissioner/Commissioner (Appeal) respectively, if reviewed by the Committee of the Chief Commissioners with direction to file an Appeal before CESTAT, shall be handled by CLC. **Appeal shall be filed by CLC before CESTAT, after receipt of the approved Appeal Memo** along with necessary documents (duly approved by Pr. Commissioner /Commissioner). An undertaking may also be submitted that No Appeal has earlier been filed before any legal fora against the said Order-in-Original/Order-in-Appeal, as the case may be. Review order passed by the competent Committee should be forwarded to CLC well in advance at least 15 days before last day of filing appeal so that there is sufficient time to file appeal.
- 3.3 CLC shall also monitor the subsequent development of hearing of the case and provide necessary comments in relation to the case after obtaining the same from the concerned sections and Office of ARs.
- 3.4 All communication to and from CESTAT shall be handled by CLC.
- 3.5 In respect of the cases with significant revenue / legal implications involving high stakes of revenue, **CLC shall pursue for Early Hearing before CESTAT**, in co-ordination with concerned sections and the concerned Authorized Representative on a fortnightly basis.
- 3.6 Upon receipt of orders of the CESTAT, **CLC shall examine the orders of CESTAT on merits as well as on monetary limits**. If it is felt that comments are required to verify the factual information or due to some other inevitable reason, then only such comments will be called for with the approval of Additional/Joint Commissioner in charge CLC. Thereafter, such orders, after scrutiny shall be processed and put up to respective Commissionerate's Joint Commissioner/ Additional Commissioner who will further examine the same and submit to

the concerned Pr. Commissioner / Commissioner with their observation and further decision with approval of Principal Chief Commissioner if deemed necessary as per law.

3.6.1 **If it is decided to file appeal against such order, the proposal for filing appeal in Hon'ble High Court or Supreme Court shall be prepared** by the concerned sections and shall be forwarded to CLC at least 15 days in advance from the last date of filing the appeal. CLC shall then forward the same to the Pr. Commissioner / Commissioner of CLC for concurrence of the Pr. Chief Commissioner.

3.6.2 If the order is accepted by the competent authority, CLC shall update their register and intimation shall be sent to the concerned sections.

3.7 If the Authorised Representative (AR), CESTAT forward the proposal for **appointment of Special Counsel in some CESTAT** Cases, the same may immediately be put up to the Pr. Commissioner / Commissioner in-charge of CLC, for appointment of the Special Counsel as per the latest Board Circular.

#### 4. **High Court:**

4.1 As detailed in para 3.6 above, if it is decided to file an Appeal/Writ Petition etc. before Hon'ble High Court against the CESTAT Order, CLC shall appoint the Panel Counsel as per the latest Board Circular. The appointment letter (Vakalatnama) shall be sent to the concerned section and to the appointed Panel Counsel.

4.2 The concerned Section, upon receipt of the Vakalatnama, in co-ordination with the Panel Counsel, shall prepare the Appeal Memo. **Appeal shall be filed by CLC before Hon'ble High Court, after receipt of the approved Appeal Memo** along with necessary documents (duly approved by Pr. Commissioner / Commissioner). An undertaking may also be submitted that No Appeal has earlier been filed before any legal fora against the said CESTAT Order.

4.3 All documents related to Appeals filed by the Party, shall be received by CRU in e-Office and CRU shall send the physical copies to CLC. Upon receipt of the appeal documents, the same shall be entered in the register by CLC. CLC shall forward the same to the concerned sections for intimation. CLC shall



appoint the Panel Counsel as per the latest Board Circular. The appointment letter (Vakalatnama) shall be sent to the concerned section and to the appointed Panel Counsel along with the original copy of the Party Appeal.

- 4.4 CLC shall also monitor the subsequent development of hearing of the case and provide necessary comments in relation to the case after obtaining the same from the concerned sections.
- 4.5 All communication to and from the Panel Counsels of the High Courts shall be handled by CLC. CLC will ensure that all necessary action is taken for briefing of counsel by a well conversant officer from the section concerned.
- 4.6 In respect of the cases with significant revenue / legal implications involving high stakes of revenue, **CLC shall pursue for Early Hearing before High Court**, in co-ordination with concerned sections and concerned Panel Counsel on a fortnightly basis.
- 4.7 Upon receipt of orders from the **High Courts, CLC will examine such orders on merits as well as on monetary limits**. If it is felt that comments are required to verify the factual information or due to some other inevitable reason, then only such comments will be called for with the approval of Additional/Joint Commissioner in charge CLC. Thereafter, such orders, after scrutiny shall be processed and put up to respective Additional Commissioner/ Jt. Commissioner who will further examine the same and submit to the concerned Pr. Commissioner / Commissioner with their observation and decision. If it is decided to file appeal before Supreme Court against such order, **the proposal for filing appeal in Hon'ble Supreme Court shall be prepared** by the concerned sections and shall be forwarded to CLC. CLC shall then forward the same proposal along with legible copies of requisite documents within the timeline prescribed to the Directorate of Legal Affairs (DLA), CBIC with the concurrence of the Pr. Chief /Chief Commissioner.
- 4.7.1 If it is decided to file appeal before Supreme Court against such order, the proposal for filing appeal in Hon'ble Supreme Court shall be prepared by the concerned sections and shall be forwarded to CLC. CLC shall then forward the same to the Directorate of Legal Affairs (DLA), CBIC. The proposal for filing of Appeal/SLP before the Supreme Court against the

order of Tribunal/ High Court respectively, should be sent to the Board within:

- i. 15 days of receipt of the order.
  - ii. 20 days of the pronouncement of the order.
- a. If DLA finds it appropriate to file an Appeal before Supreme Court against the Order of the High Court, the approved Appeal Memo along with necessary documents (duly certified by the concerned section) shall immediately be sent to DLA within prescribed timeline. The records shall be maintained in the register and an intimation shall be sent to the concerned section.
  - b. If DLA does not find it appropriate to file an Appeal before Supreme Court against the Order of the High Court, the case may be closed.

4.7.2 If the order of the Hon'ble High Court is accepted by the competent authority, CLC shall update their register and an intimation shall be sent to the concerned sections.

#### 5. **Supreme Court:**

- 5.1 a. As detailed in para 3.6 above, if it is decided to file an SLP/Civil Appeal etc. before Hon'ble Supreme Court against the CESTAT Order, **the proposal for filing appeal in Hon'ble Supreme Court shall be prepared** by the section concerned and shall be forwarded to CLC along with other necessary documents. CLC shall then forward the same proposal along with legible copies of requisite documents within the timeline prescribed to the Joint Secretary (Review), CBIC which is 60 days time limit for filing CA against Tribunal Order. CLC, therefore, shall send soft copy of all the proposals with statement of facts and the grounds of appeal by e-mail to [sojc-cbec@nic.in](mailto:sojc-cbec@nic.in) in respect of CA proposals against CESTAT order.
- b. If it is decided to file an Appeal before Supreme Court against the High Court Order, directions mentioned under para 4.7.1 shall be followed. The limitation for filing of SLP is 90 days from the date of the High Court's order. CLC shall send soft copy of all the proposals with statement of facts and the grounds of appeal by e-mail to [dirlegal\\_cbec@nic.in](mailto:dirlegal_cbec@nic.in) in respect of CA / SLP proposals against the High Court's order.
- c. Upon receipt of certified copies of orders of Supreme Court from DLA, CLC will, on priority, examine such orders as **there is 30 days time limit of filing Review Petition** from the date

of the order/Judgement. Thereafter, such orders, after scrutiny shall be processed and put up to respective Commissionerate's Additional Commissioner/ Jt. Commissioner who will further examine the same and submit to the concerned Pr. Commissioner / Commissioner with their observation and final decision. Further, If it is decided to file Review Petition before Supreme Court against such order, the proposal for filing Review Petition in Hon'ble Supreme Court shall be prepared by the concerned sections and shall be forwarded to CLC along with Approved Review Petition and other necessary documents. CLC shall then forward the same to the Directorate of Legal Affairs (DLA), CBIC or JS(Review), as the case may be, with concurrence of the Pr. Chief Commissioner **within 7 days of the receipt of order** alongwith softcopy of all requisite documents on the email mentioned at para 5.1.a.

- 5.2 All documents related to Appeals filed by the Party in Supreme Court, shall be received by CRU(Export) in e-Office and CRU(Export) shall send the physical copies to CLC as well as a copy of the same to respective Commissionerate. Upon receipt of the appeal documents, the same shall be entered in the respective register, maintained commissionerate wise, by CLC. CLC shall forward the same to the concerned sections for intimation. CLC shall also send the Original copy of the Appeal to JS(Review)/DLA, as the case may be, to appoint the Panel Counsel in Supreme Court.
- 5.3 CLC shall also monitor the subsequent development of hearing of the case and provide necessary comments in relation to the case after obtaining the same from the concerned sections.
- 5.4 All communication to and from the Panel Counsels of the Supreme Court shall be handled by CLC.
- 5.5 In respect of the cases with significant revenue / legal implications involving high stakes of the department, CLC shall pursue for Early Hearing before Supreme Court, in co-ordination with concerned sections and concerned Panel Counsel on a fortnightly basis.

## **6. Prosecution:**

Whereas arrests & formalities relating to arrests, bail applications etc. shall be attended to by the concerned Investigating Agency, the role of CLC will come into picture once the sanction for prosecution is received from the respective competent authority.



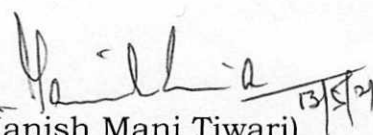
- 6.1 On receipt of sanction from prosecution from any competent authority CLC shall appoint a counsel of CLC. Filing of the complaint in the competent court shall be the responsibility of the CLC.
- 6.2 Monitoring of further developments in the case and maintenance of upto date record of further developments in the case shall be the responsibility of the CLC. Liaison & communication with the concerned panel counsel, between the panel counsel and the concerned section shall be the responsibility of the CLC.
- 6.3 On receipt of orders of the competent court the CLC shall follow the procedure for acceptance or otherwise of the said orders, procedure for filing of appeal against the said order, if so decided, as enumerated in the above paras.
7. Due care shall be taken to adhere to the timelines mentioned in the relevant acts and circulars/instructions issued by the Board from time to time.

<b>Sr.No</b>	<b>Order By</b>	<b>Appeal to</b>	<b>Period for Review</b>	<b>Period for filing Appeal</b>
1	Commissioner(Appeal)	CESTAT		3 Months
2	Commissioner	CESTAT	3 Months	1 Month
3	CESTAT	High Court		180 Days
4	CESTAT	Supreme Court		60 Days
5	High Court	Supreme Court		90 Days

8. DC/AC, CLC is appointed as the Nodal Point of Contact for the Counsels /Authorised Representative, in Hon'ble Supreme Court / High Court / CESTAT who will coordinate and inform the concerned sections, as and when any actions, as informed to him, by the Counsels, is required.
9. For work related to Prosecution / COFEPOSA and entry of Court Case in LIMBS Portal shall be attended by CLC and shall be updated periodically.
10. The Centralized Legal Section shall comprise following Officers:
- Admin (Superintendent /Appraiser, Examiner / Preventive Officer, Tax Assistant)
  - CLC 1 – comprising Officers of Legal /TCU, Import -I
  - CLC 2—comprising Officers of Legal /TCU, Import-II
  - CLC 3—comprising Officers of Legal /TCU, Export

- e) CLC 4-- comprising Officers of Legal /TCU, General
- f) CLC 5—COFEPOSA / Prosecution

11. Preparation of all the periodical statements / Reports, attending to Parliamentary Questions, furnishing of data to PCCCO/Board, relating to Legal / prosecution matters shall be the responsibility of the respective units of CLC as detailed in para 10. The Superintendents of each unit of the CLC shall monitor on weekly basis the status of each case pertaining to the cases under the jurisdiction of their respective units from the websites of various foras like the Supreme Courts, High Court, CESTAT etc. They should also periodically send officers working under them to the CESTAT or High Court to find out the status of those cases whose status could not be found online. If any case gets disposed off they should immediately arrange for copy of the order for submitting it to the respective competent authorities for acceptance or otherwise of the said orders. Any dereliction in putting up the orders for acceptance or otherwise and any delay in filing appeal on that count shall be viewed seriously.

  
(Manish Mani Tiwari)

Commissioner of Customs(Export),  
Mumbai Customs Zone-I.

Copy to:-

- Pr. Chief Commissioner of Customs, Mumbai Zone-I.
- All Commissioners of Customs, Mumbai Zone-I.
- All Addl./Jt. Commissioners of Customs, Mumbai Zone-I.
- All Dy./Asst. Commissioners of Customs, Mumbai Zone-I.
- AC/EDI for uploading on website.