



a L. Chary
cretary & Member

भारत सरकार
GOVERNMENT OF INDIA
वित्त मंत्रालय / राजस्व विभाग
MINISTRY OF FINANCE/DEPARTMENT OF REVENUE
केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड
CENTRAL BOARD OF EXCISE & CUSTOMS
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MOST IMMEDIATE

D.O.F.NO.A-12034/38/2012-Ad.III B (Pt.)

New Delhi, the 15th October, 2012

My dear Chief Commissioner,

The Department is faced with several contempt notices against senior officers like Finance Secretary and Revenue Secretary which if not attended to in time could create serious embarrassment to the officers concerned.

2. In view of the above, a strong need is felt to further streamline handling of court cases at different levels. It is, therefore, requested to ensure that needful action is taken within the given timelines to avoid the possibility of contempt of court proceedings / adverse orders against the Government and the higher authorities named as respondents / contemnors in the court.

3. Immediately on receipt of an OA / WP / SLP, as the case may be, it may be examined as to who is the competent authority to take a decision on the issues raised in the petition, keeping in view the designated competent / appointing authority in respect of the petitioner. For example, the competent / appointing authority in the case of Group B, C & erstwhile D categories would be the concerned cadre controlling Chief Commissioner / Commissioner. In such cases, if the higher authority in the Ministry / Board i.e. FS / RS, Chairman (CBEC), Member (CBEC), Joint Secretary (Admn.), CBEC are named as respondents, a suitable application may be immediately moved in consultation with the Government Counsel to get their names

excluded from the list of respondents, by duly bringing out the level of competence for taking a view on the issue raised. This aspect should also be duly brought out in the reply affidavit to be filed by the Ministry. Invariably, exemption from personal appearance should also be sought if not explicitly stated in the notice.

4. Further, it is advised that the order of the Hon'ble CAT/High Court/Supreme Court may be critically examined by the concerned cadre controlling Chief Commissioner / Commissioner. Wherever the directions is to consider the case / representation etc., a speaking order may be issued duly incorporating the extant rules / regulations / instructions issued by the nodal Ministry / Department i.e. DOP&T, Deptt. of Expenditure etc. and the CBEC on the subject from time to time, with the approval of the competent authority and within the given timelines. In case more time is required an application may be made in CAT for extension of time before expiry of the time limit fixed by CAT. If the High Court has to be approached against the order, a stay should specifically be sought and application pursued.

5. It may be noted for strict compliance without exception that whenever a contempt petition is received, the file should be put up to the Contemnor(s) named in the contempt petition for their information, perusal and directions, if any.

6. In case any court case has to be referred to the Ministry/Board, it should invariably contain a copy each of all the related OAs/WPs (with all enclosures), reply affidavit filed thereto (with all enclosures), a self contained brief of the case, service particulars of the petitioners, opinion of the Government Counsel and advice of the local Branch Secretariat of the Ministry of Law, alongwith comments/recommendations of the concerned Chief Commissioner in the first instance. Personal liaison with the concerned Sections in the Ministry/Board may please be maintained to ensure that the matter is not lost sight of.

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7. Please ensure that your personal attention is bestowed in monitoring these cases so that appropriate and timely action is taken to defend the cases and also to file Writ Petitions with stay applications wherever necessary. A monthly report may be prescribed by you for the cadre controlling authorities in your charge so that timely monitoring is ensured.

With regards,

Yours sincerely,

(Shobha L. Chary) 15/10/12

- To
- (By name)
- All Chief Commissioner of Central Excise & Customs,
- All Chief Commissioner of Customs,
- All Director Generals under CBEC
- All Directors under CBEC.

Copy to:- JS (Admn.), CBEC.
 ✓ DS(Ad.II)/DS(Ad.IIA&B)/Dir(Ad.IV/IVA), Dir(Ad.IIIA/ IIIB)

WS I / Ad. II

 DS II / Ad. II

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 22/10/12

3. It is a general practice that whenever any policy decision is taken in the Board, it is circulated to all field offices of CBEC. Thus, it is imperative that all the OAs are to be defended on the basis of existing guidelines/policy decisions, in respect of all official respondents. Any clarification on existing guidelines or any new benefit or promotional channels sought by applicants in the OAs should be defended on the basis of existing guidelines. In those cases, where it is necessary to refer the matter to the Board for consideration and decision, in consultation with nodal departments, till a decision is taken and communicated to the Zonal Authorities, the OAs should be defended on the basis of existing guidelines/rules.
4. Therefore, in all the OAs where the applicant belongs to Group 'B' or 'C' posts under CBEC, where Zonal Chiefs or the Commissioners, are Cadre Controlling Authorities or Appointing Authorities, it should invariably be ensured that necessary action be taken, in consultation with Government Counsel, to delete the names of Revenue Secretary, Chairperson (CBEC), Member (P&V) and JS (Admn), CBEC from the list of respondents, as the case may be, at the OA stage. In case the applicant in the OA belongs to Group 'A' service, it should be ascertained, whether in any manner higher authorities in the Board or Ministry are directly involved in taking decisions. If not, action may be taken to delete their names from the list of respondents as noted above.
5. It is requested that compliance with these instructions should be ensured so that appropriate and timely action is taken at the time of filing reply to the OAs.

Yours faithfully,

A. K. Qasim

(A.K.Qasim)

Deputy Secretary to the Government of India

Ph.23093102

Copy to:

All Directors/Deputy Secretaries/ Under Secretaries/Section officers in Administrative Wing of CBEC for information and necessary follow up action.

A. K. Qasim

(A.K.Qasim)

Deputy Secretary to the Government of India