

OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-V  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,  
TALUKA-URAN, DIST.-RAIGAD, MAHARASHTRA – 400707.

F.No.S/26-Misc-126/20-21/CLC

Date: 05 .02.2021

**STANDING ORDER No. 04/2021**

Sub: Strict Compliance to Limitation while filing Appeals/Petitions before Courts/ Tribunal –reg.

CBIC has issued Circular No. 1077/01/2021-CX ( F. No. 275/65/2013-CX.8A (Pt.) dated 19.01.2021 regarding strict compliance to limitation while filing Appeals/Petitions before Courts and Instruction (vide F. No. 275/65/2013-CX.8A (Pt.) issued on 23.12.2020 for streamlining the process of litigation before Courts and Tribunal. Observation made by Hon'ble Supreme Court, in the cases of Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. In Civil Appeal Nos. 2474-2475 of 2012 are extracted below:

“ .....The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.”

2. Considering the above,field formations have been directed to strictly adhere to the aspect of limitation in filing appeals/ petitions before Courts/ Tribunal. CBEC Instruction vide F.No.1080/DLA/50/Tech/Monitoring/SLPs-Appeals/16 dated 01.06.2017 provides timelines for filing SLP and Civil Appeals.

3. These timelines are reproduced below:

**Timelines for filing civil appeal/SLP**

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

**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	Total 120

4. Para 5 of the Circular dated 19.01.2021 is reproduced below:

"Hence, the field formations are directed to strictly adhere to the aspect of limitation in filing appeals/ petitions before Courts/ Tribunal. Reference may also be made to Instruction vide F.No. 1080/DLA/50/Tech/Monitoring/SLPs-Appeals/16 dated 01.06.2017 (copy available on CBIC website) wherein the fresh timelines for filing SLP and Civil Appeals were provided. The practice of filing Condonation of Delay Application in a mechanical fashion, without attributing cogent reasons, if any, must be discouraged by the field formations under your jurisdiction. The jurisdictional Principal Chief Commissioner / Principal Director General/ Chief Commissioner/ Director General should personally monitor that appeals/petitions are filed on time in the interests of Revenue as mentioned in Para 2(ii) of Board's Instruction dated 23.12.2020. Any appeal/petition dismissed, solely on the grounds of limitation, may be scrupulously examined and corrective steps may be taken, including disciplinary action, wherever merited."In the abovementioned Circular dated 19.01.2021, It has been observed that the practice of filing Condonation of Delay Application in a mechanical fashion, without attributing cogent reasons, if any, must be discouraged by the field formations under your jurisdiction. The jurisdictional Principal Chief Commissioner / Principal Director General/ Chief Commissioner/ Director General should personally monitor that appeals/petitions are filed on time in the interests of Revenue as mentioned in Para 2(ii) of Board's Instruction dated 23.12.2020. Any appeal/petition dismissed, solely on the grounds of limitation, may be scrupulously examined and corrective steps may be taken, including disciplinary action, wherever merited."

5. In view of above referred observations of Hon'ble Supreme Court and CBIC Circular and Instruction, it is decided to modify the Standard Operating Procedure as per standing order no.17/2018 dated 29.05.2018 in respect of orders of Tribunal/ High Court/ Supreme Court. The revised SOP in this regard is as under:-

(i) All orders/Judgements of the Tribunal/High Court/Supreme Court received by any officer in Nhava Sheva Customs should be put up to the concerned Principal Commissioner/Commissioner at the receipt/Dak stage itself. The order /Judgement should be examined at the Dak stage itself by the concerned Principal Commissioner/Commissioner and prima facie view should be taken by him/her on whether Appeal/Petition has to be filed along with necessary instructions to the concerned officer of the CLC/CRAC.

(ii) The Pr. Commissioner/Commissioner will forward the observation in respect of Court/ Tribunal order in the **Format** enclosed to this Standing Order.

(iii) In case of the High Court Order/Supreme court order, AC/DC, CLC will put up the file **within three days** of such instruction with copies of order, case details and documents and case laws as available and applicable.

(iv) In case of Tribunal order, JC/ADC CRAC to put up the Tribunal Order for submitting the matter on file **within three days** of such instruction with copies of order, case details and documents and case laws as available and applicable.

(v) It is to reiterate that all orders of CESTAT/High Court/ Supreme Court must be put up to the concerned Pr Commissioner/ Commissioner within three days of the receipt of the same.

(vi) File is required to be put up by AC/DC, CLC or JC/ADC, CRAC, as the case may be, to the ADC/JC of the concerned Commissionerate who will further examine the issue and submit the file to the concerned Pr. Commissioner/Commissioner with his/her observation.

(vii) If it is decided to file appeal against such order, the same would be put to Pr. Chief Commissioner/ Chief Commissioner by the concerned Pr Commissioner/Commissioner for his/her approval for filing appeal in Hon Supreme Court as applicable. After this approval, the file would be marked to concerned officer of CLC section and the proposal for filing SLP in Hon'ble Supreme Court shall be prepared by the Centralized Legal Cell and CLC would forward the same to Board in terms of Board's instruction No. 935/25/2010 dated 21.09.2010 and Instruction vide F. No. 1080/DLA/50/Tech/Monitoring/SLPs-Appeals/16 dated 01.06.2017 (copy available on CBIC website).

(viii) Similar action as described above, in respect of action to be taken by CLC officer, will be taken by CRAC officer for processing the matter related to Tribunal Order. After approval to file Civil Appeal, the file will be transferred to JC/ADC CLC for necessary action.

(ix) For appeal to be filed against Tribunal order before Hon'ble High Court, the timeline given in para 3 above is to be followed by CRAC officer..

(x) The well conversant officers of concerned Group/Section will maintain regular interaction with the counsels for, inter alia, timely briefing and providing required documents. They should witness the Court proceedings, specifically in important cases.

(xi) Important petitions/ appeals filed before Hon'ble High Courts, which would have all India ramifications and would require policy inputs from the Board should be immediately brought to the notice of policy section concerned of the Board along with Commissioner (Legal) by CLC as per directions and instructions of concerned Principal Commissioner/ Commissioner. The same should also be mentioned separately in the monthly report being submitted to the Board.

(xii) The website of the respective Courts shall be checked by the officer in CLC on daily basis to ascertain the status and communicating the status to Group/Section for necessary timely action.

(xiii) Copy of Appeals/Writ Petitions filed in Hon'ble High Court/ Supreme Court shall be received in the Centralized Legal Cell. In case, such an Appeal/Petition is received directly by the Group/Section, it will be submitted without delay to CLC.

(xiv) On receipt of said Appeal/Petition, the CLC will take action for appointment of the Panel Counsel and intimation of the same along with copy of Appeal/Writ petition shall be sent to the concerned Commissioner for preparing

Vakalatnama in favour of appointed Panel counsel, submission of para-wise comments to defend the case and for taking action in respect of assisting the Panel Counsel with respect to Court proceedings.

(xv) In case of Hon'ble Supreme Court Appeal, the Vakalatnama in the name of Central Government Advocate, Central Agency Section shall be prepared by Centralized Legal Section and the same shall be sent immediately. Thereafter, comments on the said writ Petition/Appeal shall be called for from the concerned Commissionerate/Group/Section and shall be forwarded to Central Agency Section for preparing draft reply.

(xvi) AC/DC, CLC is appointed as the nodal point of contact by the counsels in Hon'ble High Court/ Supreme Court who will coordinate and inform concerned Commissionerate as and when any action as informed to him by the counsels is required.

(xvii) ADC/JC, CLC and ADC/JC, CRAC will monitor the compliance of adherence to the above timelines on regular basis.

(xviii) All work related to Prosecution, COFEPOSA and entry of Court cases in LIMBS portal shall be attended by CLC. The work related to entry of Tribunal cases will be attended by CRAC. The entries on LIMBS portal are required to be updated on daily basis.

(xix) The Centralized Legal Section will receive all correspondence related to High Court/Supreme Court/Lower Court/Prosecution/COFEPOSA matters pertaining to the Zone. It will maintain centralized record of such receipt and onward movement to different sub-sections of each of the Commissionerate. It will maintain Central database of the High Court/Supreme Court/ Lower Court/Prosecution matters. It will compile MPR in respect of High Court/Supreme Court cases.

Enclosure- Format (1 page )

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(R.K. Mishra)  
Commissioner of Customs,  
NS-V, Nhava Sheva.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, Nhava Sheva.
2. All Commissioners of Customs, Nhava Sheva.
3. All Addl./Jt. Commissioners of Customs, Nhava Sheva.
4. All Dy./Asst. Commissioners of Customs, Nhava Sheva.
5. Dy. Commissioner/EDI, for uploading on JNCH website.

**FORMAT**

1. Court/Tribunal :
2. Petition/ Appeal No :
3. Date of Order :
4. Date of Receipt of Order :
5. Prima facie view on whether  
to file appeal or not :
6. Appeal to be filed before :

(Pr. Commissioner/Commissioner)  
NS-..... Commissionerate  
Nhava Sheva, JNCH

To,  
JC/ADC, CRAC, Nhava-Sheva/  
AC/DC, CLC, Nhava-Sheva