To,

All the Commissioners of CGST and Customs, CBIC.

Madam/Sir,

Subject: Procedure to be followed - at admission stage - in Civil Appeals/SLPs filed by Parties in the Hon’ble Supreme Court of India - reg.

I am directed to impress upon you the need of timely submission of Vakalatnama and Para-wise comments in Appeals filed by Parties in the Supreme Court. Recently, it has been noticed that in certain cases concerned Commissioners did not respond promptly, thereby inviting displeasure of the Court and thus, opportunity to file the counter affidavit was declined.

2.0 In this regard, kind attention is invited to Chapter 3 of the Standard Operating Procedures (SoP) on Litigation in Appellate Fora, which is available on Department’s website www.cbic.gov.in under Legal Affairs corner, wherein procedure has been prescribed to be followed by the jurisdictional Commissioners in cases where the High Courts / CESTAT have given orders in favour of the Department and the aggrieved Party has preferred a Civil Appeal/SLP in the Supreme Court. The same is being summarized hereinafter.

3.0 The first and the foremost responsibility of each Commissioner is to regularly examine the advance cause list / daily cause list of fresh cases published on the Supreme Court’s website i.e. www.sci.gov.in. The same list is also uploaded by DLA on www.cbic.gov.in in Legal Affairs corner. As soon as any appeal filed by the Party is noticed by the jurisdictional Commissioners in the advance cause list, they shall keep close watch on daily cause list for the listing of the matter. It is submitted that fresh appeals are listed and heard on Mondays and Fridays only. After first hearing, either the CA/SLP is dismissed or direction is given by the Hon’ble Court to the Registry to issue Notice to the Respondent to appear either in person or through the Advocate on Record duly appointed in this regard by the Respondent and to file Counter Affidavit before the next date fixed for the admission purpose, which is usually after 4 weeks’ time. Record of the proceedings of this first hearing is posted on the Supreme Court’s website on the next working day. However, DLA uploads the status of heard cases same day on Department’s website. In case, a CA/SLP filed by the Party is dismissed, no further action is called for. But, in cases where notice is issued, the Commissioner has to immediately swing into action, so that proper action may be initiated well within the allowed time and such Appeals may be effectively assailed at the stage of admission itself.
4.0 As soon as the Court directs the Registry to issue notice, the Commissioner should send Vakalatnama (proforma enclosed), under his signature, in favour of the Advocate on Record (AoR), who is presently Sh. B. K. Prasad, Sr. Govt. Advocate, Central Agency Section, Supreme Court Compound, Bhagwan Das Road, New Delhi-110001 under intimation to Commissioner, DLA. This will enable the AoR/DLA to obtain copy of the CA/SLP and other related documents, so that the same may be forwarded through email (scanned copy) to the jurisdictional Commissioner, as the dispatch and delivery by Registry via post may consume vital portion of the allowed time.

5.0 Once the copy of CA/SLP is received by the jurisdictional Commissioner, he/she should get the same examined immediately and furnish para-wise comments to Central Agency Section (CAS), with a copy marked to DLA, for preparation of counter affidavit.

6.0 It is pertinent here to emphasize that each and every direction issued by Hon’ble Supreme Court must be complied with and well within the time allowed.

Yours faithfully,

Encl. : As above.

(Harbinder K. Prasad)
Commissioner (DLA)

20/11/2018