

F. No. 390/Misc/69/2017-JC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi 09th November 2017

INSTRUCTION

To,

1. All Principal/Chief Commissioners and Director Generals under the Central Board of Excise and Customs.
2. CDR, Customs, Excise & Service Tax Appellate Tribunal.
3. All Principal Commissioners/ Commissioners of Customs/Central Excise & Service Tax/ Directorate of Legal Affairs.
4. webmaster.cbec@icegate.gov.in

Subject: Procedure regarding appeal at a higher fora after Department has lost in two previous stages- reg.

Sir/Madam,

TPRU has suggested that the Department should not contest a case further if the issue has been lost in two previous stages of appeals. This suggestion was considered in detail by the Board at the meeting dated 18.09.2017.

2. The Board observed that this cannot be made a rigid rule as department may be genuinely aggrieved by the decision of the various judicial forum at lower levels. However, such a principle may be applied on a case to case basis so as to ensure that critical issues such as classification, valuation/ refunds etc, that have a snowball effect, are taken care of.

3. It has been decided by the Board that the proposal of TPRU can be accepted subject to critical examination by the Commissionerate on a case to case basis. Wherever the concerned Commissioner feels that the matter is fit for filing further appeal in a higher fora as there are strong reasons

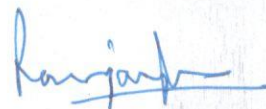
justifying the further expense of monetary and energy resources, he would submit complete justification for appealing against a case for the third subsequent time to the Zonal Chief Commissioner.

4. The Zonal Chief Commissioner would satisfy himself that the Department has a strong case in the issue and would record his certificate accordingly. The form of the certificate would be as under:

" I have carefully gone through the entire case records in the case of M/s. and though the case has been lost by the Department at two levels, it is still felt that the Department has a strong case in its favour on merit. The reasons for this is as under... "

5. The reasons should not exceed twenty sentences. It is only after this certification that such SLP/CA proposals are to be sent to the Board or appeal to be filed at a higher fora.

This issues with the approval of Chairman (CBEC).



(Ranjana Jha)
JS (Review)