

Circular 208/6/ 2017-Service Tax

**F.No 137/13/2017-Service Tax
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
Service Tax Wing**

New Delhi dated 17th October 2017

All Principal Chief Commissioners /Chief Commissioners of GST and Central Excise/AR CESTAT
All Principal Director Generals/Director Generals of Systems and Data Management/ GST Intelligence/
Audit/Taxpayer Services

Madam/Sir

Subject: Reassignment of cases pending as on 30-6-2017 with the Commissioner of Central Excise and Service Tax (Appeals)

I am directed to draw your attention to the Honourable Prime Minister's address to the invitees of the recently concluded Rajaswa Gyan Sangam, wherein he had urged the department to eliminate the huge pendency in litigation. As part of the drive to reduce this huge pendency, the Board has taken various measures. One such measure relates to the reduction of pendency at the level of Commissioner (Appeals) by redistributing the cases pending as on 30-6-2017 at this level. The intention is to redistribute the appeals pending as on 30-6-2017 in the jurisdiction of a Zone (with the Commissioners of Central Excise and Service Tax (Appeals)), among all other officers of the rank of Commissioner (including the Principal Additional Director General/ Additional Director General posted in a Directorate as well as Principal Commissioners of Central Excise and Service Tax / Commissioners of Central Excise and Service Tax , Commissioners of Central Excise and Service Tax (Audit) and Commissioners of Central Excise and Service Tax (Appeals)) posted in that jurisdiction. This circular elaborates the legal background and administrative steps which will ensure the success of this measure.

2.0 Legal

2.1 Board has issued notification 26/2017-Central Excise (NT) dated 17th October 2017.

2.2 Notification 26/2017-Central Excise (NT) seeks to:-

2.2.1 Appoint officers of the rank of Principal Additional Director General/ Additional Director General posted in the territorial jurisdiction of a Principal Chief Commissioner or Chief Commissioner, as a Central Excise officer.

2.2.2 Vest all such officers with all powers under the Central Excise Act, 1944 and the rules made thereunder and the Finance Act, 1994 and the rules made thereunder.

2.2.3 Assign the jurisdiction of the Principal Chief Commissioner or Chief Commissioner, as specified in notification 13/2017-Central Excise (NT) dated 9-6-2017 to all such officers. (It may be recalled that Principal Commissioners of Central Excise and Service Tax /Commissioners of Central Excise and Service Tax, Commissioners of Central Excise and Service Tax (Audit) and Commissioners of Central Excise and Service Tax (Appeals) have already been appointed as Central Excise officers vide notification 12/2017-Central Excise (NT) dated 9-6-2017, and have been assigned specific jurisdictions vide notification

13/2017-Central Excise (NT) dated 9-6-2017. Hence for officers of these ranks and designations, there is a need to only assign the larger territorial jurisdiction of the Principal Chief Commissioner or Chief Commissioner).

2.2.4 Limit the above appointment and vesting for the purpose of passing Orders in Appeal with respect to appeals under section 35 of the Central Excise Act, 1944 and section 85 of the Finance Act, 1994 which have been filed on or before 30-6-2017 with the Commissioner of Central Excise and Service Tax (Appeals).

2.4 It should be noted that under section 174(2) of the Central Goods and Services Tax Act, 2017, the part repeal of the Central Excise Act, 1944 and the repeal of the Finance Act, 1994 shall not, inter alia, affect any adjudication or legal proceedings in respect of any duty, tax, surcharge, fine, penalty, interest as are due or may become due in respect of any offence or violation committed against the provisions of the repealed Acts and such proceedings may be instituted, continued or enforced.

3.0 Administrative

3.1 At the level of Principal Chief Commissioner/ Chief Commissioner of Central Excise and Service Tax

3.1.1 The Principal Chief Commissioner/Chief Commissioner is responsible for formulating the proposals for reallocation of the appeals pending with the Commissioners (Appeal) in his jurisdiction so as to eliminate the pendency of appeals by 31-3-2018. In order to ensure consistency, the following guidelines should be scrupulously followed so that there is no room for complaints from any quarter, on any ground.

3.1.2 He must ensure that the redistribution proposed is judicious, fair and balanced. The staff strength and the relative workloads should not be ignored. Nor should the principles of natural justice be ignored. A Principal Commissioner of Central Excise and Service Tax or Commissioner of Central Excise and Service Tax who has reviewed an Order-in-Original or who is in the existing Review Committee (i.e. Office Order 3/2017- Cus dated 13/7/2017 issued from F.No. 390/Review/49/2017-JC refers) cannot obviously be asked to decide the appeal filed against such an Order-in-Original.

3.1.3 At least 50% of the cases pending as on 30-6-2017 with the officer holding charge of the post of Commissioner (Appeals), whether as a regular charge or as an additional charge, should be disposed of by him. This percentage can be higher depending on local circumstances.

3.1.4 It is only the remaining appeals which have to be redistributed. Proposals for redistribution should be done in such a manner so that officers who are relatively familiar with the relevant law are assigned cases. In particular officers without a background knowledge of service tax law should not be assigned service tax cases.

3.1.5 In no event should the assessee be put to inconvenience by creating situations where they have to travel to other towns and cities to attend hearings. Similar cases or cases involving the same issue should be proposed to be allotted to the same officer, in order to have consistency.

3.1.6 Since reduction in pendency is to be addressed on a war footing, arrangements must also be made for adequate support staff and administrative arrangements so as to facilitate the disposal of appeals by the officers to whom cases are eventually assigned.

3.1.7 The draft Annexure which will indicate the particulars of the appeals and the officer to whom it is being proposed to be assigned (format indicated in the Annexure to this circular) will have to be sent by email to commr.st-cbec@nic.in. The covering letter should be signed by the Chief Commissioner and should invariably state that the guidelines in this circular have been strictly adhered to and there is no deviation. All pages of the Annexure should be attested by an officer in the Chief Commissioner's office and sent as a PDF file. The font should be Times New Roman 10. It should neither be faxed nor posted. The details of the appeals and the officers to whom it is proposed to be allotted should be checked carefully so as to avoid the need to issue corrigenda, which will only slow down the process of disposal. In case of any difficulty in mailing large attachments, the mail may be sent to ashishstwing@gmail.com.

3.1.8 A scanned copy of the formal order, along with the Annexure, will be sent by the Board by email.

3.1.9 The proposals for reallocation of cases should be sent by 27-10-2017 and shifting of records should be completed within a week of the issue of the Board's order.

3.2 At the level of Commissioner of Central Excise and Service Tax (Appeals)

3.2.1 The disposal of cases should be effective disposal. A serious view will be taken in the event of mechanical remanding or hasty dismissal for nonappearance or ex parte orders, or a mechanical upholding of the order-in-original, merely in order to achieve disposal.

3.2.2 In case opportunities for personal hearing have already been granted before the reassignment of the cases, these should be factored in when examining requests for adjournment.

3.3 At the level of Principal Commissioner of Central Excise and Service Tax /Commissioner of Central Excise and Service Tax

3.3.1 The Orders-in Appeal pertaining to a Commissionerate, will continue to be examined for legality and propriety by the existing Review Committee of Commissioners (Office Order 3/2017- Cus dated 13/7/2017 refers) or a new Review Committee (constituted as a result of the redistribution of cases), as the case may be.

3.3.2 All possible assistance should also be extended in terms of adequate support staff and administrative arrangements so as to facilitate the disposal of appeals by the officers to whom cases are reassigned.

3.4 Reporting system

3.4.1 Data regarding cases should be kept ready so that it can be entered in the TDOTS (Tax Disputes Online Tracking System) as and when the security audit in this regard is completed. In this context Directorate of Legal Affairs letter-F.No 1080/57/DLA/Tech/TDOTS/2016 dated 26-9-2017 also refers.

3.5 Publicity

3.5.1 Once appeals are reallocated by the Board, apart from taking care to inform assesses through letters, emails and telephonic calls, Trade/Public Notices should be issued informing assesses about the changed arrangements. The details of reallocation should also be displayed on the website of the Commissionerate.


(Pallabika Dutta)

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ANNEXURE

S.No	Appeal No	Name of the assessee	Registration No	Name , designation and station of the officer to whom allotted
(1)	(2)	(3)	(4)	(5)

Copy to PPS to Chairperson CBEC/ Member (GST)/ Member (Administration)/ Member (Budget)/
Member (Central Excise, Service Tax & Legal)/ Member (Information Technology)/
Member (Customs).