Circular No. 33/ 97- Cus.
dated 4/ 9/ 97

F.No. 494\ 1\ 97- CUS. VI

Government of India
Ministry of Finance
Department of Revenue, New Delhi.

Subject : Procedure to be followed by Commissioner fo Customs while forwarding SLP proposals to the CBEC

It has been observed that most of the correspondence pertaining to Customs Civil cases are received incomplete in the Board. For example the Assistance Commissioner (Legal) would be for warding a copy of the High Court orders for "necessary action at you end". This is forwarded without any of the supporting documents in the form of opinion of Standing Counsel, Branch Secretariat of Ministry of Law, pleadings/ affidavits if any filed in the High Court, certified copy of the High Court order, grounds of appeal and brief facts of the case. As a result valuable time is wasted in corresponding with the Commissionerates requesting them to provide the above information, thereby resulting in delays in filing SLPs in the Supreme Court.

Hon'ble Supreme Court is of late viewing unnecessary delays in filing SLPs very seriously. In fact it is dismissing such cases purely on the ground of delays without going into the merit. With a view to avoiding such unnecessary delays the Commissioners of Customs are requested to please follow the following procedure.

(a) All proposals for SLPs are to be invariable forwarded under the signature of the concerned Commissioner of Customs.

(b) Such SLP proposals should clearly contain the brief facts of the case and grounds of appeal.

(c) The Branch Secretariats' opinion is to be forwarded wherever the Branch Secretariat of the Ministry of Law is located.

(d) The Opinion of the Standing Counsel should be invariably given.

(e) While forwarding the SLP proposals, time limit should be clearly indicated on the first page itself. It is again impressed that the case papers on legal matters are to be processed with "Utmost Speed and accuracy". Since SLP or CA has to be filed within the "Due Date" Hon'ble Supreme Court does not accept the request for condemnation of delay in filing as a routing which result in a number of cases being dismissed without going into the merit.

Since the papers have to be further processed in the Ministry which also requires consultation / advise from Ministry of Law and Senior Law Officer (Addl. Solicitor General) etc., the Commissioner should avoid sending the papers to the Board at the last moment. In order to calculate the time limit prescribed for obtaining "Certified" copy of the order and the data of receipt of the Certified copy" so that the time taken for obtaining the certified copy is deducted from the prescribed time limit.

In this regard it is brought to you notice that SLPs are required to be filed within 90 days from the date of High Court orders. The time taken for obtaining certified copy of the High Court order can be deducted from this time limit. After doing so the due date for expiry of the time limit given for filing SLPs may be clearly indicated in the covering letter.

(f) If may also please be noted that when orders are passed be a Single Judge of the High Court, Commissioner should first consider filing appeal/ review petition for the consideration of the same Single Judge or for the Division Bench of the High Court to reconsider the case. Normally SLPs are not filed in the Supreme Court against the order of the Single Judge.

(g) When the order is passed by the Division Bench of the High Court, the Commissioner should immediately examine the High Court's order and consider filing of SLP, if it is essential. He should send SLP proposal to the Board immediately without any delay with all the details including Central Government Standing Counsel's / Addl. Solicitor General's opinion etc. It should not take more than a month for the Commissioner's office thus leaving clear two months for the Board, Law Ministry, Central Agency Section, etc. to file the SLP in the Supreme Court.

(h) While forwarding SLP proposals to Ministry, tow sets ot the documents should be sent and one set should be retained with the Commissioner ate for future reference. The sets should be page numbered with an index on top.

(i) In all future follow up correspondences Board's/ Ministry's file No., SLP/ CA Nos., name of the party and CAS reference No. should also be quoted to facilitate linking of the matters.

(j) As per instruction delineated in D.O.F.No. 390/ 170/ 92-JC dated 13.1.93, it may please be noted that no appeal to the Supreme Court may be filed where the duty involved is Rs. 5 lakhs or less. If there is substantial question of law and duty involved is more than Rs. 5 lakhs, appeal may be filed even if earlier or an identical issue no appeal was filed due to the duty involvement being less than Rs. 5 lakhs.

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(Ranjana Jha)
Under Secretary to the Govt. of India