

पत्र संख्या- जी०एस०टी०/२०२०-२१/ २०२१०१५ / २५ / वाणिज्य कर  
कार्यालय, कमिश्नर वाणिज्य कर,  
उत्तर प्रदेश  
(जी०एस०टी० अनुभाग)  
लखनऊ :: दिनांक :: ०८ सितम्बर, २०२०

एडीशनल कमिश्नर(सर्वो० न्या० कार्य/उच्च न्या० कार्य इलाहाबाद/लखनऊ)  
समस्त जोनल एडीशनल कमिश्नर ग्रेड-१,  
एडीशनल कमिश्नर ग्रेड-२(वि०अनु०शा०),  
ज्वाइण्ट कमिश्नर(कार्यपालक/कार्पोरेट सर्किल/वि०अनु०शा०),  
वाणिज्य कर, उत्तर प्रदेश।

विषय:-जी०एस०टी० से सम्बन्धित रिट याचिकाओं/जनहित याचिकाओं में प्रभावी पैरवी (To ensure efficacious defence) हेतु केन्द्रीय राजस्व विभाग/CBIC से समन्वय के सम्बन्ध में।

राजस्व विभाग (राज्य कर अनुभाग-१), वित्त मंत्रालय, भारत सरकार के पत्र संख्या- S-29012/12/ 2017-ST-1-DoR दिनांक १७ अगस्त, २०२० से सभी राज्यों के कमिश्नर वाणिज्य कर से निम्न अपेक्षा की गयी है-

**“3 (m) – GST Related cases, specifically wherein Union of India/Department of Revenue/CBIC has not been made as respondents:-** Commissioner (State Taxes) may also request, if required, the policy comments directly from the policy wings concerned as enumerated in Para 3(e) of the Instruction. It is more critical for the cases, wherein Union of India/Department of Revenue/CBIC are not made respondents but at the same time, some Central Act/Rules/Notifications etc. is/are challenged by the petitioner/s.

Further, any order in favour of Revenue passed by Hon'ble High Courts may be informed to Commissioner (Legal), CBIC and any order in favour of Revenue passed by Hon'ble Supreme Court may be informed to Commissioner (Directorate of Legal Affairs), CBIC, so that the same may be circulated and may be considered before filing any affidavit before the Hon'ble Court, if any.”

उक्त के सम्बन्ध में निम्न निर्देश दिए जाते हैं-


- (i) जी०एस०टी० से सम्बन्धित ऐसी रिट याचिकाएं, जिनमें केन्द्रीय अधिनियम/नियमावली/विज्ञप्तियों को चुनौती दी गयी है, किन्तु भारत सरकार/केन्द्रीय राजस्व विभाग/CBIC पक्षकार नहीं है, में To ensure efficacious defence हेतु वाद अनुभाग, मुख्यालय के माध्यम से कमिश्नर (लीगल), CBIC से सम्पर्क/समन्वय स्थापित करते हुए प्रभावी पैरवी सुनिश्चित की जाए।

(ii) मा0 उच्च न्यायालय द्वारा राजस्व के पक्ष में पारित महत्वपूर्ण निर्णय वाद अनुभाग मुख्यालय के माध्यम से कमिशनर (लीगल) CBIC को तथा मा0 सर्वोच्च न्यायालय द्वारा राजस्व के पक्ष में पारित महत्वपूर्ण निर्णयों को वाद अनुभाग, मुख्यालय के माध्यम से कमिशनर (डायरेक्टरेट ऑफ लीगल अफेयर्स) को उपलब्ध कराया जाए।

कृपया तदनुरूप कार्यवाही सुनिश्चित करें।

संलग्नक:-उपरोक्तानुसार।

भवदीया,

  
(अमृता सोनी)

कमिशनर, वाणिज्य कर  
उत्तर प्रदेश, लखनऊ।

पृ०प०सं० / / तद दिनांक उक्त।

प्रतिलिपि:-ज्वाइण्ट कमिशनर (वाद) वाणिज्य कर, मुख्यालय लखनऊ को राजस्व विभाग, भारत सरकार के पत्र संख्या-S-29012/12/ 2017-ST-1-DoR दिनांक 17 अगस्त, 2020 की प्रति सहित आवश्यक कार्यवाही हेतु प्रेषित।

ज्वाइण्ट कमिशनर(जी०एस०टी०)  
वाणिज्य कर, मुख्यालय।

MOST IMMEDIATE

DC (GST)

आतं एतं नित्यं यं मंगलं

SC (GST)

S-29012/12/2017-ST-1-DoR  
Government of India  
Ministry of Finance  
Department of Revenue  
(State Taxes-I Section)  
\*\*\*\*\*

North Block, New Delhi  
Dated – August 17<sup>th</sup>, 2020

To,

1. All the Chief Secretaries of States & Union Territories, Secretary (Finance/Taxation), Commissioner (Commercial Taxes) of the States;
2. All Principal Chief Commissioners/Chief Commissioners of Customs, GST & CX;
3. All Principal Director Generals/Director Generals of Customs, GST & CX;

**Subject:** Addendum to Master Instructions dated 14.08.2019 on Defence against Writ Petitions / PILs relating to GST - reg.

Sir,

I am directed to refer to subject cited above and to say that to ensure efficacious defence pertaining to GST related petitions, specifically wherein Union of India/Department of Revenue/CBIC has not been made as respondents. The following addendum is made to the Master Instructions dated 14.08.2019 issued by this Department: -

“3 (m) - GST related cases, specifically wherein Union of India/Department of Revenue/CBIC has not been made as respondents: - Commissioner (State Taxes) may also request, if required, the policy comments directly from the policy wings concerned as enumerated in Para 3(e) of the Instruction. It is more critical for the cases, wherein Union of India/Department of Revenue/CBIC are not made respondents but at the same time, some Central Act/Rules/Notifications etc. is/are challenged by the petitioner/s.

Further, any order in favour of Revenue passed by Hon'ble High Courts may be informed to Commissioner (Legal), CBIC and any order in favour of Revenue passed by Hon'ble Supreme Court may be informed to Commissioner (Directorate of Legal Affairs), CBIC, so that the same may be circulated and may be considered before filing any affidavit before the Hon'ble Court, if any.”

2. In this regard, it is requested to take further necessary action in the matter.

JC (GST)

Yours faithfully,

Sunil Kumar  
12/08/2020

(Sunil Kumar)

Under Secretary to the Government of India  
Telefax: 011-23092976

Copy to:

कौन्सिलर  
02.9.2020

U.S.S.  
03-09-2020  
SCCOTST

1. OSD to Secretary (Revenue) for kind information;
2. OSD to Chairman (CBIC) for kind information;
3. All Members of CBIC for information and necessary action w.r.t. their Zonal Charges;
4. The Special Secretary, GST Council for information and necessary action;
5. The Additional Secretary (Revenue), DoR for information and necessary action;
6. The Joint Secretary (Revenue), DoR for information and necessary action;
7. All the Joint Secretaries/ Commissioners under CBIC for information and necessary action;
8. The Commissioner, Directorate of Legal Affairs, CBIC, 4<sup>th</sup> Floor, Rajendra Bhawan, 210, Deen Dayal Upadhyay Marg, New Delhi-110002 for information and necessary action.

1414

No. S-29012/12/2017-ST-1-DoR

Government of India  
Ministry of Finance  
Department of Revenue  
(State Taxes Division)

\*\*\*\*\*

275, North Block, New Delhi  
Dated the 27<sup>th</sup> November, 2017

**INSTRUCTION**

To,

1. All the Chief Secretaries of States & Union Territories, Secretary (Finance/Taxation), Commissioner (Commercial Taxes) of the States;
2. All Principal Chief Commissioners/ Chief Commissioners of Customs, GST & CX;
3. All Principal Director Generals/ Director Generals of Customs, GST & CX;

Sir / Madam,

**Subject:** Master Instruction on Defence against Writ Petitions / PILs relating to GST- regarding.

Kindly refer to Member (Legal), CBEC's D.O. letter of even no. dated the 5<sup>th</sup> September, 2017 (copy available on CBEC website) on the above subject.

2. In this regard, it is stated that after implementation of GST a number of Writ Petitions / PILs are being filed in Hon'ble Supreme Court & High Court (s) challenging various aspects of GST Law and rates. Since GST is at its nascent stage, CBEC has already issued a number of Instructions laying out the procedure for efficaciously defending the interest of Government before the Court(s).

3. In order to obviate any confusion amongst the field formations and to efficaciously defend the interest of government before the Hon'ble High Court (s), you are requested to direct the formations under your jurisdiction to comply with the following directions:

- a. **Nodal Cell under CBEC** – Nodal Cell headed by Commissioner (Legal), CBEC has been created in order to effectively coordinate and monitor the all GST related cases filed/ pending before the Hon'ble High Court(s). Similarly, Nodal Cell headed by Commissioner (Directorate of Legal Affairs), CBEC has been created in order to effectively coordinate and monitor the all GST related cases filed/ pending before the Hon'ble Supreme Court. The new cases or any updates in other cases, as and when received by the concerned officer / field formations etc, may be intimated to the respective Nodal Cell of CBEC. The phone number of the Nodal Cell for High Court is 011-26161042 and email ID is commr.legal-cbec@nic.in. The phone number of the Nodal Cell for Supreme Court is 011-23219071 and email ID is dla-rev@nic.in.
- b. **Issuance of Unique Index Number** – Commissioner (Legal) / Commissioner (DLA), CBEC will assign a unique Index Number to all High Court(s)/ Supreme Court cases respectively, filed under GST regime, which will remain unchanged and may be used for all future references/ correspondences.

Office of the Commissioner of Taxes  
Receipt No. 2331  
Date 10.1.18

c. **Issuance of Authorisation to defend UoI, States & other respondent (s)** - To defend UoI and other Central Government respondents in GST related matters before the High Court(s), Commissioner (Legal), CBEC will issue Authorisation in favour of the jurisdictional Principal Commissioner/ Commissioner. In case no jurisdictional officer is joined as respondent(s), Legal Cell will issue Authorisation in favour of the concerned nodal Principal Commissioner/ Commissioner in whose jurisdiction the bench of the High Court, where petition is filed, is located. In this regard CBEC Instruction of even no. dated 19.06.2015 & 08.12.2015 refers (Copy available on CBEC website and being enclosed herewith). The field formations are also expected to closely monitor GST related petitions being filed in the Hon'ble High Court (s) in their jurisdiction and upon filing of the petition, the same should be immediately brought to the notice of Commissioner (Legal), CBEC for issuance of Authorization. It is stated that it is the prerogative of the CBEC to authorize any Principal Commissioner/ Commissioner to defend the UoI and others before the High Court (s). No transfer of Authorization should be done on unilateral basis and a reference should be made to Commissioner (Legal) clearly pointing out the reasons for change in the Authorization. The decision of the CBEC in this regard would be final. It is also stated that CBEC will not issue authorization for GSTN as it is a Private Limited Company;

d. **Policy Comments on the Impugned issue-** To ensure uniformity of views in all cases filed before the High Court (s) under the GST regime filed across the country, it is desirable that comments should be sought directly from the concerned Wing of the Department as per Table below. It is expected that the authorized Principal Commissioner/ Commissioner will carefully examine the petition and send a self-contained reference directly to the concerned wing as per Table below, under intimation to Commissioner (Legal), CBEC, clearly pointing out the exact policy issue (s) on which the comments are required. The authorized Principal Commissioner/ Commissioner should not mechanically forward the petition for para-wise comments. The mandate of the concerned Wing of the CBEC/ Department of Revenue/ GST Council, is to give inputs on the specific policy issue(s). The subject-wise concerned Policy Wing of the CBEC / Deptt. of Revenue are as follows:

Sl. No.	Designation	Area of Work Allocated
1.	Commissioner (GST)	<ul style="list-style-type: none"> <li>• Notifying jurisdiction of formations of GST;</li> <li>• All CGST Act related work <u>except</u> in respect of Chapter V (Input Tax Credit), Chapter XIV (Inspection, Search, Seizure and Arrest), Chapter XVII (Advance Ruling), Chapter XVIII (Appeals &amp; Revision), Chapter XIX (Offences &amp; Penalties), and Chapter XX (Transitional Provisions);</li> <li>• All IGST Act related work <u>except</u> in respect of Chapter V (Place of supply).</li> </ul>
2.	Commissioner (Service Tax)	<ul style="list-style-type: none"> <li>• All IGST Act related work, in respect of Chapter V (Place of supply).</li> </ul>
3.	Commissioner (Central Excise)	<ul style="list-style-type: none"> <li>• All CGST Act related work in respect of Chapter V (Input Tax Credit) and Chapter XX (Transitional Provisions).</li> </ul>

4.	Commissioner (Inv-GST)	• All CGST Act related work in respect of Chapter XIV (Inspection, Search, Seizure and Arrest) and Chapter XIX (Offences & Penalties).
5.	Commissioner (Legal)	• All CGST Act related work in respect of Chapter XVII (Advance Ruling) and Chapter XVIII Appeals & Revision (Only in respect of HC & SC).
6.	Commissioner (IT & Compliance Verification) / Member (IT)	• Coordination with GSTN.
7.	Joint Secretary (Review)	• All CGST Act related work in respect of Chapter XVIII- Appeals and Revision (Except HC & SC).
8.	Commissioner (Customs & EP)	• GST related Customs Work
9.	Joint Secretary (Customs)	• Work related to IGST Customs Interface
10.	Commissioner (PAC)	• Audit related work in GST by CAG
11.	Joint Secretary (Drawback)	• GST related work pertaining to Drawback and Export Promotion Schemes
12.	Joint Secretary (TRU-I)	• Matters pertaining to tax rate on goods
13.	Joint Secretary TRU-II	• Matters pertaining to tax rate on services
14.	Joint Secretary (Revenue), Department of Revenue	• Work related to GST (Compensation to States) Act, Compensation Cess and erstwhile Central Sales Tax Act.

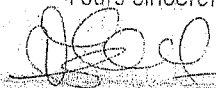
- e. **Defence of GST Council wherein it is one of the respondents-** CBEC has already issued Instruction of even no. dated 12.10.2017 (Copy available on CBEC website & enclosed herewith) asking the field formations to take all necessary steps to defend GST Council along with UoI & Others in cases before the Hon'ble High Court (s). The said Instruction should be scrupulously followed;
- f. **Providing all necessary and timely assistance to the Government Counsels-** CBEC has issued Instruction of even no. dated 09.11.2017 (Copy available on CBEC website and enclosed herewith) directing all the field formations to provide all necessary and timely assistance to the Government Counsel in order to efficaciously defend the interest of Government before the Hon'ble High Court (s). Further all efforts should be made to engage senior government counsels to defend GST related cases;
- g. **Coordination with State Governments-** CBEC has issued Instruction of even no. dated 09.10.2017 (Copy available on CBEC website and enclosed herewith) emphasizing that both the Centre and States should take a uniform stand in GST related petitions before the High Court (s) so as to obviate any contradictory orders or judgments. The said Instruction should also be scrupulously followed;
- h. **Filing of Additional Affidavits pursuant to GST Council decisions and the respective Notifications-** GST Council in its recent meetings have taken a number of decisions so as to rationalize and simplify the procedure and rate under the GST Law and Rules. Subsequently, the

respective Policy Wings issues the Notification to give effect to the decisions. The field formations should continuously follow the changes in the law and procedure and file additional affidavits in the related petitions pending in High Court (s), if required.

- i. Filing of SLP in the Hon'ble Supreme Court against Orders of Hon'ble High Court (s) staying collection of Tax under GST- CBEC has issued Instruction F.No.275/11/2017-CX.8A dated 18.09.2017 (copy available on CBEC website and enclosed herewith) directing the field formations to send a self-contained proposal against interim or final orders of High Court(s) where the levy of GST has been questioned or stayed. The field formations should constantly monitor court proceedings to keep a watch against any such order in the High Court (s).
4. It is once again stated that the jurisdictional Principal Chief Commissioner/ Chief Commissioner/ Principal Commissioner/ Commissioner should take all necessary measures to efficaciously defend all GST related petitions, in High Court (s) under whose jurisdiction they respectively fall.
5. Commissioner (Commercial Taxes) of the States are requested not to file replies to Writ Petitions/ PILs pending before Hon'ble High Courts pertaining to GST without consulting the authorized Principal Commissioner/ Commissioner of CBEC.

Encl. – As above.

Yours sincerely,

  
(S. R. Meena)

Under secretary to the Govt. of India

Copy to:

1. OSD to Finance Secretary & Secretary (Revenue) for kind information;
2. OSD to Chairman (CBEC) for kind information;
3. All Members of CBEC for information and necessary action w.r.t. their Zonal Charges;
4. The Additional Secretary, GST Council for information and necessary action;
5. The Additional Secretary (Revenue), DoR for information and necessary action;
6. All the Joint Secretaries/ Commissioners under CBEC for information and necessary action;
7. The Commissioner, Directorate of Legal Affairs, CBEC, 4Th Floor, Rajendra Bhawan, 210, Deen Dayal Upahyay Marg, New Delhi- 110002 for information and necessary action.



AMEETA SURI  
Special Secretary & Member

भारत सरकार  
GOVERNMENT OF INDIA  
(विन मंत्रालय/ वित्त विभाग)  
MINISTRY OF FINANCE / DEPARTMENT OF REVENUE  
कन्द्रीय उद्योग एवं माला शुल्क बोर्ड  
CENTRAL BOARD OF EXCISE & CUSTOMS  
नारायणगढ़, नई दिल्ली-110001  
NORTH BLOCK, NEW DELHI-110001  
Tels : +91-11-23092568 Fax : +91-11-23092308

D.O. No. 275/65/2013-CX.8A

5<sup>th</sup> September, 2017

SUB: Defence against Writ Petitions/PILs relating to GST- reg.

My dear Colleagues,

After the implementation of GST w.e.f. from 1<sup>st</sup> July, 2017, a number of Writ Petitions/PILs are being filed in various High Courts challenging or seeking clarification on various aspects of GST Law and rate of tax on some products. As GST is at its inception stage, it is important to defend the issues effectively to defend the interest of Government.

2. Board has already issued instructions of even no. dated 19.06.2015 and 08.12.2015 (Copy available on CBEC website) giving procedural clarifications in respect of the issues relating to "Authorization" of the Commissioners to represent Union of India and others in matters before the High Court. It is requested to direct all the Commissions under your jurisdiction to comply with the said instructions.

3. Further, all Principal Chief Commissioners/Chief Commissioners are requested to keep a special watch on the petitions being filed especially those relating to GST in the Hon'ble High Courts in their jurisdiction and also direct all Principal Commissioners/Commissioners under their respective jurisdictions for similar close monitoring and liaison with the department/ HOF Counsels. If the Union of India and others, are also one of the respondents, necessary authorisation will be issued by the Board to Principal Commissioner/Commissioner and a proposal may be sent to the Commissioner (Legal), CBEC, well in time. The Principal Commissioner/Commissioner in whose favour the authorisation is to be issued may also be indicated. Simultaneously, policy comments if any, may be sought directly from the concerned Policy Section of the Board or GST Council, as the case may be. All the petitions filed in the High Courts should be examined carefully and a self-contained reference should be made directly to the Policy Wing GST Council clearly pointing out the exact policy issue(s) on which the comments are required.

4. It is expected that Principal Chief Commissioner/Chief Commissioner/Principal Commissioner/Commissioner will take all measures necessary to efficaciously defend all matters, and in particular GST related petitions, in High Courts under whose jurisdiction they respectively fall.

With best wishes,

Yours sincerely,  
(Amrita Suri)

To

1. All the Principal Chief Commissioners/Chief Commissioners of Customs, CGST and CX.
2. All the Principal Director/Generals/Directors/Generals under CBEC.