

Filing of appeals before High Courts

The Chief Commissioners shall also be involved in the process of litigation before the High Courts. Henceforth, acceptance of CESTAT's orders or filing of appeals by the Commissioner before the High Courts shall be subject to obtaining the concurrence of the Chief Commissioner. This mechanism would also ensure uniform approach in filing the appeals before the High Courts within a Chief Commissioner's jurisdiction.

There are instances where the Commissioners filed appeals before the High Court after obtaining some legal advice even though the issue related to valuation or rate of duty. The High Courts rejected revenue appeals as non-maintainable and delayed appeals were filed before the Supreme Court. The Supreme Court does not condone delay on grounds like pursuing appeal before a wrong forum and has been dismissing such delayed appeals. Such instances show the department in poor light besides the issue does not get examined on merit by the superior judiciary.

On the other hand, there have been instances where Civil Appeal proposals have been sent by the field formations to the Board office in cases not relating to valuation or rate of duty in which cases appeals lie before the High Court. An appeal lies to the High Court from every order passed in appeal by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) where the order is not relating among other things, to the determination of any question having a relation to the rate of duty (including interpretation of an exemption notification) or valuation of the goods or services for the purpose of assessment, if the High Court is satisfied that the case involves a substantial question of law. When such proposals are received in Board office, after examination in the Judicial Cell and after obtaining Member's concurrence, these are returned back to the Commissionerate to file appeal before the High Court. Field officers are advised to refrain from sending such proposals to Board office as such an exercise leads to unnecessary wastage of resources and time.

Board expects the Chief Commissioners to be careful while deciding about the Court to approach.