

REPORT

OF

THE

JUDICIAL MANUAL REVIEW COMMITTEE

20 NOVEMBER, 2010

"LET NOBLE THOUGHTS COME TO US FROM EVERY SIDE"

- Rigveda


ACKNOWLEDGEMENTS

All members of the Judicial Manual Review Committee (JMRC) join me in eloquent chorus to congratulate Mr. Justice R.M.S.Khandeparkar, Hon'ble President, CESTAT for the laudable initiative taken for streamlining the administration of the Tribunal and to thank him for the trust reposed in the Committee for review of the Judicial Manual which is considered as the bible for all authorities of the Tribunal in their day-to-day functions. We are particularly grateful to the President for all the assistance rendered to the Committee by way of providing good staff support, extending time for completion of the assigned job etc.

As Chairman of the Committee, I must acknowledge the valuable contributions of my colleagues in the Committee. I fondly recollect the mature views expressed by Hon'ble Shri D.N. Panda and Hon'ble Shri Rakesh Kumar. Shri L.P. Asthana, the seniormost member of the Committee and a treasure of experience in matters of this kind, inspired us tremendously and guided us decisively whenever there was an impasse in our deliberations. Shri A.R. Madhav Rao played a great role as chairman of sub-committee and otherwise by making concrete suggestions based on his experience with the procedures of Tribunals, High Courts and the Supreme Court. Shri A.K.Prasad with his informed views played a lead role in the Committee's deliberations throughout, articulating suggestions bearing in mind the difficulties said to be encountered by officers of the Department in the realm of CESTAT's procedures. Shri

B.K. Singh also made his presence felt with valuable suggestions at early stages of the Committee's work. S/Shri K.K. Anand, Bipin Garg and S.J. Vyas also made sincere and significant contribution to the Committee's work. My sincere thanks to all other members too.

I also thank Shri S. Chandran for all the support he has given qua Registrar. S/Shri Naresh Kumar and M.P. Kasale were also of great support to the Committee by way of indicating procedural areas which called for its special attention. Shri Kasale could commendably discharge numerous functions (such as convening meetings, liaising between the Chairman and Members/Registrar, collating documents and preparing final draft) expeditiously. I would also like to place on record the Committee's special appreciation of the sincerity and dedication with which Shri M.P. Singh, SPS worked for recording its proceedings. The efforts taken by Shri Mohinder Singh, Assistant Registrar, in facilitating the meetings of the Committee are also being noted with appreciation. On behalf of JMRC, I also appreciate the unstinted support given by all other staff members concerned.


(P.G. Chacko)
Chairman

PART - C

**FINAL DRAFT OF THE JUDICIAL MANUAL WITH THE
PROPOSED AMENDMENTS INCORPORATED**

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CHAPTER-I

ORGANIZATION AND FUNCTIONS

1.01 Provision was made in the Finance (No.2) Act, 1980 for establishing the Customs, Excise and Gold (Control) Appellate Tribunal ('CEGAT' for short). CEGAT was constituted with effect from 11.10.1982 under Ministry of Finance (Department of Revenue) Notification No.223/82-Customs dated 11.10.1982 (Appendix 'I'). After the repeal of the Gold (Control) Act and introduction of the levy of service tax under the Finance Act, 1994 (Act No.32 of 1994), the name of the Tribunal was changed as the Customs, Excise & Service Tax Appellate Tribunal ('CESTAT' for short) with effect from 14.05.2003 under the Finance Act, 2003.

1.02 The Tribunal is headed by its President. There is a provision for two Vice-Presidents and eighteen Members including Judicial Members and Technical Members. For the purpose of constitution of benches, the President and Vice-Presidents are also Judicial or Technical Members, as the case may be.

1.03 The work of the Tribunal has been distributed among benches located at Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Ahmedabad. Each of such benches consists of two Members, one Judicial Member and one Technical Member. Such benches

are competent to dispose of cases where the determination of any question having a relation to the rate of duty or service tax or to the value of goods or taxable service for the purpose of assessment is in issue or is one of the points in issue. Such benches will also hear and dispose of appeals filed in terms of Regulation 22(8) of the Customs House Agents Licensing Regulations, 2004. Where more than one appeal is filed against a particular order and at least one of such appeals is within the jurisdiction of a two-Member bench, the rest of the appeals also shall be heard and disposed of by that bench. There is also provision for Single Member Benches which are competent to dispose of cases other than cases where the determination of any question having a relation to the rate of duty or service tax or to the value of goods or taxable service for the purpose of assessment is in issue or is one of the points in issue and where the duty or tax involved or the amount of fine or penalty involved does not exceed Rupees Ten Lakhs.

1.04 The Tribunal has to hear and dispose of appeals filed against orders of Commissioners or Commissioners (Appeals) under the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994. However, in respect of certain subjects, appeal does not lie to the Tribunal against orders of Commissioners (Appeals) and these excluded subjects are: (a) baggage, (b) short-landed goods and (c) drawback of duty under the Customs Act, 1962; (a) storage and transit losses and (b)

export of excisable goods whether in bond without payment of duty or on payment of duty under claim for rebate under the Central Excise Act, 1944.

1.05 Apart from the aforesaid benches, there is a special bench for dealing with appeals under Section 9-C of the Customs Tariff Act, 1975 involving questions relating to anti-dumping duty, subsidies etc. This bench consists of the President and not less than two Members, one of the two Members having to be a Judicial Member and the other a Technical Member.

1.06 The Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982 ('Procedure Rules' for short) were issued under Notification No.1/CEGAT/82 dated 25.10.1982. These rules were amended from time to time in the light of experience or in pursuance of amendments to the Central Excises & Salt Act, 1944 and the Customs Act, 1962. One of these amendments changed the name of the rules to "the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982. The Procedure Rules (Appendix-II) are required to be followed by all concerned in respect of appeals, stay applications and other proceedings to which the rules apply.

1.07 In view of the limited staff strength of the registries of the zonal benches outside Delhi, it may not always be feasible to follow *in toto* the prescribed procedures followed by the registry at Delhi. Minor departures necessitated by local conditions may be

authorized by the Vice-President/Senior Member of the zonal bench, who will oversee and guide the working of the zonal registry. Such departures should, however, be brought to the notice of the President through the Registrar.

CHAPTER-II

AUTHORITIES OF CESTAT

AUTHORITIES:

2.01 The following classes of authorities have been created under statute and/or administrative orders:

- i) President
- ii) Vice-President
- iii) Member (Technical) and Member (Judicial)
- iv) Registrar
- v) Deputy Registrar
- vi) Assistant Registrar
- vii) Accounts Officer
- viii) Technical Officer

JURISDICTION OF THE AUTHORITIES:

2.02 President:

He is the administrative head of CESTAT exercising jurisdiction over the whole of India in matters pertaining to the administration of CESTAT. In addition, he has the same jurisdiction as that of a bench over which he presides. The jurisdiction of various benches is set out in paragraph 2.04

2.03 Vice-Presidents/Members:

The jurisdiction of each of these authorities is coterminous with that of the bench over which he presides or of

which he is a Member. He also has jurisdiction in respect of any case specifically assigned to him by the President.

2.04 The Tribunal functions through zonal benches located at New Delhi, Mumbai, Chennai, Kolkata, Bangalore (Bengaluru) and Ahmedabad, which deal with cases arising within the respective territorial jurisdictions set out hereinbelow:

Authority:

*Public
Notice
No.02/2005
dated
05.08.05*

S. No	Title of the Bench	Location	Jurisdiction
1	North Zonal Bench	New Delhi	States of Haryana, Punjab, Himachal Pradesh, Jammu & Kashmir, Madhya Pradesh, Chattisgarh, Uttar Pradesh, Uttarakhand, Rajasthan, NCR of Delhi and Union Territory of Chandigarh.
2	West Zonal Bench (Mumbai)	Mumbai	States of Maharashtra & Goa.
3	West Zonal Bench (Ahmedabad)	Ahmedabad	State of Gujarat and Union Territories of Dadra & Nagar Haveli and Daman & Diu
4	South Zonal Bench (Chennai)	Chennai	State of Tamil Nadu and Union Territory of Puducherry except Mahe Commune.

	5	South Zonal Bench (Bengaluru)	Bengaluru	States of Karnataka, Kerala and Andhra Pradesh; Mahe Commune of the UT of Puducherry and the UT of Lakshadweep.
	6	East Zonal Bench	Kolkata	States of Bihar, Jharkhand, Orissa, West Bengal, Assam, Manipur, Meghalaya, Nagaland, Sikkim, Tripura, Arunachal Pradesh, Mizoram and Union Territory of Andaman & Nicobar Islands.

As per the provisions of sub-section (3) of Section 35D of the Central Excise Act, 1944, sub-section (4) of Section 129C of the Customs Act, 1962 and sub-section (7) of Section 86 of the Finance Act, 1994, the President or any Vice-President/Member authorized by him, may sitting singly, dispose of a matter (other than a case where the determination of any question having a relation to the rate of duty or service tax or to the value of goods or taxable service for the purpose of assessment is in issue or is one of the points in issue) where the amount of duty or tax, fine or penalty involved in the dispute does not exceed Rupees Ten Lakhs.

2.05 Registrar:

He has jurisdiction over all the Deputy Registrars/Assistant Registrars/Technical Officers/ Accounts

Officer and subordinate staff.

2.06 Deputy Registrar:

He has jurisdiction over all the Assistant Registrars/Technical Officers/Accounts Officer and subordinate staff working under him.

2.07 Assistant Registrar/Technical Officer:

He has jurisdiction over the same area as his bench has. Where there are more than one Assistant Registrars posted in a zone, the jurisdiction will be as assigned to them by the Registrar under general or special orders of the President.

2.08 Accounts Officer:

He has jurisdiction over all matters relating to accounts, budget, audit matters pertaining to the entire Tribunal, i.e. its headquarters (New Delhi) and the zonal benches at Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Ahmedabad.

POWERS OF AUTHORITIES:

2.09

S. No.	Authority	Powers
1	President	1) To constitute benches and allocate work among these benches; 2) To transfer an appeal from one bench to another bench where two or more benches are functioning at one place; 3) To transfer an appeal, <i>suo motu</i> or on application by any party to the appeal, from one zonal bench to

			<p>another zonal bench for reason to be recorded;</p> <p>4) To constitute larger benches to decide on issues which may be referred to the President by zonal benches in view of conflicting decisions of coordinate benches or for any other reason;</p> <p>5) To preside over the bench of which he is a member;</p>
2	Vice-President		<p>1) To exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing;</p> <p>2) To preside over the bench of which he is the senior member;</p> <p>3) (For the senior amongst the Vice-Presidents) To perform such of the functions of the President as are necessary for the effective functioning of the Tribunal, in the absence of the President whether on leave or otherwise,</p>
3	Member		<p>1) To preside over the bench of which he is the senior member.</p> <p>2) (For the seniormost member in a zone (other than Delhi) where there is no Vice-President) To oversee the functioning of the zonal registry and to exercise such powers and perform such functions as the President may delegate by general or special order in writing.</p>
4	Registrar		<p>1) To receive appeals, cross-objections, stay/miscellaneous applications in the relevant form presented by the</p>

			<p>appellant/respondent/applicant in person or by an agent or sent by registered post or speed post;</p> <ol style="list-style-type: none"> 2) To endorse on every memorandum of appeal/cross-objection/application the date on which it is presented or deemed to have been presented under the rules and sign the endorsement; 3) To authorize any officer to exercise the power mentioned in (2) above; 4) To direct, in his discretion, that photocopies be supplied instead of typed copies; 5) To have the custody of the records of the Tribunal and exercise such other functions as are assigned to him under the Procedure Rules or by the President by a separate order; 6) To delegate to the Deputy Registrar or an Assistant Registrar with the approval of the President any function required by the Procedure Rules to be exercised by the Registrar; 7) To keep in his custody the official seal; 8) To authorize affixing of the seal of the Tribunal to any order, summons or other process subject to any general or special direction given by the President; 9) To authorize, in writing, affixing of the seal of the Tribunal to any certified copy; 10) Subject to any general or special order of the President: <ol style="list-style-type: none"> (a) to require any memorandum of appeal/application/ 	
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			<p>cross-objection or other document to be amended in accordance with the practice and procedure of the Tribunal;</p> <p>(b) subject to the directions of the respective benches, to fix the date of hearing of appeals, applications or other matters and issue notices thereof;</p> <p>(c) to settle the index in cases where the record is prepared in the Tribunal;</p> <p>(d) to direct any formal amendment of record;</p> <p>(e) to order the grant of copies of the documents to parties to proceedings and to grant leave to inspect the records of the Tribunal under the Procedure Rules;</p> <p>(f) to fix cases for removal of defects;</p> <p>(g) to reject a defective memorandum of appeal where the defect has been removed within the prescribed time;</p> <p>(h) to allow substitution of legal heirs with the consent of both parties;</p> <p>(i) to decide on applications seeking formal amendments to</p>	
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			memoranda of appeals and to applications filed therein.
	5	Deputy Registrar	<ol style="list-style-type: none"> 1) Any power of the Registrar delegated to the Deputy Registrar by an order of the President; 2) In the absence of the Registrar, the Deputy Registrar shall perform the functions mentioned at sub-clauses (f) to (i) of clause (10) above.
	6	Assistant Registrar/ Technical Officer	<ol style="list-style-type: none"> 1. On an order of the President/Registrar: <ol style="list-style-type: none"> a) To receive appeals, cross-objections and stay/miscellaneous applications in the prescribed format presented by the appellant/respondent/applicant in person or by an agent or sent by registered/speed post; b) To endorse on every memorandum of appeal/cross-objection/application the date on which it is presented or deemed to have been presented under the rules and sign the endorsement; c) To keep in his custody the official seal; d) To authorize affixing of the seal of the Tribunal to any order, summons or other processes subject to any general or special direction given by the President; e) To authorize, in writing, affixing of the seal of the Tribunal to any certified copy; f)

			<p>2. Subject to any general or special order of the President:</p> <ul style="list-style-type: none"> a. to require any memorandum of appeal/application/cross-objection or other document to be amended in accordance with the practice and procedure of the Tribunal; b. subject to the directions of the respective benches, to fix the date of hearing of appeals, applications or other matters and issue notices thereof; c. to settle the index in cases where the record is prepared in the Tribunal; d. to direct any formal amendment of record; e. to order the grant of copies of the documents to the parties to proceedings and to grant leave to inspect the records of the Tribunal under the Procedure Rules. <p>3. On an order of the President:</p> <ul style="list-style-type: none"> a) to perform the duties of Accounts Officer and Cheque Drawing & Disbursing Officer in relation to his zonal bench; b) to perform the duties of the Central Public Information Officer under the Right to Information Act, 2005 in relation to his zonal bench; c) to perform the duties of 	
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			Administrator where his registry is computerized.
	7	Accounts Officer	<p>Subject to any general or special order of the President/Registrar:</p> <ul style="list-style-type: none"> a) To be the Drawing and Disbursing Officer so far as the establishment of Headquarters is concerned; b) To hold imprest amount sanctioned by the Government from time to time; c) To sign contingent bills; d) To be joint custodian of cash and valuables with the cashier overnight.

CHAPTER-III

INSTITUTION OF APPEALS, CROSS OBJECTIONS, STAY PETITIONS & MISCELLANEOUS APPLICATIONS,

Authority to receive appeals etc.:

3.01 The Registrar/Assistant Registrar or any other officer authorized by the Registrar shall receive the memorandum of appeals, stay/miscellaneous applications & any other documents presented before him in person or by registered/speed post from 10.30 a.m. to 05.30 p.m.


Procedure for filing of appeal, cross-objections or applications:

3.02 Appeals and Cross-objections to the Tribunal shall be in the prescribed forms under the relevant sections of the Acts dealt with by the Tribunal. Appeals and Cross-objections shall be presented by the appellant or by the respondent as the case may be in person or by his agent to the proper officer or sent by registered/speed post to the proper officer. Appeals and Cross-objections should be filed in quadruplicate duly signed and verified by the cross-objector in original.

3.03 A memorandum of cross-objection is to be filed by the respondent with the registry of the bench which has issued the notice for inviting cross-objections to the appeal within 45 days of the receipt of the same. In case, the cross-objection is being filed beyond the prescribed period of 45 days of the date of receipt of

the notice from the registry of the bench then it should be accompanied by an application for condonation of delay in quadruplicate along with prescribed fees.

3.04 Appellant may, in case of urgency or for other sufficient reason, present or sent an appeal/cross-objection to the concerned officer of the bench nearest to him even though the matter relates to a different bench and in such a case the officer receiving the appeal/cross-objection shall, as soon as may be, forward it to the Assistant Registrar of the appropriate bench and that the charges for the same shall be borne by the appellant concerned.



3.05 A memorandum of appeal sent by post shall be deemed to have been presented to the concerned officer on the date on which it is received in the office of the concerned bench.

3.06 The Registrar or as the case may be, the officer so authorized for this purpose shall endorse on every appeal or memorandum of cross-objection or application the date on which it is presented or deemed to have been presented and shall sign the endorsement.

3.07 Every memorandum of appeal shall be written in English and set forth concisely and under distinct heads viz. Statement of Facts, Grounds of Appeals, Prayers & Verification. The memorandum of appeal shall be typed in double space on one side of foolscap paper and the same shall be duly pagged, indexed

and tagged firmly with each paper-book put in a separate folder. The grounds of appeals shall be numbered consecutively. However, the parties to a proceeding may file documents drawn up in Hindi, if they so desire with a free translation in English.

Form of appeals and cross objections:

3.08

A) Under the Central Excise (Appeals) Rules, 2001

i) An appeal under sub-section (1) of Section 35B of the Central Excise Act, 1944 shall be made in the prescribed form viz.E.A.3. **(Appendix-III)**;

ii) A memorandum of cross-objection to the Tribunal under sub-section 4 to Section 35(B) of the Central Excise Act, 1944 in the prescribed form viz.E.A.4 **(Appendix-IV)**;

iii) An application under sub-section (4) to Section 35E of the Central Excise Act, 1944 shall be made in the prescribed form viz.E.A.5 **(Appendix-V)**

3.09

B) Under the Customs (Appeals) Rules, 1982

i) An appeal under sub-section (1) of Section 129A of the Customs Act, 1962 to the Tribunal shall be made in the prescribed form viz.C.A.3 **(Appendix-VI)**;

ii) A cross-objection to the Tribunal under sub-section (4) to Section 129A shall be made in the prescribed form viz.C.A.4 **(Appendix-VII)**;

iii) An application under sub-section (4) to Section

129D of the Customs Act, 1962 shall be made in the prescribed form viz. C.A.5 (Annexure-VIII);

3.10 C) Under the Service Tax Rules, 1994

i) An appeal under sub-section (1) of Section 86 of the Finance Act, 1994 to the Tribunal shall be made in the prescribed form viz. ST.5 (Appendix-IX);

ii) An appeal under sub-section (2) of Section 86 of the Finance Act, 1994 to the Tribunal shall be made in the prescribed form viz. ST.7 (Appendix-X);

iii) An appeal under sub-section (2A) of Section 86 of the Finance Act, 1994 to the Tribunal shall be made in the prescribed form viz. ST.7 (Appendix-X);

iv) A memorandum of cross-objection to the Tribunal under sub-section (4) of Section 86 of the Finance Act, 1994 shall be made in the prescribed form viz. S.T.6 (Appendix-XI).

3.11 Where an appeal, cross-objection or miscellaneous application (not being an application for adjournment of hearing) is made by any person other than an officer of Customs/Central Excise/Service Tax, the memorandum of appeal, cross-objection or miscellaneous application, as the case may be, and also the form of verification in each case shall be signed as mentioned below:

(a) In the case of an individual by the individual himself or where the individual is absent from India, by the individual concerned or by some person duly authorized by him in this behalf; and where the individual is minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) In the case of a Hindu Undivided Family by the Karta and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) In the case of a company or local authority, by the authorized officer thereof, who should also fix the seal of the company;

(d) In the case of a partnership firm, by any partner (not being a minor) thereof, duly authorized by other partners;

(e) In the case of any other association, by any member or officer of the association duly authorized for the purpose; and

(f) In the case of any other person, by that person or some person authorized or otherwise competent to act on his behalf.

Accompaniments of Appeals/Applications and Cross-objections:

3.12 . (a) Appeal/Applications:

Every appeal/application should:

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|--|---|
| | <ul style="list-style-type: none">(i) be in four sets;(ii) include four copies of the order appealed against (at least one of which shall be a certified copy issued by the Department);(iii) include four copies of the order-in-original (at least one of which shall be a certified copy issued by the Department) unless covered by (ii) above;(iv) be accompanied by a demand draft, pay order or banker's cheque for the appropriate fee in favour of the Assistant Registrar, CESTAT. In an appeal/application filed by the Department, there is no such requirement;(v) be accompanied by an authorization if the Memorandum is signed by an authorized person;(vi) [where it is filed by the Department] be accompanied by the authorization or review order directing the proper officer to file the appeal/application; and |
|--|---|

	<p>(vii) Include four copies of Show Cause Notice, annexures thereto and reply thereto;</p> <p>(viii) [where the appellant has engaged an Advocate or a Consultant] include a vakalatnama or an authorization, as the case may be.</p> <p>(b) <u>Cross-objections:</u></p> <p>(i) Every cross-objection shall be filed in quadruplicate (in 4 sets).</p> <p>(ii) should be signed and verified in original.</p> <p><u>Procedure for filing of stay petitions/applications:</u></p> <p>3.13 The expression, “Stay petition” and “Stay Application” are used interchangeably. They are used for two kinds of applications. One is an application for waiver and stay of pre-deposit of duty, interest and penalty under the provisions of Section 35F of the Central Excise Act, 1944 and 129E of the Customs Act, 1962 and Section 35F as made applicable to the Finance Act by Section 83 of the Finance Act, 1994. The other is an application for stay of operation of the order appealed against by the Tribunal in exercise of its ancillary and incidental powers. Rule 28A of the CESTAT (Procedure) Rules, 1982 specifically applies to the former class of applications which are made under specific provisions of the respective Acts.</p>
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3.14

Both these kinds of applications are dealt with on similar lines. The requirements and the procedure for both kinds of applications are described below:

1. Every application for staying the operation of the order appealed against or for dispensing with the pre-deposit of duty, interest or penalty demanded shall be presented in quadruplicate along with prescribed fees in pursuance of the provisions of sub-section (7) of Section 35B of the Central Excise Act, 1944 by the applicant in person or by his authorized agent or sent by registered/speed post to the Registrar or any other officer authorized to receive appeals;

2. Every such application shall be neatly typed in double space on one side of the paper and shall be in English. However, documents drawn up in Hindi also may be filed if the parties so desire, but such documents shall be accompanied by free English translation thereof;

3. Any such application shall set forth concisely the following:

(a) the facts regarding demand of duty, interest or penalty (the deposit whereof is sought to be waived), the exact amount of duty, interest or penalty paid and the amount outstanding;

(b) the grounds for stay of operation of the order appealed against;

(c) the date of filing of the appeal before the

Tribunal;

(d) whether the application for stay was made before any authority under the relevant act or any Civil Court and if so, the result thereof (copies of the correspondence, if any, with such authorities to be attached);

(e) reasons in brief for seeking stay;

(f) whether the applicant is prepared to offer security and if so, in what form;

(g) the amount of fee paid and other particulars thereof;

(h) prayers to be mentioned clearly and concisely stating the exact amount sought to be waived.

4. The contents of the application shall be supported by a verification regarding the correctness by the applicant.

5. Any application which does not conform to the above requirements is liable to be summarily rejected.

Filing of applications for condonation of delay of appeals/applications and cross-objections:

3.15 Where an appeal or cross-objection is filed beyond the period of limitation prescribed under the relevant statutory provision, the appellant or the respondent, as the case may be, shall file a miscellaneous application (to be registered as 'COD' application) seeking condonation of the delay. Such an

application shall set forth the extent of delay in terms of number of days and also the reasons in detail for the delay. It shall also be accompanied by an affidavit sworn by the applicant verifying the correctness of the said reasons.

Filing of Miscellaneous Applications:

3.16 Either party to the appeal may file a miscellaneous application if it seeks any relief other than waiver and stay. No form has been prescribed for filing Miscellaneous Applications. However, broadly, the application should comprise of the facts of the appeal in brief, grounds for relief sought for, prayers & verification. Miscellaneous Application shall be typed in double space on one side of foolscap or A-4 size paper and submitted in quadruplicate. Every such application shall be signed and verified by the applicant. Necessary documents in support of the grounds taken in the Miscellaneous Application should be submitted along with the Miscellaneous application.

Period which appeals, applications and cross-objections are to be filed:

3.17 The officer concerned receiving appeals and cross-objections shall ensure that these have been filed within the period of limitation prescribed under the relevant Act.

1) Appeal:

An appeal should be filed within three months from the date on which the order sought to be appealed against is

communicated to the Commissioner or as the case may be, the other party preferring the appeal. In case of an appeal by the department against the order passed by the Commissioner in view of the authorization of the Committee of Chief Commissioners under the relevant provisions of the respective acts, it should be filed within one month of the date of receipt of such authorization by the Committee of Chief Commissioners.

2) Cross-objection:

On receipt of notice that an appeal has been preferred, the party against whom the appeal has been preferred may, notwithstanding that it may not have appealed against such order or any part thereof, file within 45 days of the receipt of the notice, a memorandum of cross-objection in the prescribed form in quadruplicate duly signed and verified in the prescribed manner against any part of the order appealed against.

CHAPTER-IV

REGISTRATION AND PREPARATION OF CASES

Registration:

4.01 The officer in charge of the Central Registry viz. the Assistant Registrar or Technical Officer, as the case may be, of zonal benches located at Delhi, Mumbai, Chennai, Kolkata, Bangaluru & Ahmedabad is authorized to receive appeal, stay petitions, miscellaneous applications and cross-objections from the public.

The officer to conduct scrutiny of the filed papers, detect defects (if any) therein and ascertain the issues involved in the case will normally be the Technical Officer and, in his absence, the Assistant Registrar. Intimation of defects, if any, will also be the function of the Technical Officer or, in his absence, the Assistant Registrar.

4.02 The Head Clerk is also competent to receive appeal etc. if at the time of the presentation of such appeal etc. the Assistant Registrar is absent from office.

4.03 The officer concerned after checking up the documents will make an endorsement on the top right-hand side corner briefly classifying the issue involved e.g. classification, valuation, refund, CENVAT etc. above the date of receipt whether received by hand or by post and mode of payment of requisite fees after affixing the official seal. He shall also mark as to whether

appeal pertains to Division Bench or Single Member Bench. He shall also mention as to whether the appeal is accompanied with any miscellaneous application including stay application. He shall indicate the defects, if any and issue an acknowledgement to the party (when received in person) in token of having received the appeal etc. with his full signature, and dated rubber stamp. The concerned officer shall enter relevant particulars of the appeal etc. in the diary maintained for the purpose and allot registration number. **(Appendix-XII)**. A defective appeal, application, cross objection has also to be numbered by the Technical Officer/Assistant Registrar and such number shall be indicated in the notice of intimation of defect to the appellant/applicant/respondent. This number is not to be the regular number of appeal/application/ cross-objection which will be assigned by the Technical Officer/Assistant Registrar after the defects are cured. Once the defects are cured, the appeal/application/cross-objection will be deemed to have been filed without defect on the original date of filing. Stamping number (borne on receipt given to appellant etc.) to be indicated by the appellant/applicant at the time of mention of the matter before bench at any stage prior to regular registration of the appeal.

4.04 After receiving the appeals from the receiving officer, the registration clerk shall note down the registration number on all the copies of the appeal memorandum. In case the

appeal is accompanied by any kind of miscellaneous application then he shall register such application and put the registration number on each copy of the miscellaneous application. He will then submit the appeals etc. together with the registration register to his superior who will check the appeals etc. with the register and submit them to the receiving officer who will put his initials in the respective register to ensure that all appeals etc. received on a particular date have been accounted for in the relevant register. Before putting his initials, he will cancel the court fees stamps affixed on the appeal/application/impugned order by punching out the figure-head so as to leave the amount designated on the stamp untouched and the part removed by punching shall be burnt or otherwise destroyed.

4.05 Numbering of appeals etc. will be made by the registration clerk as illustrated below:

<u>Subject</u>	<u>Appeal No.</u>
Customs	C/100/2000-Del
Excise	E/101/2010-Mum
Service Tax	ST/102/2010-Che
Anti-Dumping	AD/103/2010

4.06 Numbering of stay applications and other miscellaneous applications to be done in a manner as illustrated below:-

E/Stay/200/2010-Del

C/Cross/301/2010-Mum

ST/COD/402/2010-Bang

E/MA(EH)/503/2010-Che

C/MA(TRANSF)/11/2010-Del

ST/MA(EXTN)/101/2010-Kol

E/MA(MODFN)/201/2010-Ahd

4.07

In the event of transfer of appeal from one Zonal Bench to another, the appeal number given by the Registry of the Zone of filing shall be retained in the other Zone but with a suffix for identification as illustrated below:-

C/100/2010-Del when transferred to Mumbai to be shown as C/100/2010-Del/Mum, and when transferred to Bangalore to be shown as C/100/2010-Del/Bang.

4.08

Any transfer from one Zonal Bench to another should be under intimation to both sides.

CHAPTER-V

SCRUTINY OF APPEALS, CROSS- OBJECTIONS, MISC. APPLICATIONS ETC.

5.01 As soon as the files are received from the Head Clerk, the Clerk-2 of the Central Registry will initiate further action. The under-mentioned items should be checked as per check list:

S. No.	Particulars	
1(i)	In respect of appeals: 1) Whether the appeal is in the prescribed form and duly signed and verified by:	
	In the case of appeal/application preferred by:	Signed by
	(a) Individual	Himself
	(b) Individual (where he is absent from India)	Himself or by some person duly authorized by him in this behalf.
	(c) Individual (minor or mentally incapacitated)	His guardian or by any other person competent to act on his behalf.
	(d) Hindu Undivided Family	Karta. If the Karta is absent from India or is mentally incapacitated any other adult member of such family.
	(e) Company or Local Authority	Authorized Officer
	(f) Firm	Any partner not being a minor
	(g) Any other association	Any member of the association or the authorized officer
	(h) Any other person	Himself or some competent to act on his behalf.
2	Whether the particulars required in the form are properly and correctly filled in.	
3	Whether the memorandum of appeal is filed in quadruplicate.	

	4	Whether the appeal is within the period of limitation as laid down in statute. An additional note for the attention of the Bench should be provided in respect of appeals that are seemingly time-barred.
	5	Whether the order impugned in the appeal was passed by an officer who is now a Member of the Tribunal
	6	Whether at least one copy of the order appealed against is original copy or a copy certified by the concerned department
	7	Whether a court fee of Rs.5/- is affixed to the order impugned in appeal
	8	Whether a court fee of Rs.5/- is affixed on the first copy of the memorandum of appeal.
	9	Whether four copies of the order impugned in appeal are submitted along with the appeal
	10	Whether 4 copies of the order-in-original are submitted along with appeal where the order impugned in the appeal is the order of the Commissioner (Appeals)
	11	Whether at least one copy of the order-in-original is self-certified by the appellant
	12	Whether the appeal/application is accompanied by appropriate fees in the form of Demand Draft/Pay Order/Banker's cheque.
	13	Whether authorization is filed in case the appeal memo is signed by the authorized representative of the appellant
	14	Where any affidavit is filed whether it is in proper form and duly stamped
	15	Whether authorization from the Committee of Chief Commissioners or Committee of Commissioners in original has been submitted along with the appeal filed by the department
	16	Whether any application for condonation of delay in appeal is filed where the same is filed beyond the prescribed time limit of three months of the date of communication of the order impugned in appeal.
	17	Whether an application for waiver and stay of pre-deposit of duty or penalty has been filed where the appellant has not already paid the dues challenged in the appeal.
	18	Whether Vakalatnama has been executed, stamped and filed as per Hon'ble Delhi High Court's judgement dated 08.10.09 in WP(C) No.7651/2009 in the case of Deepak Khosla & Ors. Vs. Union of India.
	19	Where documents accompanying the appeal have been filed in Hindi whether Free English translation of the same is available.
	20	Where the memo of appeal filed by a company whose name has undergone a change after the passing of the impugned order is accompanied by documentary evidence of the change.

21	Where the appeal is neither accompanied by requisite pre-deposit nor by stay application, a note to that effect shall be placed by the Assistant Registrar before the bench.
(ii)	In case of stay applications:
1	Whether the stay application has been signed and verified by the proper person.
2	Whether the stay application is accompanied with the prescribed fees.
3	Whether it is filed as per the prescribed format
4	Whether it is filed in quadruplicate
5	Whether the application for stay and waiver of pre-deposit of duty, interest and penalty has been filed exactly for the amount of duty and penalty confirmed against the appellant and not paid by him
6	Where the appeal is not accompanied by the requisite pre-deposit in lieu thereof a stay application, a Show Cause Notice to be issued to the applicant as to why the appeal shall not be placed before the bench for its dismissal.
(iii)	In respect of cross-objections:
1	Whether it is filed in the prescribed format
2	Whether it is signed and verified by the cross-objector
3	Whether any specific relief has been claimed by the cross-objector against the order impugned in the appeal or any part of the order impugned in the appeal
4	Whether it is filed in quadruplicate
5	Whether it is filed within the prescribed period of 45 days of the date of receipt of the notice from the Tribunal
6	If not, whether any application for condonation of delay in filing of cross objection has been filed.
(iv)	In case of COD applications:
1	The correct number of days of delay to be checked
2	Whether affidavit has been filed along with the COD application and whether it is in the proper form duly notarised.

5.02 After the above scrutiny, the clerk concerned will record a note on the note-sheet detailing his observations about the defects, if any.

5.03 In case of defective appeal, the officer in charge of the Central Registry shall issue a Defect Memo **(Appendix-XIII)** requiring the appellant to rectify the defect

as enumerated in the Defect Memo within 21 days of the receipt of the Defect Memorandum by the noticee. In case, the appellant is not in a position to rectify the defect in the time prescribed by the Central Registry, he may request the officer in charge of the Central Registry for grant of additional time which may be granted by the officer concerned after satisfying himself about the reasons for seeking additional time. However, such time shall not exceed 15 days. In case of further non compliance, the matter shall be referred to the bench seeking appropriate orders in accordance with Rule 11 of the Procedure Rules.

Limitation – calculation of:

5.04 Under various Acts, the period of limitation has been prescribed within which the appeal/application/cross-objection etc. is to be filed. For computing the limitation period, the date of receipt of the impugned order or notice in case of cross-objection is to be excluded and the date of presentation of such appeal/cross objection etc. is to be included. If the last day for the presentation or filing of appeal/cross-objection/application is a holiday in the office where it is to be presented or filed, it may be presented or filed on the next working day and in that case it is to be treated as within time.

Miscellaneous Applications:

5.05 A Miscellaneous application may be filed either by the appellant or by respondent in respect of any appeal, stay application, cross-objection pending disposal or already decided

by the Tribunal.

5.06 Broadly, such miscellaneous applications are those requiring a judicial decision such as:

- (i) application for filing of additional documents, evidence etc.
- (ii) application seeking extension of time granted by the Tribunal for complying with the stay order;
- (iii) application seeking modification of stay order;
- (iv) application seeking out of turn hearing of appeal;
- (v) application for restoration of appeal;
- (vi) application for rectification of mistake of the order passed by the Tribunal;
- (vii) application for extension of stay order
- (viii) application seeking implementation of the Tribunal's order
- (ix) application for transfer of appeal from one bench to another or from one zonal bench to another zonal bench.
- (x) Application to bring on record legal

representatives, successor in interest

etc in accordance with Rule 22 of

the Procedure Rules

5.07 In case there is a change in name of the appellant after the passing of the impugned order against which appeal is preferred then appeal should be filed in the changed name along with proof of change in name.

CHAPTER-VI

INTIMATION TO THE RESPONDENT ABOUT FILING OF APPEAL

6.01 After scrutiny and registration, a copy of the memorandum of appeal will be sent to the respondent in the prescribed form (Appendix-XIV) within thirty (30) days of the registration, striking out the irrelevant portions of the form. A copy should be endorsed to the departmental representative also.

6.02 In case of a cross-objection filed against an appeal, the same will be forwarded to the appellant in the prescribed form (Appendix-XV) under intimation to the respondent. A copy should also be sent to the departmental representative.

Preparation of appeals, cross- objections etc.:

6.03 a) The Head Clerk in charge of the branch, or in his absence, the officer authorized by the Assistant Registrar, will receive the appeals and cross-objections etc. He will check whether the papers, documents etc. sent by the Central Registry are actually intended for his registry and count the number of copies etc. before signing the movement register, with his full name, signature, date and time. He will return the movement register the same day.

b) After he is satisfied that the papers are meant for his Bench registry, the Head Clerk will enter the details of appeals, cross-objections etc. in the respective registers. The Head Clerk

	<p>will maintain the following prescribed registers:</p> <ul style="list-style-type: none"> i) Register of Appeals; ii) Register of Cross-objections; iii) Register of Stay Petitions; iv) Register of Single Member cases; v) Register of showing receipts of directions form High Court/Supreme Court for submission of statements of cases; vi) Register showing receipt and pendency of finalized statements of cases; vii) Register showing cases referred/statement of cases sent to the High Court/Supreme Court; viii) Register showing receipt of judgements in cases referred to appeal files; ix) Register showing transfer of appeals etc.; x) Register of Miscellaneous Applications; xi) Register of Remand cases; xii) Register of Third Member cases; xiii) Register showing receipt of High Court's orders rejecting petitions for references; xiv) Register for blocked cases (<i>sine die</i> cases) xv) Register of copying fees; xvi) File Movement Register <p>c) He will then put up the receipts to the Assistant Registrar who will mark them to the dealing hands.</p> <p>d) The Head Clerk will arrange the appeal files</p>
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	<p>chronologically, date-wise and month-wise, and give them the Assistant Registrar for listing of stay applications. Before giving the files for listing, the Head Clerk will connect all appeals arising from the same impugned order. He will further check up whether any appeal has been filed by the opposite party and if so, he will connect that appeal also and give all the appeals to the Assistant Registrar. He should segregate all the defective appeals sent by the Central Registry in which defects have not been rectified by the appellants. All such defective appeals should be placed before the Assistant Registrar for issuance of Show Cause Notice in the prescribed form <u>(Appendix-XVI)</u> under Rule 11 of the CESTAT (Procedure) Rules, 1982.</p>
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CHAPTER-VII

BRINGING OF LEGAL REPRESENTATIVES ON RECORD OR CHANGE IN THE DESIGNATION OF APPELLANTS/RESPONDENTS

7.01 Rule 22 of the CESTAT (Procedure) Rules, 1982, provides for continuance of the proceedings before the Tribunal:

- (i) after the death of a party;
- (ii) where the party is adjudged as an insolvent;
- (iii) where a company is being wound up.

7.02 For this purpose, an application is to be made within a period of 60 days of the occurrence of the event, by or against the successor-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the appellant/applicant or respondent, as the case may be. Where the application is filed beyond the aforesaid period of limitation, it has to be accompanied by an application for condonation of delay, which will be registered as a COD application. The application under Rule 22 will be treated as a Miscellaneous Application and listed before the bench concerned for appropriate orders or directions. If the bench concerned allows the appellant/applicant to be brought on record, the registry shall:

- (i) make appropriate changes in the cause title of the memorandum of appeal and any pending application and also in the Institution Register.

(ii) Issue notice to the person allowed to be brought on record at the address given in the application and;

(iii) Send copies of orders to that person.

7.03

When such an application for bringing on record the successor in interest, the executor, administrator etc as per Rule 22 of Procedure Rules, is allowed by the Bench, the successor in interest, the executor etc. will be required to file an amended memo of appeal/cross objection, application as the case may be showing the change in cause title and further furnish all details in regard to the proceedings as laid down in the statutory form prescribed, in case the successor in interest etc. is the appellant. In cases where the department is the appellant/applicant etc. such amended memorandum of appeal/application/cross-objection shall be filed by the department. The same shall be done in the time frame given by the bench in this regard.

CHAPTER-VIII

TRANSFER OF APPEALS ETC.

8.01 Rule 4(2) of the CESTAT Procedure Rules, 1982, provides for transfer of an appeal or application from one bench to another by the President or, in his absence, by the seniormost Vice-President, or, in their absence, by the seniormost Member present, where two or more benches are functioning at any place. A transfer may be due to a direction of a bench before which the matter came up in the first instance. An administrative direction by the President prior to the case being taken up for hearing for transferring from one bench to another may be ordered. The Assistant Registrar in charge of the bench where such orders are passed, where the President is not a member, shall send the first folder of the file containing all original order-sheets to the Registrar under the cover of his letter. The second folder along with the office copy of his letter shall be retained by him. On receipt of such file, the Registrar or the Deputy Registrar (Judicial), shall put up the file to the President seeking orders. President after going through the records shall pass a reasoned order in his administrative capacity and after obtaining such orders from the President, the Registrar or Deputy Registrar (Judicial) return the said folder, along with the order of the President, to the concerned Assistant Registrar, who, in turn, shall arrange to make necessary entries in the respective registers and send both the folders to the concerned bench through the Central Registry,

which shall make a note in the register meant for that purpose before passing on the file to the concerned bench registry. The movement of the files should invariably be through a Movement register. Files would be handed over only after obtaining full signature and date of the officer who receives the file.

8.02 Similarly, an appellant or respondent may seek transfer of an appeal from one zonal bench to another zonal bench by way of filing an application seeking transfer of appeal. Such an application, in quadruplicate, along with the prescribed fees, shall be addressed to the President and should be submitted to the zonal registry concerned and the same, after its registration at the said registry, shall be sent to the Registrar or Deputy Registrar (Judicial) who shall place the same before the President for obtaining convenient date for posting before him for hearing in chamber. Once such a date is obtained, the Registrar or the Deputy Registrar (Judicial) shall issue a notice of hearing to both the parties with a copy endorsed to the departmental representative. The matter may be heard by the President in chamber and after recording the reasons in writing, he may pass an appropriate order. The decision of the President shall be conveyed to both the parties with a copy endorsed to the departmental representative as also to the concerned Assistant Registrar. In case transfer of appeal is allowed then the Assistant Registrar of the transferor bench shall arrange to make necessary entries in the respective registers and send the file to the Assistant Registrar of

the transferee bench under his covering letter. Copies of the covering letter and a certified copy of the order of the President shall be retained by the Assistant Registrar of the transferor bench for record and be filed in the correspondence file.

8.03 In the event of transfer of appeal from one Zonal Bench to another, the appeal number given by the Registry of the Zone of filing shall be retained in the other Zone but with a suffix for identification as illustrated below:-

Appeal No C/100/2010-Del, when transferred to Mumbai to be shown as C/100/2010-Del/Mum, and when transferred to Bangalore to be shown as C/100/2010/Del/Bang.

8.04 In case, after issue of notice of hearing, it is brought to the notice of the registry, either by the departmental representative or by the other party that the matter relates to another bench, the Assistant Registrar shall immediately obtain the orders of the President, Vice-President/seniormost Member, as the case may be, and proceed further in accordance with his orders.

CHAPTER-IX

FIXATION OF CASES FOR HEARING

9.01 While fixing cases for hearing, the Assistant Registrar shall keep in mind the orders of the President issued from time to time, whether of general nature or relating to specific cases. The general guiding principles are as enumerated below, unless otherwise directed by the bench concerned:

a) the appeals should be fixed according to the date of their registration;

b) appeals, where out of turn of hearing have been ordered by the bench, shall be fixed for hearing in accordance with the specific directions;

c) where the appeals arise out of a common order appealed against all such appeals shall be fixed for hearing together;

d) where a party as well as the department have filed appeals against the same impugned order, both the appeals should be fixed for hearing together;

e) where a cross-objection has been filed by the respondent, it should be listed along with the appeal;

f) appeals that have been remanded back by the Higher Courts should be fixed for hearing in accordance with the directions of the courts and on top of board;

g) appeals ordered to be re-listed should be fixed for hearing in accordance with the directions of the President;

	<p>h) part-heard matters should be listed before the same bench at the earliest possible dates and on top of board;</p> <p>i) appeals involving identical issues should be identified and fixed for hearing together;</p> <p>j) appeals that are ordered to be adjourned, sine-die, should be fixed for hearing on quarterly basis, for mention;</p> <p>k) appeals, filed and <i>prima facie</i> found not in conformity with the respective provisions of the Acts dealt with by the Tribunal should be fixed for hearing for maintainability;</p> <p>l) appeals in which pre-deposit is ordered should be fixed for hearing on the date fixed for reporting compliance as given by the bench in its stay order ;</p> <p>m) appeals filed against orders that have been passed by a present Member of the Tribunal functioning in some other capacity should not be fixed for hearing before a bench in which he is a Member;</p> <p>n) appeals filed against a common impugned order, some falling within the jurisdiction of Division Bench and others falling within the jurisdiction of Single Member Bench, should be fixed for hearing together before a Division Bench;</p> <p>o) appeals ripe for hearing should be fixed for hearing on every Tuesday and Wednesday.</p> <p>p) appeals that are ordered to be listed on out-of-turn basis or are time-bound as per remand orders of the High Court or Supreme Court should be fixed for hearing only on</p>
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	<p>Thursdays;</p> <p>q) all short matters should be fixed for hearing only on Mondays & Fridays unless otherwise directed by the bench for fixing the hearing on any other day;</p> <p>r) not more than 20 regular matters, counting connected appeals arising out of a common impugned order as one, should be fixed for hearing on any day fixed for hearing regular matters.</p> <p>s) appeals that are ordered to be listed for hearing on Top on Board should be fixed accordingly;</p> <p>t) where two appeals have been filed by an appellant against the same impugned order challenging the duty demanded and/or penalty imposed on him under two different Acts viz. Customs Act as well as Central Excise Act, then all such appeals should be fixed for hearing together. Where there are two different benches functioning for hearing excise and customs matters then such appeals should be posted for hearing before the bench hearing excise matters;</p> <p>u) appeals that are marked for admission should be fixed for hearing for admission invariably;</p> <p>v) a clear notice of hearing of appeals, of not less than 21 days, should be issued to both the parties;</p> <p>w) appeals filed by or against Public Sector Undertakings should be listed once in six months until clearance from the Committee on Disputes for pursuing the litigation before</p>
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the Tribunal is obtained.

Fixation of stay/miscellaneous applications for hearing:

9.02

a) stay / miscellaneous applications should be fixed for hearing on top priority basis, preferably within 1 month of their filing in the registry of the Tribunal;

b) stay applications arising out of the same impugned order should be fixed for hearing together;

c) early hearing applications, seeking early hearing of appeals along with the stay applications should be fixed for hearing together.

d) COD applications filed along with stay applications should be fixed for hearing together;

e) stay applications filed in appeals requiring admission should be fixed for hearing on the date fixed for admission;

f) a clear notice of hearing of 14 days should be given to both the parties;

g) miscellaneous applications and stay applications should be fixed for hearing in the order setout below:

a) Applications seeking extension of stay;

b) Applications seeking early hearing of appeals;

c) Applications seeking condonation of delay in appeals/cross-objections;

d) Applications seeking restoration of appeal;

e) Applications seeking any relief in

- relation to stay order;
- f) Applications for stay;
- g) Applications seeking implementation of orders passed by the Tribunal (Rule 41);
- h) Applications for rectification of mistake;
- i) Applications seeking any other relief not covered above.

Fixation of ROM applications for hearing:

9.03 An application for Rectification Of Mistake (ROM) lies only against the final order passed by the Tribunal in pursuance of the provisions of sub-section (1) of Section 35C, Central Excise Act and similar provisions under Customs Act as also Finance Act, 1994. and not against any interim orders passed by it. All such applications that are not filed against the final orders passed by the Tribunal should not be classified as Rectification of Mistakes applications. They are to be marked as Miscellaneous Applications (Others);

9.04 An application for rectification of mistake should ordinarily be listed for hearing before the same bench which passed the order against which the ROM is filed. In case the Members who passed the final order against which ROM is filed are sitting on different benches at the same place then the matter to be referred to the President for constituting their bench for hearing the ROM application. Such application should be posted for hearing on any day before the said specially constituted bench after ascertaining their convenience. In case of division bench

matter, if the same bench is not available but the Member who wrote the order in the appeal leading to ROM is a Member of any division bench at the same place, then the said application should be posted for hearing before the said division bench. If such a bench is not available and a division bench is available at the same place consisting also of a Member who was a party to the order against which ROM is filed, the matter shall be posted before such division bench. If such bench is not available, the matter shall be posted before the regular bench at that place.

9.05 Miscellaneous applications need to be filed appeal-wise, meaning thereby that a combined application is not maintainable. E.g. if a stay order has been passed in respect of a company and its two directors then all these three persons need to file separate extension applications though the stay order is common. Similarly, if a bench dismisses appeals for non-compliance of stay order or for non-rectification of defects by a common order then all appellants whose appeals have been dismissed should file separate restoration applications along with the prescribed fees though the order is common.

CHAPTER-X

PREPARATION AND ISSUE OF HEARING NOTICES

10.01

Under Rule 18 of the CESTAT (Procedure) Rules, 1982, the Tribunal has to notify to the parties the date and place of hearing of the appeal/application. Various forms have been prescribed for issuance of hearing notices of appeals/cross objections/applications etc. that should be used while issuing notices.

Preparation of notices:

10.02

In a notice of hearing, following information should invariably appear:

- i) Name & Address of the Appellant/Applicant/Respondent;
- ii) Full postal address as appearing in the column meant there-for in the prescribed form for filing appeal;
- iii) Appeal/Application No.;
- iv) Number and Date of the Order impugned in the appeal;
- v) Designation of the officer passing the order impugned in the appeal;
- vi) Date & Time of hearing;
- vii) Branch name to which the matter pertains;

viii) Court No. & Room No. where the hearing is scheduled to be held;

ix) Any specific directions of the bench to be incorporated in the notice of hearing;

x) Any relevant clause to be inserted in the notice of hearing such as “for admission” or “for compliance” or “for mention” or “remanded matter” or “mentioned matter”, “statement of case” etc.;

10.03 Assistant Registrar shall give a date of hearing in the matter after entering the same in the Court diary maintained by him. Sometimes dates of hearing are given by the benches. In both these situations, the bench clerk-1 shall prepare notices of hearing in appropriate forms (Appendices-XVII-XXIII) as per the dates given by the concerned Assistant Registrar or by the bench, as the case may be.

10.04 In case, the date is given by the bench with no notice to the parties then the bench clerk-I shall check as to whether a ‘No Notice’ form (Appendix-XXIV) has been duly filled in by the parties concerned. In case, ‘No Notice’ form is not available in the file then he shall immediately bring the same to the notice of the Head Clerk who shall either get the form filled in

from the parties or send the file to the Court Master with a request to record the next date of hearing on the order-sheet and obtain signatures of the concerned Members on the bench. He shall then put his initials with date in token of having been prepared by him. He will then place the said notice of hearing along with the case file to the Head Clerk in charge of the bench registry for checking.

10.05 The Head clerk shall check the notice of hearing with regard to all aspects mentioned in above sub-para and then put his initials, with date, in token of having checked the said notice of hearing. He shall then return the notices of hearing to the bench clerk-1.

10.06 The Bench Clerk-1 shall then give the outward number to the notices of hearing from the Outward Register maintained by him and send the same for taking out appropriate number of photocopies for service to the appellant/respondent/departmental representative/ advocate /consultant etc. After photocopying, the bench clerk-1 shall mark the copies of the notices of hearing and send to the Assistant Registrar concerned for signature.

10.07 Once he receives back the notices of hearing from the Assistant Registrar, duly signed, , he shall, after retaining the office copy , send the remaining copies along with Annexures thereto, viz. copy of the appeal/application/cross-objection/paper book/reply to appeal etc., to dispatch section for

dispatch along with the outward register maintained by him.

10.08 The Dispatch clerk shall put his initial with date in token of having received the notices of hearing from the concerned branch after comparing them with the entries made in the register and send back the register to the concerned branch registry immediately. He shall then segregate the copies of notices of hearing and send the copies meant for departmental representative through a peon book and obtain the dated signature of the person authorized to receive the notices of hearing on behalf of the departmental representative. As regards copies meant for the respondent Commissioners, he shall segregate the copies of notices of hearing Commissionerate-wise and send through Speed Post Parcel. All notices shall be sent through Speed Post without A.D.

10.09 The bench clerk-1 shall attach the office copy of the notice of hearing to the respective appeal file and handover the file to the peon posted in the branch to keep it in the racks after arranging them date-wise.

10.10 In case the notice of hearing is returned undelivered the Inward Clerk shall enter the same in the Inward Register and then send it to the Dispatch Section for keeping a remark of the returned notice of hearing in the postal slip maintained by that section. He shall then return the same to Inward Clerk who shall segregate the returned notices of hearing,

branch-wise, and send them to the concerned Head Clerk.

10.11 After receipt of such returned hearing notices, the Head Clerk shall put his initials, with date, on the top right side of the envelope as token of having received the same and then segregate the notices with reference to cases where the date of hearing is not yet over and where the date of hearing is already over.

10.12 He shall then handover the notices of hearing, returned undelivered, where date of hearing is not yet over to the bench clerk-1 who shall, with the help of the peon posted in the branch, place the same in the concerned file.

10.13 As regards notices of hearing returned undelivered where the date of hearing is already over, the Head Clerk shall handover the same to the bench clerk-2 who shall find out the next date of hearing, in case the matter has not been heard on the scheduled date, and shall place the same in the respective files with the help of the peon. Where the matters have been heard on the scheduled date, he shall link the said notices of hearing with the case file when received by him along with the orders passed by the Tribunal.

10.14 The Head Clerk shall ascertain the reason for return of notices of hearing and if the reason is attributable to any lacuna on the part of the bench registry, he should immediately bring the same to the notice of the concerned

Assistant Registrar for appropriate action. Similarly, if the reason is attributable to any lacuna on the part of the dispatch section, he shall bring the same to the notice of the officer in charge of the Dispatch Section.

10.15 Where a notice sent to the appellant is returned undelivered due to the address given being wrong, or because of changed in address without notice to the tribunal, it shall be taken that notice has been duly served. However, where the appeal/application is by the revenue and the address of the respondent/assessee has been given by the appellant Commissioner, but the notice is returned for want of correct address or due to change of address of the respondent/assessee, the notice of hearing shall be got served through the Commissioner concerned.

10.16 Where the report is received that the appellant or respondent has died and the notice sent to him is received back, orders of the bench should be obtained for proceeding further in the matter.

10.17 If a written communication, e.g. written arguments in lieu of personal attendance, is received in response to a notice of hearing, a copy of such submission shall be sent to the opposite party at the earliest.

CHAPTER-XI

APPLICATION FOR ADJOURNMENT OF HEARING:

11.01

Any application for adjournment to be made only in writing except as otherwise allowed by the Bench. Any application in writing, for adjournment of hearing in any appeal, shall be sent to the inward clerk at least two days in advance, provided that where it is faxed in emergency, it may be accepted up to 10.15 a.m. on the date of hearing. No request for adjournment will be accepted by e-mail. The following procedure is to be followed in respect of an adjournment application:

Any adjournment application in an appeal received by the Inward Clerk should be sent to the Assistant Registrar concerned, who in turn will mark it to the Head Clerk in the concerned branch for linking it with the file. It shall be obligatory for the Court Master to bring to the notice of the bench, on the date of hearing, as to the number of adjournments already availed by the appellant/applicant or his authorized representative. Court Master should also verify the records to ascertain whether any Vakalatnama/Letter of Authorization by the appellant/applicant is available on record and shall apprise the bench of this aspect also. This requirement will not be necessary for adjournment requests made by the department/departmental representative.

Adjournment requests in respect of cases listed for out of turn hearings:

11.02 In respect of adjournment requests received from the appellants/respondents and their representatives in matters that have been ordered to be listed on out-of-turn basis by the benches the procedure shall be followed will be as mentioned below.

11.03 Where the appeal (by whomsoever filed) is listed for out of turn hearing at the instance of the department, every effort should be made by the departmental representative to argue the matter without seeking adjournment of the hearing. If on an application for adjournment, the request for adjournment is rejected, the case will be taken up for hearing in its turn the same day. Adjournment may, however, be granted but the Bench may direct that the order for out of turn hearing be recalled. In case the out of turn hearing is granted at the instance of the party other than the department, same considerations for grant of adjournment shall apply.

CHAPTER-XII

PREPARATION OF CAUSE-LISTS, COURT HOURS AND HEARING OF CASES:

12.01 Cause Lists for the ensuing week should be prepared and the copies of the same should be displayed on the notice board and circulated to all concerned viz. the Members, Senior Personal Secretary (SPS) to Members, Departmental Representatives, Bar Association, Assistant Registrars, Court Master, Head Clerk and to the authorized publications, every Thursday by 4 p.m. The cause lists should also be e-mailed to the Hdqrs. at New Delhi for displaying on the official website of CESTAT.

12.02 A draft cause lists should be prepared/generated by the bench clerk-I every Monday for the ensuing week and handed over to peon posted in the branch who shall then take out the files and hand over the files to the Head Clerk in charge of the branch. In case any file is not traceable, he shall bring the said fact to the notice of the Head Clerk as also to the concerned Assistant Registrar immediately.

12.03 On receipt of such files, the Head Clerk shall verify the correctness of the files with regard to the name of the appellant/respondent, date of hearing, specific directions of the bench such as part-heard, top on board etc., connected matters arising out of the same impugned order, name of the advocate,

vakalatnama/authorization of the Advocate/Consultant on record, pagination & indexing of the files, flagging of documents, such as impugned order, appeal, stay order, show cause notice, reply to show cause notice, miscellaneous application etc., any correspondence such as returned notices, adjournment requests etc.

12.04 After satisfying himself, he can finalize the cause-list and send the same along with copies of the relevant pages of the court diaries maintained by the Court Master, to the concerned Assistant Registrar for comparing the same with his Court Diary.

12.05 The Assistant Registrar, after comparing the draft cause lists with his own court diary, as also with the diary maintained by the Court Master, put his initials, with date, as to the correctness of the cause list. In case of any deficiency or mistake, he shall bring the same to the notice of the concerned Head Clerk. Once such mistake is removed, the Head Clerk shall send the said draft cause list to the Court Master who would number the matters appearing in the cause list as per the prevailing instructions and send it back to the Head Clerk for preparing the final cause list for issue.

12.06 The Head Clerk shall then handover the draft cause list to the Bench clerk-1 who shall take out the final printout and hand it over to the Head Clerk who shall put his

initials, with date, as token of having prepared the same and send it to the Court Master for putting his initial, with date, as token of having checked the same.

12.07 The Court Master after putting his initials, with date, shall send the cause list to the concerned Assistant Registrar for signature.

12.08 After obtaining the signature of the concerned Assistant Registrar, the Head Clerk shall ask the peon to issue the cause list to all concerned.

12.09 No regular matter shall figure in the cause list of Mondays and Fridays as these dates are reserved for hearing short matters unless otherwise expressly directed by the benches.

12.10 Similarly, no short matter shall figure in the cause lists of Tuesdays, Wednesdays and Thursdays as these days are reserved to hearing regular matters, except applications for bringing additional evidence/grounds on record which should be heard along with appeal, and unless otherwise expressly directed by the benches. Other miscellaneous applications relating to the regular matter need to be appropriately posted on the same date and heard along with the appeal/application/cross-objection.

12.11 While numbering the matters appearing in the cause list, the prevailing instructions ordering chronology of various matters should be kept in mind as per Office Order

F. No. 37(1)/RJ/MISC/08 dated 15.10.2008 annexed to this manual as (Annexure-XXV)

12.12 In case any part-heard matter is appearing in the cause lists, the same should appear on the top of the list with a remark in the remarks column – ‘part-heard’. If the bench that has ordered the matter as part-heard is not available on the day on which it is posted for hearing, the same should be withdrawn from that day’s cause list after recording the reasons, and a fresh date should be given by the Assistant Registrar in consultation with the Members of the said bench.

12.13 Similarly, matters which have been directed to be listed on top on board, should figure top on board just below the part-heard matters. If more than one matter is ordered to be on top on board on a particular day the seniority of the matter should be taken into consideration, subject to any directions by the bench.

12.14 The name of the Advocate/Consultant who has filed the Vakalatnama/Letter of Authority should figure in the cause-list.

12.15 Similarly, remarks as to “Notice Served” or “Notice Returned” or “No Notice” etc. should appear in the cause list.

12.16 In case any matter posted for hearing on a day in the current week is adjourned to some other day in the same week the Court Master shall immediately send the file to the concerned

Assistant Registrar who shall take steps to issue a supplementary cause lists for the date to which the matter is adjourned.

12.17 As regards preparation of the cause lists for pronouncement of orders, the same shall be prepared by the bench registry on the basis of the date given for pronouncement of order by the bench or on the basis of such further date for pronouncement of orders given by the bench.

12.18 If for some reason, the order is not ready for pronouncement on the date fixed of pronouncement even then the case cause list for pronouncement of order should be issued and the bench shall give the next date of pronouncement of the order, which shall be recorded by the Court Master.

12.19 It will be the duty of the Court Master to verify that the person who is representing the non-government side has been authorized to represent the matter. If he is not an authorized person, as per rules, to appear before the bench, the Court-master should bring the said fact to the notice of the bench before the hearing commences.

Hearing of the cases fixed on the board:

12.20 Mention of any matter will be allowed only at the commencement of the proceedings of the bench in the morning and in the afternoon.

12.21 An appellant/respondent can mention a matter orally, for any reason including adjournment, if the said

matter is posted for hearing on that day's cause list

12.22 However, in case a person wishes to mention a matter which is not posted for hearing that day, he will have to fill up a declaration meant for mention in form **(Appendix-XXVI)**. Such a declaration should be submitted to the concerned Assistant Registrar, who will verify the correctness of the information filled in and as to whether the appeal/application sought to be mentioned is free from defects and also ascertain the probable date of hearing. He shall then put his dated signature on the said declaration.

12.23 On receipt of the form, duly checked, from the concerned Assistant Registrar, the party shall serve a copy of the declaration to the opposite party and obtain a dated acknowledgement.

12.24 A matter can be mentioned only after the expiry of 3 working days from the date of filing of an appeal/application. Further, no matter can be mentioned unless a registration number has been allotted by the Central Registry.

12.25 No case coming within the jurisdiction of a Division Bench (DB) can be mentioned before a Single Member Bench (SMB). No SMB case can be mentioned before a Division Bench, if a single member bench is functioning at that place.

12.26 The Court-master shall obtain, before 10.15 a.m. every Monday, the item-wise list of departmental representatives who will be appearing that week. The prescribed format is at **(Appendix-XXVII)**.

12.27 Where, at any stage of hearing, any advocate, consultant or departmental representative wants to rely on any notification, circular, statutory provision or case-law or any other material having the force of law before any bench, he shall file with the court-master concerned a list giving the details of the notification, circular etc and the citations of the case laws he proposes to rely upon. It is desirable that a compilation of such materials, with proper index, is furnished to the Bench at the time of hearing, with a copy to the other side.

12.28 In accordance with the sequence set out in the cause list, the matters shall be called out for hearing unless otherwise directed by the bench.

12.29 In case any party is not present when called, the said matter will be passed over and the next matter, in seriatim, will be called out, subject to any change in this regard as per the directions of the bench.

12.30 Where the appellant or the respondent, as the case may be, waives personal hearing requesting the Tribunal to decide the case on the basis of the written submissions made in

the appeal or application, the same should be brought to the notice of the presiding Member of the bench by the Court-master.

12.31 The Court-master shall keep a brief record of each listed matter in his copy of the cause list as to the outcome of each matter. e.g. allowed, dismissed, stay granted, adjourned, not reached, time over, adjournment request, next date of hearing, etc. At the end of the day, he shall send a photocopy of the said cause list ("after-court cause-list") to the concerned Assistant Registrar as also to the Head Clerk of the concerned branch for information and appropriate action.

12.32 The Court Master shall submit the case file containing the appeal/application for recording of orders by the Member indicated by the Presiding Member.

12.33 In case any matter is reserved by the bench directing the parties or any one party to submit written submissions by a specific date then the Court Master shall specifically keep a remark to that effect in the copy of the cause list available with him. In such a situation, the concerned Assistant Registrar shall instruct the Inward Clerk not to accept any such written submission and that the same may be directly sent either to the SPS/PA of the Presiding Member of the bench that heard the matter, and, in his absence, to the SPS/PA of the other Member of the bench. In case, the SPS/PA of both the Members are not available then the Court Master shall receive the

written submissions and later hand them over to the concerned Member through his SPS/PA.

12.34 The Court Master shall maintain a folder of after court cause lists, date-wise, and submit the same to the Archives Section in the first week of the ensuing month for record purposes. In case the regular Court Master is not available on any day, the person officiating as Court Master should keep the copy of the after court cause list in the folder maintained by the Court Master.

12.35 At the end of the month, the Court Master shall arrive at the disposal figures of appeals and applications on the basis of daily summary recorded by him on his copy of the after court cause-list. He shall submit the disposal figures before 5th day of the next month to the concerned SPS/PA of the Members to enable them to prepare Member-wise monthly disposal report for onward submission to the President.

12.36 In the case of a touring Member, the Court Master shall, immediately on the last working day of the tour, determine the disposal figures in respect of the touring Member and forward the same to the concerned SPS/PA attached to the touring Member.

Court Hours of the Tribunal:

12.37 The Zonal Benches at New Delhi, Mumbai, Chennai, Bangalore and Ahmedabad shall sit from 10:30 AM to

1:30 PM and from 2:15 PM to 4:45 PM.

12.38 The Zonal Bench at Kolkatta will sit from 10 :15 am to 1:15 PM and from 2 PM to 4:30 PM.

Production of additional evidence:

12.39 Rule 23 of the CESTAT (Procedure) Rules provides that the parties to the appeal shall not be entitled to produce any additional evidence either oral or documentary before the Tribunal. However, the Tribunal may, for reasons to be recorded in writing, allow such documents to be produced or witnesses to be examined or affidavits to be filed or such evidence to be adduced. The Tribunal may, however, require production of any documents or examination of any witness or filing of any affidavits if it is of the opinion that it is necessary to enable it to pass orders or for any sufficient cause.

12.40 Where any direction has been made by the Tribunal, the parties shall comply with the directions of the Tribunal and after such compliance send the documents, the record of the deposition of the witnesses or record of the evidence, as the case may be, to the Tribunal.

CHAPTER-XIII

DISPOSAL OF APPEALS, CROSS-OBJECTIONS, STAY APPLICATIONS AND MISCELLANEOUS APPLICATIONS AND DISPATCH OF ORDERS TO THE PARTIES:

13.01 After the sitting of the bench is over all files/folders, except the main folder on which orders are yet to be recorded by the bench, should be collected by the Court Master from the Presiding Member or the other Member of the bench and placed together. He shall then segregate cases that have been adjourned after hearing in part or without hearing. He shall check whether the order-sheets are signed by all the Members and if so, he shall handover the files to the Assistant Registrar on the same day after making a note of further dates in his own court diary. He shall then obtain the orders of the bench on all the main folders of the files on which the orders are yet to be recorded by the bench.

13.02 All such files in which orders are to be dictated or were dictated in the open court but have to be typed shall be handed over to the SPS/PA of the concerned Member (a Presiding Member of the bench or the other Member if the file is marked by the Presiding Member to the other Member) on obtaining his signature in a note book.

13.03 After taking down the dictation, the SPS/PA of the Member shall type a draft order and take a printout on white paper and send the same, along with the main folder of the file, to the Member who dictated the order. After making necessary

corrections, if any, he shall take a final print out on the green sheet and send it to the Member for his dated signature.

13.04 On receipt of the order from the said Member duly signed, he shall send the order, along with the main folder, to the SPS/PA of the other Member (applicable only in respect of division bench matters).

13.05 On receipt of such orders, the SPS/PA shall obtain the dated signature of the concerned Member and send the green-sheet order along with the first folder of the file back to the SPS/PA from whom he had received the same under a movement register meant for the purpose.

13.06 On receipt of the green-sheet order along with the main folder, the concerned SPS/PA shall attach the duplicate folders to the main folder keeping the original green-sheet order copy in the main folder and send it to the concerned Assistant Registrar through a movement register and obtain his dated signature in token of having received the orders along with the files.

13.07 The concerned Assistant Registrar will then record the decision in the court diary or in the after court cause list as also the date of receipt of the order from the SPS/PA and then send the said files to the concerned Head Clerk for preparation of preamble to the orders.

	<p>13.08 In the case of orders disposing of appeals finally; the preamble of the order shall comprise of the following:</p> <table border="1" data-bbox="491 394 1157 745"> <tr> <td data-bbox="491 394 560 499">1</td><td data-bbox="560 394 1157 499">Whether Press Reporters may be allowed to see the orders for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?</td></tr> <tr> <td data-bbox="491 499 560 604">2</td><td data-bbox="560 499 1157 604">Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?</td></tr> <tr> <td data-bbox="491 604 560 674">3</td><td data-bbox="560 604 1157 674">Whether their Lordships wish to see the fair copy of the order</td></tr> <tr> <td data-bbox="491 674 560 745">4</td><td data-bbox="560 674 1157 745">Whether order is to be circulated to the departmental authorities.</td></tr> </table>	1	Whether Press Reporters may be allowed to see the orders for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	3	Whether their Lordships wish to see the fair copy of the order	4	Whether order is to be circulated to the departmental authorities.
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3	Whether their Lordships wish to see the fair copy of the order								
4	Whether order is to be circulated to the departmental authorities.								
	<p>13.09 In case the order runs into more than one page then on the right side bottom of every page the appeal number and date of hearing should be mentioned. If the appeal no. is C/100/10-Mum and the date of hearing is 08.10.2010, the following should appear, in font size 8, on each page,</p> <p style="text-align: center;"><u>C/100/2010-08.10.10</u></p> <p>13.10 In case a common order is passed in respect of a number of stay applications/appeals arising out of different orders impugned in different appeals, then the details, such as appeal nos., name of the appellant/respondent etc., should appear in the following manner:</p> <p style="text-align: center;">Stay Application No.C/Stay-100/10-Mum in Appeal No.C/90/10-Mum</p> <p style="text-align: center;">M/s. Murali Industries Limited</p> <p style="text-align: center;">Vs.</p> <p style="text-align: center;">CCE, Thane-I</p>								

	<p>(arising out of Order-In-Original No.VKS/350/Th.I/2009 dated 10.10.09 passed by CCE, Thane-I).</p> <p>Stay Application No.C/Stay-899/09-Mum in Appeal No.C/785/09-Mum</p> <p>M/s. Kalpataru Industries Limited</p> <p>Vs.</p> <p>CCE, Thane-II</p> <p>(arising out of Order-In-Original No.RKS/180//Th.II/2009 dated 04.05.09 passed by CCE, Thane-II)</p> <p>13.11 In short, where a group of stay applications/appeals are decided by a common order then name of each appellant, respondent and the number, date of the order impugned in the appeal and the authority which passed the order, should appear separately after the number of the stay application/appeal.</p> <p>13.12 Normally, the date of hearing is the date of the order/decision. However, such dates differ when the order is reserved to be pronounced at a later date. In such cases, the date of hearing should be typed but the date of decision should be kept blank in the preamble portion of the order. When the order is pronounced in the open court, the Member pronouncing the order shall write the date of decision against the column meant for it in the preamble of the order and also on the last page of the order viz. "Order pronounced on _____".</p>
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13.13 Such orders need to be issued as early as possible. Therefore, all such files in which the orders are pronounced on a particular date should be sent to the concerned Assistant Registrar by the SPS/PA of the Member who has the file with him, to enable the Assistant Registrar to issue the same positively within five working days.

13.14 The Member who has dictated the order shall put his initial on every page of the green-sheet order in token of having seen it and checked it.

13.15 In case the orders are directed to be issued 'dasti' then such orders shall be sent by the concerned SPS/PA immediately to the concerned Assistant Registrar to enable him to issue the same on the same day.

Action by the registry in cases where dissenting orders are recorded by a two-Member bench:

13.16 Where the orders are not unanimous, the point or the points of difference will be formulated by the Presiding Member and shall be signed by both the Members of the bench.

13.17 Such dissenting order shall be pronounced in the open court after following the procedure prescribed for pronouncement of orders. After issue of the dissenting order, the Assistant Registrar shall refer the matter to the President through the Registrar or the Deputy Registrar (Judicial) for nominating a

Third Member to resolve the difference. He shall forward a certified copy of the dissenting order for the perusal of the President.

13.18 On receipt of nomination from the President, the concerned Assistant Registrar shall place the file before the nominated Third Member seeking a convenient date for fixing the matter for hearing. He will, thereafter, issue a notice of hearing to the parties concerned, in the prescribed form.

13.19 After recording the order by the nominated Third Member, the file shall be sent by his SPS/PA to the Sr. Member of the bench whose Members had differed. Upon receiving the opinion expressed by the Third Member, the original bench shall record a majority order. If necessary, they may hear the parties again. The SPS/PA shall follow the same procedure as enumerated in the preceding paragraphs with regard to handing over of files.

Preparation of preamble/covering letter to the order:

13.20 After receiving an order from the Assistant Registrar, the Bench Clerk-2 shall number the order. While numbering the order, he shall verify as to whether the order is passed in respect of miscellaneous application, stay application or appeal. For each case the numbering shall be different.

13.21 Numbering of a Stay order shall be as follows:

S/____(running serial no. of stay order from the stay order register)/year/court no./branch name.

e.g. S/450/2010/CSTB or S/497/2010/SMB

Numbering of a miscellaneous order shall be as follows:

e.g. M/371/2010/EB or M/415/2010/SMB

Numbering of a final order (appeal order) shall be as follows:

e.g. A/255/2010/EB or A/398/2010/SMB

13.22

In a case where all three, viz. miscellaneous application, stay application and appeal, are decided by a common order then all three numbers shall appear on the preamble or covering letter of the order (**Appendix-XXVIII**)

13.23

The preamble shall include the number assigned to the application and/or appeal, names of the appellant and respondent, name of the Advocate/consultant, name and designation of the Departmental Representative, order number, date of hearing, date of decision, the name of the authority which passed the impugned order viz. Commissioner (Appeals)/Commissioner (Adjudication) etc., and the names of all publications who have subscribed for certified copies of orders.

13.24

After preparation of the preamble, the Bench clerk shall put his initials in token of having prepared the preamble. He shall then place the said order before the Head

Clerk along with the file, who after satisfying himself about the correctness of the contents appearing in the preamble, shall put his initials in token of having checked the preamble. He shall then send the preamble for signature.

13.25 The concerned Assistant Registrar shall verify the particulars as appearing in the preamble and put his full signature with date and send it back to the Head Clerk. The Bench Clerk shall then enter the said order in the dispatch register meant for the same and after putting the dispatch number. he shall send the orders for photocopying.

13.26 On receipt of photocopies, the peon posted in the branch shall affix the office seal on every page of the copies of the order. He shall also affix a rubber stamp for endorsing the copies as certified copies. He will then send the said copies of the orders to the Assistant Registrar for certification. The concerned Assistant Registrar shall then certify all copies of the orders after counting them.

13.27 On receipt of the certified copies, the Bench clerk-2 shall send those copies to the dispatch section with the dispatch register meant for orders, after retaining the office copy as also master copy of the order.

13.28 The dispatch clerk shall count the number of copies of each order and then put his dated signature on the

register having received the same and return the register to the concerned bench registry. He shall send the copies meant for the office of the departmental representative through peon book and obtain dated signature of the authorized person of that office.

13.29 The bench clerk-2 shall place the office copies of the orders in the files and then segregate the files as “pending” or “disposed”. He will then bundle the two categories of files in cloths of different colours (for ease of identification) with the help of the peon posted in the branch and send the same to the record room for record purposes.

13.30 Before bundling the files, he shall make an entry of each and every file in the register maintained by him in the prescribed form for sending the records to the record room. This register has two parts – first part is for pending files and the second part is for disposed files. The bench clerk-2 shall enter all pending files, bundle-wise, in the first part of the register and all disposed files, bundle-wise, in the second part of the register and put his initials in token of having personally checked the bundled files.

13.31 He shall then give bundle number. to each bundle and mention that bundle number. in the register on the top of the page on which he has entered the details of the pending or disposed files. He shall then take a photocopy of the relevant page of the register and attach the said page on the first file of the

bundle. He shall then write on the bundle – “pending” or “disposed” to enable the record clerk to identify whether the bundle pertains to pending file or disposed file. He shall also mention the branch name on the bundle viz. Excise Branch (EB), Customs & Service Tax Branch (CSTB) & Single Member Branch (SMB). The bundles will be sent to the record room on a fortnightly basis.

13.32 Where a group of appeals, stay applications, extension applications are decided by a common order then a copy of the said order is to be kept in every such file. If, out of a group of appeals, certain appeals are dismissed for non-compliance of the stay order and certain appeals are complied with, the files should be segregated as ‘pending’ and ‘disposed’ and a copy of the order shall be kept in every such file.

Recording of pending/dispensed cases:

On receipt of the bundles from the bench registry, the record clerk shall open the bundles and check whether all files, as mentioned in the list attached to the first file of each bundle, are physically available in the bundle, or not. If all files are available he shall put his initials on the said list and return the said list to the concerned bench registry for record. He shall then check whether the file is correctly sent to the record room. He shall further confirm the status of the file viz. ‘pending’ or ‘disposed’.

13.34 In the case of group matter, he shall further

check whether all the files (including duplicate folders) that have been decided by a common order have been received or not. In case of any discrepancy, he shall bring the same to the notice of the concerned Assistant Registrar. He shall then segregate the files, year-wise, for keeping in appropriate bundles.

13.35 However, if matters pertaining to different years have been decided by a common order, the record clerk shall keep all files in the bundle in which the main file has to be kept. E.g. if a matter pertaining to the year 2003 has been decided along with other matters pertaining to years 2004, 2005, 2006 etc. then all files shall be kept together in the appropriate bundle pertaining to the year 2003. However, the record clerk shall make entries for every file at the appropriate place in the appropriate register. He shall then enter each and every file in the Pending Register or Disposal Register, as the case may be, and put his initials against each entry in the register. In case of disposed file, he shall mention on the left top side of the file cover, the final order number as well as the bundle number in which the file is being kept in the record room.

13.36 In case of a pending file, he shall go through the order sheet as to whether any directions have been given by the bench for tagging any other file(s) . He shall see whether any cross-objection or reply to appeal that has been filed is pending for linking with him for want of a file. In that case, he shall link

the same to the files immediately. He shall then keep the files in appropriate bundles.

Procedure for calling for the files by bench registry from record room:

13.37 All Head Clerks/UDC's in charge of branches should send requisition slip in form **(Appendix-XXIX)** to the Record Room whenever any pending/disposed file is required for whatever purpose. The purpose for which the file is requisitioned needs to be mentioned in the relevant register by the record clerk.

13.38 Similarly, the miscellaneous applications received by the branches should be first broadly categorized in two categories viz.

- 1) PENDING
- 2) DISPOSED

13.39 The requisition slip should be prepared in duplicate and shall be signed by the Head Clerk in charge of the branch, and in their absence, by their next subordinate. Before preparing requisition slips, the Head Clerk must satisfy himself that the file that is requisitioned is not available in the bench registry. In short, requisition slips should be sent in respect of those files only that are not available in the bench registry. These slips shall be sent to the record clerk. The record clerk will then take out the files requisitioned.

	<p>13.40 The record clerk shall make entries for every file that has been taken out for sending to the branches specifically mentioning the reason/purpose as mentioned by the Head Clerks in the requisition slips. He shall then mention the date on which the files have been sent from the record room.</p> <p>13.41 He shall put his initial in the pending/disposal register against every entry. He shall then bundle the files and send them to the appropriate branch along with the requisition slips. In case any file is not available in the record room, remark to that effect shall be mentioned on the requisition slip and such requisition slips should be immediately handed over to the concerned Assistant Registrar in charge of the branch for further action.</p> <p>13.42 On receipt of the bundles, the Head Clerk shall verify whether all files requisitioned for have been received, and upon verification, he shall sign on each of the requisition slips in token of having received the file and send the slips back to the record clerk for filing.</p> <p>13.43 The concerned Assistant Registrar shall take steps to locate the files in respect of which the requisition slips are returned by the record clerk with the remark – <i>“File is not available”</i>.</p>
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Procedure for destruction of record:

13.44 Since, in view of the provisions of the Right to Information Act, 2005, information, in respect of any file, can be sought by an applicant, no original record shall be destroyed until expiry of the period prescribed under the said Act or under the Office Procedure Manual (OPM), whichever is later.

13.45 However, the second folders of the disposed files shall be mutilated, shredded, destroyed after completion of one year of passing of the final order by the Tribunal.

13.46 The record clerk shall destroy the second folders of the appeal files in the presence of the concerned Assistant Registrar. He shall make an entry in respect of every file in respect of which second folder has been destroyed/weeded out, specifically mentioning the date on which it has been destroyed.. He shall then put his initials against each such entry. Such mutilated, shredded and destroyed files may be sold as scrap This exercise shall be carried out at regular intervals.

CHAPTER-XIV

PROCEDURE FOR REPORTING COMPLIANCE:

14.01 The date of reporting compliance shall be fixed four weeks after the expiry of the period within which the amount is required to be deposited in terms of the order passed in the stay application, or as directed by the bench. E.g. If an amount is ordered to be deposited within 4 weeks from the date of the order viz. 01.10.10, then the compliance shall be made on or before 29.10.10 and the compliance date would be 26.11.10.

14.02 On deposit of the amount pursuant to the order passed in stay application, and in any case within eight days after the expiry of the period fixed for depositing such amount, the Registrar or the seniormost executive officer of the zonal bench, shall fix a date for hearing before him and shall verify as to whether the order in stay application has been complied with or not. Such hearing shall be in the presence of the representative of the appellant and the department.

14.03 On verification, as above, the Registrar or the seniormost executive officer of the zonal bench shall submit a report to the court and the same shall be placed before the court on the date for reporting compliance.

CHAPTER-XV

PROCEDURE FOR DELIVERY AND/OR PRONOUNCEMENT OF ORDERS INCLUDING ORDERS RESERVED BY THE TRIBUNAL.

15.01 Every bench of the Tribunal shall normally deliver and pronounce the order immediately on conclusion of arguments in every matter. If for any reason, the order is reserved, the same should be delivered and pronounced within eight weeks from the date of conclusion of the hearing of the arguments, and for that purpose the bench shall fix the date for pronouncement of order while reserving the order .

15.02 If, for whatever reason, the bench is unable to deliver or pronounce the order on the day so fixed for pronouncement the same shall be delivered and pronounced within eight weeks therefrom, provided, however, that the date for such pronouncement shall be fixed by taking up the matter on board on the day it was earlier fixed for pronouncement of the order.

15.03 If no order is delivered and pronounced within four months from the day of conclusion of the arguments in a matter, such order shall be delivered and pronounced within the next two months, subject, however, to taking prior consent, in writing, from the President of the Tribunal, by placing before him the reasons for such delay.

	<p>15.04 After the expiry of period of six months without the order being delivered and pronounced from the date of conclusion of arguments in a matter, such matter shall be deemed to have been “not heard” and will have to be listed for fresh hearing after obtaining prior orders in writing in that regard from the President.</p> <p>15.05 The above stated procedure shall apply mutatis mutandis to even those cases where the gist of the decision is pronounced on conclusion of the hearing of the arguments and reserving the detailed order to be passed at a later date.</p> <p>15.06 The above stated procedure shall apply to all division benches as well as single member benches of the Tribunal.</p> <p>15.07 Non-compliance of the above stated procedure shall be brought to the notice of the President by Registrar/Deputy Registrar/Assistant Registrar, whoever is in charge of the registry in the concerned bench of the Tribunal, and any failure in that regard would be treated as serious misconduct.</p>
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CHAPTER-XVI

PROCEDURE FOR TAKING INSPECTION OF RECORDS AND FOR OBTAINING COPIES THEREOF BY PARTIES TO THE PROCEEDINGS.

16.01 A party to any proceedings before CESTAT, as well as any other person who is not a party to such proceedings, he shall be entitled to inspect and obtain copies of the pleadings, annexures thereto, other documents and/or records of the proceedings on an application being made in that regard to the authority appointed for that purpose by the President.

16.02 Such inspection by a party shall be on payment of the prescribed fees and/or charges as the case may be. The inspection fees for such person shall be Rs.30/- (Rupees Thirty Only).

16.03 In case of parties to any proceedings, the charges for copying shall be Rs.3/- (Rs. Three Only) for every page or any part thereof and in case of any other person it shall be Rs.5/- (Rs. Five Only) per page or any part thereof.

16.04 The inspection shall be done in the presence of a CESTAT employee and shall be between 12.00 noon to 1.00 p.m. and from 3.00 p.m. to 4.00 p.m. from Monday to Thursday. There shall be no inspection granted on Friday, Saturday and Sunday as well as on any holiday or non-working day.

	<p>16.05 In case where an order is reserved and on that count the file is sent to the chamber of the concerned Member (including the President and/or Vice President) then the inspection of such file and/or grant of copies there-from shall be allowed only upon the written consent for the same by the President/Vice President or the concerned Member, as the case may be.</p> <p>16.06 In the case of failure to allow the inspection within four days from the date of application for the same and in case of failure to give copies within ten days from the date of application for the same, the matter shall be placed before the President or before the authority appointed for that purpose by the President.</p> <p>16.07 The authority for the purpose of entertaining and allowing applications for inspection as well as grant of copies shall be the concerned Assistant Registrar in charge of the records relating to a particular branch and in relation to any other file or record, it shall be Deputy Registrar or the Assistant Registrar in charge of the section to which the concerned file or record belongs to at the respective bench of CESTAT.</p> <p>16.08 Inspection of records covers both judicial as well as non-judicial records and files of CESTAT.</p>
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CHAPTER-XVII

VAKALATNAMAS NOT TO BE TAKEN ON RECORD IF NOT PROPERLY EXECUTED.

17.01 The registry shall not accept a vakalanama/authorization that is not properly executed and stamped. Following defects, to be treated as deficiency in execution of vakalatnama/authorization and are to be returned:

a) Failure to mention the name of the person executing the vakalatnama;

b) Failure to disclose the name, designation or authority of the person executing the vakalatnama on behalf of the company, society, body, by either affixing the seal or by mentioning the name and designation below the signature in the vakalatnama;

c) Failure to sign vakalatnama by the pleader;

d) Failure to identify the person executing the vakalatnama by the pleader;

e) Failure to mention the address of the pleader on vakalatnama for the purpose of service;

f) Failure to mention the fact that vakalatnama is executed for someone for self and on behalf of someone else;

g) Non-disclosure of fact that vakalatnama is executed by the holder of the power-of-attorney and failure to enclose the copy of such power-of-attorney;

	<p>h) Failure to put the signatures in serialim without their serial numbers,</p> <p>Where the vakalatnama is signed by several persons;</p> <p>i) Pleaders engaged by a client, in turn, executing vakalatnama in favour of other pleaders for appearing in the same matter or for filing an appeal or revision in certain circumstances;</p> <p>j) When vakalatnama is not executed by the principal himself but by some other persons, vakalatnama shall not be accepted without proof that such person was duly authorized by the principal to execute such appointment;</p> <p>k) Failure to affix court fee stamp of Rs.10/- on the vakalatnama/authorization.</p> <p>Where an advocate on record would like to have his client represented in the Tribunal by a senior advocate designated as such by the Supreme Court or any High Court then he shall be required to file a "Memo of Appearance" for the Senior Advocate with the court-master in the prescribed form</p> <p><u>(Appendix-XXX)</u></p> <p>Where a vakalatnama is accepted by an Advocate in his individual capacity and he/she would like to depute his junior associate (not being any partner)</p>
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for representing his client at any stage of proceedings in court, the name of the junior should also figure in the vakalatnama.

17.02 Where a vakalatnama is executed on behalf of a company/corporation, it must be signed by its authorized signatory who must also mention his/her name in full on the document.

17.03 Where a vakalatnama is filed on behalf of a partnership firm of advocates, it is not enough if only the name of the firm is mentioned; the name of the advocate (partner) who accepts the vakalatnama for the firm and signs it must also be given in full. If any other partner of the firm wants to appear in the case at any stage of the court proceedings, his/her name also must appear on the vakalatnama.

CHAPTER-XVIII

PROCEDURE IN RESPECT OF REFERENCE FOR CONSTITUTION OF A LARGER BENCH:

18.01 Where any bench, by an order, has directed the Registry to place the records before the President for constitution of a Larger Bench for any reason, the Registry shall follow the procedure laid down here-in-below:

18.02 Upon receiving such order, the bench registry shall, after issue of the order to all concerned, place it before the President, as early as possible. In order to avoid misplacement of the original files, while seeking orders for constitution of the Larger Bench, the original file of the case need not be forwarded.

18.03 Upon receiving such a reference, the Registrar or the Deputy Registrar (Judicial) shall place the matter before the President who, on perusing the order may constitute a Larger Bench. In such a case, the Registrar or the Deputy Registrar (Judicial) shall inform the registry, which referred the matter for constitution of a Larger Bench, about the constitution of the bench as ordered by the President in writing.

18.04 On receiving such a communication, the concerned Assistant Registrar shall place the file before the senior-most Member of the constituted Larger Bench and obtain a

	<p>convenient date for listing the matter. He shall then inform the said date to the other Members of the constituted Larger Bench and issue notice of hearing in the prescribed format.</p>
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CHAPTER-XIX

PROCEDURE FOR SENDING STATEMENT OF CASE TO HIGH COURT:

19.01 This procedure is applicable only in respect of orders passed by the Tribunal on or before 01.07.2003.

19.02 Any party to the appeal before the Tribunal aggrieved by the order passed by the Tribunal on or before 01.07.03, may, within one hundred and eighty (180) days of the date on which he is served with the order passed by the Tribunal (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or customs or tax or to the value of goods for purposes of assessment or value of taxable service for purposes of assessment), apply in the prescribed form, accompanied by a fee of rupees two hundred only (Rs.200/-) (not applicable to the application filed by the department) to the High Court to direct the Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

19.03 The applicant applying to the High Court shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Tribunal relevant to the question sought to be referred.

19.04 On receipt of such a notice, the person

against whom such application has been made, notwithstanding that he may not have filed such application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objection, verified in the prescribed manner, against any part of the order in relation to which the application for reference has been made. Such memorandum of cross-objection shall be disposed of by the High Court as if it were an application presented within the time specified i.e. 180 days.

19.05 If, on the application, the High Court directs the Tribunal to refer the question of law raised in the application, the Tribunal shall, within one hundred and twenty (120) days of the receipt of such direction, draw up a statement of case and refer it to the High Court.

19.06 On receipt of such a direction (only certified copy of the order/judgement) to the Tribunal, the concerned Assistant Registrar in charge of the branch to which the matter pertains to shall ask the Head Clerk to make an entry in the prescribed register and to requisition the file from the record room.

19.07 On receipt of the said file, the Assistant Registrar shall check whether the second folder is available or it has already been weeded out. In case the second folder has already been weeded out, he can get one set of the original appeal along with exhibits thereto photocopied and then list the matter before the bench for hearing. In the cause-list, such matter shall

appear on top of the list.

19.08

On receipt of the statement of the case duly drawn by the bench, the Head Clerk shall make necessary entries in the register meant for the same. He shall then check the enclosures to the statement drawn by the bench and number the same. Normally, the enclosures would be the certified copy of the Tribunal's final order and a copy of the order impugned in the appeal before the Tribunal.

19.09

The Head Clerk shall then prepare a draft covering letter in the prescribed format (**Appendix-XXXI**) to be signed by the Deputy Registrar (Judicial) or the Assistant Registrar, as the case may be. The letter shall then be dispatched through the Dispatch Section along with the enclosures.

PROCEDURE FOR SENDING RECORDS TO SUPREME COURT/HIGH COURT:

19.10

On receipt of a request from the registry of the Supreme Court to transmit the original records in respect of a Civil Appeal filed before it against an order of the Tribunal, the Head Clerk shall enter the same in the prescribed register. He shall then call for the case file from the record room by sending a requisition slip.

19.11

On receipt of such file, he shall verify as to whether both the folders are available. In case, the second folder

is not available then he shall immediately prepare a second folder containing the original request letter received from the registry of the Supreme Court, attested copies of all the orders passed by the Tribunal in that matter and copies of all order-sheets.

19.12 He shall then arrange the original folder of the file and paginate the same. Page numbers shall be given separately for appeal, stay application, other exhibits to the appeal, order-sheets and original green-sheet orders. He shall then prepare a covering letter in the prescribed format (**Annexure-XXXII**) and place it before the concerned Assistant Registrar or Deputy Registrar or the Registrar, as the case may be, for approval.

19.13 Once it is approved the Head Clerk shall attach the original folder to the first copy of the letter and send it to the concerned Assistant Registrar for signature. Once the signature is obtained, he shall send the said file to the dispatch section for further action and attach the office copy to the second folder of the appeal file and send it to the record room under the prescribed register.

19.14 Such reference from the Supreme Court shall be attended to within 10 days of the date of receipt of the same by the registry of the Tribunal.

CHAPTER-XX

APPEAL/APPLICATION FILING FEES:

20.01 An appeal, not being a departmental appeal, shall be accompanied by a fee of –

(a) where the amount of duty and interest demanded and penalty levied in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b) where the amount of duty and interest demanded and penalty levied in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(c) where the amount of duty and interest demanded and penalty levied in the case to which it relates is more than fifty lakh rupees, ten thousand rupees

There shall be no fee for filing of cross-objection.

20.02 Every application made before the Tribunal shall be accompanied by a fee of five hundred rupees. However, an application for adjournment of a hearing will not require any fees, not being an application of the nature contemplated in the CESTAT Procedure Rules and is a mere request for postponement of the case.

20.03 No fee shall be payable in the case of an application filed by the department.

	<p>20.04 Fees shall be made by way of crossed Demand Draft/Pay Order/Banker's cheque drawn in favour of Assistant Registrar, CESTAT, _____ (place of bench)</p> <p>20.05 A combined demand draft for fees towards appeal and application may be accepted in respect of one appeal. However, in case of two different appeals or applications, though filed by the same appellant/applicant, a combined demand draft/Pay Order/Banker's cheque towards the fees shall not be accepted.</p> <p>20.06 If the prescribed fee is short paid by the appellant/applicant, he may be allowed to either submit a fresh demand draft for the entire fees or to submit the demand draft for the fees short paid by him.</p> <p>20.07 In case the Demand Draft/Pay Order/Banker's cheque is defective, a defect memorandum in the prescribed format <u>(Appendix-XXXIII)</u> may be issued to the appellant/applicant concerned requiring him to either submit a fresh demand draft or corrected demand draft within 14 days of the date of the generation of the defect memo. Following defects may be occur in the demand drafts:</p> <ul style="list-style-type: none"> a) Demand draft is out-dated/post dated; b) Demand draft is not signed by the issuing bank; c) Demand draft is excess by Rs. _____
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d) Demand draft is short by Rs. _____

e) Branch code is not mentioned on the demand draft

f) Demand draft is not drawn in the name of Assistant Registrar, CESTAT,

PROCEDURE FOR DEPOSITING THE DEMAND DRAFTS IN THE BANK:

20.08 Demand drafts submitted towards the appeal/application filing fees shall be detached from the appeal/application file by the Central Registry Clerk-1. He shall, after satisfying himself that the demand draft is free from any of defect (s), enter the same in the Valuable Register. He shall then put the running serial number of the Valuable Register on the reverse of the demand draft. He shall also mention the appeal or application number for which the demand draft has been submitted on the reverse of the demand draft, along with the date of filing of the said appeal/application. He shall write the complete name of the bank in the valuable register.

20.09 In case, the demand draft is defective, he shall enter the same in the Valuable Register but shall not give the number to the said Demand Draft. He shall handover the same to the Central Registry Clerk-2 who shall enter the same in the defective DD register and take steps for issuance of the Demand

Draft Defect Memo.

20.10 On receipt of the fresh or corrected Demand draft, the Central Registry Clerk-1 shall again enter the same in the valuable register, but this time he shall give the running serial number of the register and follow the same procedure as in the case of a demand draft which is not defective. He shall take a total of the amount of the demand drafts at the close of every week. While taking the total, he shall exclude the amount of demand draft marked as defective viz. the demand drafts to which no valuable register number has been allotted.

20.11 He shall then handover the demand drafts to the Cashier on the first day of the week following the fortnight to which the demand drafts relate and obtain his dated signature on the valuable register as token of having received the demand drafts. The cashier shall put his signature after satisfying himself about the correctness of the data mentioned in the valuable register.

20.12 On receipt of the demand drafts from the Central Registry Clerk-1, the cashier shall ask his assistant to segregate the demand drafts bank-wise after counting them and then prepare bank challans in the prescribed format and submit them to the cashier for checking.

	<p>20.13 The cashier after checking the details mentioned in the bank challans in the prescribed format <u>(Annexure-XXXIV)</u> and comparing them with the actual demand drafts and numbering the challans, shall send the same to the Drawing & Disbursing Officer (DDO) for signature.</p> <p>20.14 After obtaining the DDO's signature, the bank challans should be sent to the bank for submission. A dated acknowledgement shall be obtained on the office copy of the bank Challan from the receiving clerk of the bank and that shall be filed in the separate folder weekly in respect of every bank.</p> <p>20.15 One copy of each such Challan shall be given to the Central Registry Clerk-1 to enable him to mention the Challan number (under which the DD has been submitted to the bank) in the valuable register against every demand draft. The above procedure should be scrupulously followed.</p> <p><u>FEES FOR APPEALS INVOLVING REFUND OF DUTY/PENALTY/INTEREST ETC. OR WHERE THERE IS NO QUANTIFICATION OF DUTY OR WHERE NO AMOUNT IS INVOLVED</u></p> <p>20.16 Since there is no specific provision for payment of fees where the refund of duty, penalty or interest is in issue, a fee of Rs.1000/- shall be paid by the appellant(s).</p> <p>20.17 Similarly, where there is no quantified demand or the issue does not involve any demand for duty or</p>
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imposition of penalty e.g. suspension of CHA licence, conversion of shipping bills etc. a fee of Rs.1000/- shall be paid by the appellant(s).

20.18 Every appeal or application, other than those filed by the department, shall be accompanied by the prescribed fees.

CHAPTER-XXI

PERIODICAL STATISTICAL STATEMENTS:

21.01 A monthly statement showing receipt, disposal and pendency of appeals, cross-objections and stay applications is required to be furnished by all zonal benches to the Headquarters.

1) Information regarding institution & disposal of appeals category-wise viz. Excise, Customs & Service Tax, during the month;

2) Information regarding institution & disposal of cross-objections category-wise viz. Excise, Customs & Service Tax, during the month;

3) Information regarding institution and disposal of stay applications category-wise viz. Excise, Customs & Service Tax, during the month;

4) Information regarding appeals/applications category-wise viz. Excise, Customs & Service Tax transferred to other zonal benches or transferred from other zonal benches during the month;

5) Information giving year-wise break up of appeals, cross objections at the end of the month.

21.02 Above statement shall be furnished by all zonal benches on the 7th working day of the month following the

status of the same to the Registrar or the Deputy Registrar (Judicial), as the case may be.

NUMBER OF ROA/ ROM/ MODIFICATION APPLICATIONS THAT MAY BE FILED AGAINST THE ORDER PASSED BY THE TRIBUNAL:

25.09 In order to avoid multiplicity of litigation and also to save precious time of benches, only one application of ROA/ROM/Modification, as the case may be, shall lie before the Tribunal.

PROCEDURE IN RESPECT OF REMANDED MATTERS/STATEMENTS OF CASE MATTERS BY SUPREME COURT/HIGH COURT:

25.10 In order to ensure prompt compliance of orders remanding matters back to the Tribunal, as also for drawing of statements of cases, the registry shall list such matters within the time frame mentioned by such higher courts on receipt of the certified copy of such order. However, in case no time limit is prescribed by the higher Court, then, within two months of the date of passing of such order either the appellant or respondent shall make an application to the registry of the Tribunal for early listing of the matter.

PRESENTATION OF APPEAL MEMORANDUM:

25.11 A memorandum of appeal shall be prepared in the manner prescribed below:

- 1) Index
- 2) Vakalatnama/Authorization;
- 3) Stay Application;

	<ol style="list-style-type: none"> 4) Any other Miscellaneous application such as COD, Eh etc. 5) Memo of Appeal (including statement of facts, grounds of appeal, prayer & verification); 6) Order impugned in the appeal; 7) Order passed by the lower adjudicating authority if the appeal is filed against the order passed by the Commissioner (Appeals); 8) Show Cause Notice(s) relating to the order impugned in the appeal; 9) Other documents relied upon by the appellant in the memo of appeal. <p>25.12 The above appeal papers shall be serially numbered backwards i.e. the last page of the appeal file shall be allotted page no.1 and thereafter page numbers should be given in ascending order. In case any matter is printed/typed etc. on the reverse of any page of the appeal file then that should also be numbered serially.</p>

