

F.No.275/11/2017-CX.8A
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Legal Cell)

'C' Wing, 5th Floor, HUDCO-VISHALA Building
Bhikaji Cama Place, R.K. Puram,
New Delhi-66: dated the 18.09.2017

INSTRUCTION

To,

1. All Principal Chief Commissioners/Chief Commissioners of Customs, GST & CX;
2. All Director Generals of Customs, GST & CX;
3. <webmaster.cbec@icegate.gov.in>

Sub: - Filing of Special Leave Petition against Orders of Hon'ble High Courts staying Collection of Tax under GST- reg.

Sir/Madam,

After the implementation of GST w.e.f. from 1st July, 2017, a number of Writ Petitions/PILs have being filed in various High Courts challenging or seeking clarification on various aspects of GST Law & rate of tax on some products. Recently a High Court in few cases relating to GST, has granted interim relief by directing that no coercive steps would be taken to recover tax or credit, pending the outcome of the petition filed. As GST is at its inception stage, it is important to defend the issues effectively to defend the interest of Government.

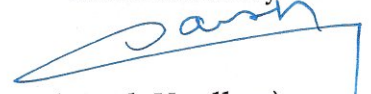
2. The Supreme Court over the years through various judgments has defined the scope of the SLP jurisdiction. The Apex Court allows SLP only when there is a substantial question of law of general or public importance is involved or there is manifest injustice resulting from the impugned order or judgment. No right of appeal is conferred upon any party but only a discretion is vested in the Supreme Court to interfere by granting leave to an applicant to enter in its appellate jurisdiction not open otherwise and as of right. The Board vide Instruction F.No. 276/72/2016-CX.8A dated 18.07.2016 (Copy available on CBEC website) had discussed as to the conditions under which SLP can be filed before the Apex Court.

3. Principally, all orders/judgments, whether interim or final, are appealable. Where the levy of GST has been questioned or stayed, irrespective of the fact that matter is still pending before the High Court, the same needs to be challenged by way of filing of a SLP before the Supreme Court. A self-contained proposal, after thoroughly examining the impugned High Court order, may be sent as expeditiously as possible, to Commissioner (Legal), CBEC, as per the extant instructions.

4. Attention is also invited to Member (Legal) D.O.F.No. 275/65/2013-CX.8A dated 05.09.2017 (Copy available on CBEC website), wherein all the Principal Chief Commissioners/ Chief commissioners and Principal Director Generals /Director Generals have been requested to take all measures necessary to efficaciously defend all matters and in particular GST related petitions in High Courts under their respective jurisdiction.

5. This issues with the approval of the Chairman (CBEC).

Yours faithfully



(Harsh Vardhan)
Senior Analyst
Tel: 011-26195405