

Kind Attn: Mr. Tanique Kalmi

DIRECTOR GENERAL OF INCOME TAX
(LEGAL & RESEARCH), NEW DELHI.
Room No. 309-D, Drum Shape Building,
I.P. Estate, New Delhi-110002

F.No: DGIT (L&R)/SLP & Compliances/ 2010-11/974

Dated: 20.10.2010

The Chief Commissioners of Income -tax (CCA)

Delhi/Mumbai/Kolkata/Chennai/Pune/Bangalore/Chandigarh/Lucknow/Kanpur
/Patna/Bhubaneswar/Guwahati/Hyderabad/Kochi/Jaipur/Bhopal/Ahmedabad/
Nagpur.

Sir/Madam,

Sub: Submission of proposal for filing Special Leave Petition
(SLP) & Compliances of directions of the Hon'ble Apex
Court - reg.

I would like to bring to the notice of field formation the directions of the Member (A&J) conveyed in his letter of the 14th June 2010 to CCsIT / DsGIT that SLP proposals should reach the Directorate within 45 days of the pronouncement of the judgment accompanied by one set of relevant Annexure and a soft copy thereof in MS word 2007 programme. The Member has further directed that compliances of directions of the Hon'ble Apex Court should be made promptly and reported back 5 days prior to the date of hearing.

2. The proposals received, even after the aforesaid communication from the Board, have not shown any improvement. The proposals to file SLP are deficient in various respect as enumerated hereunder:

- (i) The proposals are sent with limitation just about to expire or having already expired. In case of submission of proposal after 45 days of the date of High Court order, the CCIT has to

forward the proposal with specific reason for delay as the responsibility shall be fixed and suitable action taken. The direction of the Member (A&J) is not being complied with.

- (ii) Several columns of Proforma "B" are left blank.
- (iii) The limitation is not computed correctly.
- (iv) The two or three sets of Annexure are being sent as against requirement of one set only. Many Annexure or pages thereof are not legible.
- (v) The soft copy of Annexure in MS 2007 is not being sent resulting in time consuming exercise of retyping of the entire Annexure again in the CAS.
- (vi) The CCIT's specific comment, about desirability of contesting High Court judgment, is not enclosed. In many cases the CIT directly submits the SLP proposal, and it is not clear whether the proposal has the approval of CCIT. It may be emphasized that each SLP proposal is personally considered by the Member (A&J).

3. The objective of the Board is to file SLP in suitable and deserving cases within the period of limitation. Henceforth, the delay in submission of proposal for filing SLP would be analysed in every case in the Directorate and put up to the Member (A&J) for fixation of responsibility. The CIT is primarily responsible to submit the proposal in time. He cannot merely point out delay by the AO / Counsel. He has to explain action taken by him against officers responsible for delay and steps taken by him to prevent recurrence of such delay in future.

4. Another area of concern is non-compliance of the directions of the Hon'ble Apex Court, particularly in following area :

- (a) In the case of SLP filed by the assessee, the notice if directed to be issued, is served on the respondent CIT by the Registry of the Supreme Court. Some of the CITs forward the same to the Directorate while many take no action at all. It may be emphasised that these cases are such, which the Department has won in the High Court, and laxity, at the level of defending SLPs, jeopardises the Department's

case in the Supreme Court. The action required is that the CIT has to prepare parawise comment on the SLP and send it to the Directorate (L&R) with a copy of the petition including Annexure & notice and also a *Vakalatnama* within three weeks of receipt of the Registry from the Supreme Court.

- (b) The filing of counter affidavit or rejoinder affidavit as and when communicated by the Directorate is not being attended to with promptness required.
- (c) The Hon'ble Court has been imposing cost for non-service of notices directed for Dasti service or even dismissing the SLP.

5. The compliances requires a little of follow up by officer looking after judicial work and monitoring by the CIT. The CsIT have an obligation to be careful and alert in judicial matters. In case of any doubt, they must get in touch with the DIT (L&R) looking after their charge for assistance preferably through Lotus Note for quick action

6. The Chairman & the Member (A&J), CBDT have directed officers to get their LOTUS NOTE activated in the Video conference on the 31st July 2010. I have been sending important mails received from Law officers through this medlum. Even Ld. Solicitor General of India intimates development in a particular case to the concerned CIT in his Lotus mail. The officers have to access mail every day. It is no longer a choice for officers.

I request you to impress upon officers of your Region to pay proper attention in the area of SLP & compliances to avoid any unpleasant situation later.

Encl : Member(A&J) letter dated 14/06/2010.

Yours faithfully,

Akshay
(Akhilesh Prasad) 20.10.2010

DGIT(L&R)

Database may host this on website

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20.10.2010



सुदेश शंकर
Suresh Shankar, IRS

Member

file : 23093356
ax : 23093340

D.O.F.No.DGIT(L&R)/Member(A&J)/Delay/SLP/2010-11

भारत सरकार
Government of India
(वित्त मंत्रालय / सञ्चय विभाग)
MINISTRY OF FINANCE/DEPARTMENT OF REVENUE
केन्द्रीय प्रत्यक्ष कर बोर्ड
Central Board of Direct Taxes
मार्ग संकेत, नई दिल्ली - 110001
North Block, New Delhi - 110001

the 14th June, 2010

To,

All the Chief Commissioners/ Directors General of Income Tax
(By Name)

Subject: Filing of SLPs and compliance of directions - Hon'ble Supreme Court of India - regarding.

Sir/ Madam,

You may kindly recall the discussion on the above subject on 10th June, 2010 during the Chief Commissioner's conference. To recapitulate, it was impressed upon all Chief Commissioners/ Directors General that the time for filing of SLP against judgement of High Court/ Tribunal is 90 days from the date of pronouncement. It was also informed to all assembled Chief Commissioners/ Directors General that lately, SLP proposals were being received very late or incomplete in vital details, leading to avoidable delay in filing of SLP. The Apex Court, or indeed all High Courts also, are extremely critical of the Department in this regard. The CBDT has viewed this with high concern and has decided to fix personal responsibilities of officers concerned for these avoidable delays.

*judgment
made against*

*D
R
24/6/10*

2. In view of the above, it is directed as below:

*Pl circulate
- all CC & D.G.
Mh
24/6*

a) A designated officer will monitor the date of pronouncement of Orders of the High Courts/ Supreme Court over internet, download the same and immediately inform all concerned officers for appropriate action. Where the order is pronounced in the Court, but does not appear on website, the Standing Counsel should alert the CCIT/ DGIT office/ designated officer immediately.

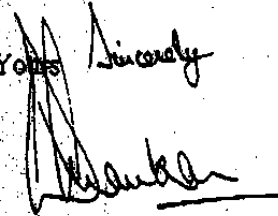
b) The Standing Counsel will be immediately alerted to apply for certified copies of the Order. The delay in obtaining the certified copy shall no longer be considered a valid excuse.

c) The Standing Counsel may be directed to give their views whenever the judgement is against the revenue.

*27 25.6.2010
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- d) The complete docket with the Standing Counsel will be obtained, to be sent to the O/o DG (L&R) for the preparation of the paper-book. In case, all relevant documents, copies of orders etc. are already available in the O/o Chief Commissioner/ Director General, this step can be avoided.
- e) The reasons for which the Order is not found acceptable, should be clearly and unambiguously brought out. The CC/ DG should frame to bring out a draft of the substantial question(s) of law proposed to be referred.
- f) All copies of Orders and documents should be sent to DGIT (L&R) in hard copy (1 set) and also on a CD, using MS word programme and observing prescribed margins. The CC/ DG should strive to send the full and complete proposal, as outlined in preceding paragraphs within 45 days of its pronouncement.
3. The Hon'ble Supreme Court of India, in respect of SLPs and other appeals pending, often issues interim directions requiring compliance by dates specified therein. The compliance must be carried out and its report, along with copies of any Orders passed or any further action taken should reach the O/o DG (L&R) 5 days before the specified date.
4. It is requested that the above directions may be informed to all the authorities below you. It is also requested that all concerned be asked to implement the above scrupulously.
5. The receipt of this letter may be acknowledged to O/o DGIT (L&R).

With best wishes,

Yours Sincerely

(Durgesh Shankar)

SH. ANRILESH PRASAD
DGIT(L&R)
ROOM NO. 309, DRUM SHAPE BUILDING,
I.P. ESTATE, NEW DELHI-110002