

C-18011(S)/70/2017-SO(V&L)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

23rd February, 2017

To

All the Pr. Chief Commissioner of Income Tax/Pr. DGIT(HRD)
Pr. DGIT(System),

Madam/Sir

Subject: Standard Operating Procedure (SOP) for handling Court matters in service litigation including vigilance related matters— reg.

In the recent past, litigation in service related matters including disciplinary matters have seen an inordinate increase. The number of Court cases including appeals in Hon'ble High Courts and Hon'ble Supreme Court are rising steadily. Many of these cases are lost in Court as either the department is unable to project the facts involved before the court properly and/or because there is an inordinate delay in filing of appeal or the Government's response.

2. CBDT is deeply concerned about the delay and quality of representations, including briefs given to the departmental counsels. Therefore, a Standard Operating Procedure (SOP) has now been prepared for effective, efficient and time bound handling of all the cases of service litigation. All the field authorities should meticulously observe the prescribed guidelines within stipulated time limits as mentioned in the SOP.

3. Steps to be followed while handling Court matters are annexed as Annex 'A'. Time lines for processing the cases are enclosed as Annex 'B'.

4. The Pr. CCIT concerned shall designate an officer of sufficient seniority (either in the grade of SAG or JAG) to ensure timely processing of proposals

and their submission to the CBDT as per the timelines given in Annex 'B'. Any deviation from the timelines will have to be duly explained and the delay without proper explanation or due to negligence would be viewed adversely. The designated officer shall ensure compliance of directions of the Court like Dasti Service, filing of counter or rejoinder affidavit or other specific directions within the prescribed time frame to avoid adverse observations of the Courts/Tribunals.

5. In case of OA/any other petition filed in the CAT, as soon as the OA/any other petition is received, a file should be opened in the office of Pr. CCIT concerned and assigned a proper identification number incorporating the OA no. allotted by the Tribunal. In case the service litigation does not involve any policy matter and where reference to the CBDT is not considered necessary, the reply affidavit may be filed by the Pr. CCIT concerned at their own level under intimation to the CBDT. However, while doing so, it should be invariably and strictly ensured that all the extant instructions of DoPT and other concerned Government departments/authorities are scrupulously followed. In cases of this nature, factual comments on the OA/other petition and judicial precedents, if available, should be forwarded by the office of the Pr. CCIT to the Departmental Counsel for drafting the counter-affidavit. The designated officer in the office of Pr. CCIT should ensure that the counter-affidavit is filed within time allowed by the Tribunal and further follow up actions are taken in consultation with the Counsel.

6. In all matters requiring approval of the CBDT, a self contained reference must be sent to the CBDT. The reference should invariably contain:-

- i) Copy of the OA/WP (with all enclosures).
- ii) Reply affidavit/detailed parawise comments on the OA along with point of reference.
- iii) Complete details of the case in the prescribed format annexed as Annex 'C'.
- iv) Self contained brief of the case.
- v) Service particulars of the petitioner(s).

vi) Opinion of the Government Counsel and/or advice of the local branch Secretariat of Ministry of Law, wherever required, along with comments/recommendation(s) of the Pr. CCIT concerned.

vii) Details of similar case(s) filed within the Pr. CCIT charge, if any. It should be ensured by the Pr. CCIT that similar stand has to be taken in all cases, where facts/issues are similar.

Soft copy of the details should also be simultaneously sent to the CBDT at the designated e-mail service litigation@gmail.com. (for service litigation matters) and usvl2014@gmail.com (for disciplinary and vigilance matters). Time lines given in Annex 'B' should be scrupulously followed.

7. In order to avoid Contempt of Courts, the time lines stipulated in the judgment should be specifically brought to the notice of the CBDT immediately. If the timeline given is too short to decide/implement the directions of the Court, a proposal for filing a suitable petition before the concerned court may be immediately sent for the CBDT's approval. Judgments of the Tribunals/Court containing strictures or which are contrary to Government's policy, orders, notifications, instructions, circulars etc. shall be brought to the notice of the Board (concerned division) immediately by the Pr. CCIT/DGIT concerned under intimation to the V&L section of the Board.

8. All Pr. CCsIT should maintain an up to date database of all Court cases within their respective charge for periodic and effective monitoring. Further reference to superior authority(ies) should be regularly followed up to expedite the decision.

9. The officer in charge of litigation in the office of the Pr. CCIT should monitor the website(s) of the Court(s)/Tribunals everyday to know the date(s) of hearing(s) and judgment(s) /order(s). The file should be initiated as soon as the order/judgment is uploaded on the Tribunal's/Court's website. The application for certified copy should be made immediately within the time line prescribed in Annex 'B' for this purpose.

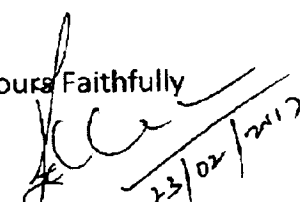
10. As mentioned in para-4 above, hearings in all cases should be attended by a senior officer (not below ITO) from the department along with the Government Counsel. The officer should ensure that the Government Counsel

is properly briefed before every hearing. Whenever the Government counsel seeks instructions/clarifications in a case, the same must be provided to him on priority. The V&L section of the CBDT should be informed of the Court proceedings by Fax/email on the same day or the following day. It is also the duty of the Standing Counsel to keep the O/O Pr. CCIT well informed about developments in a case. Therefore, effective communication with the Standing Counsel is absolutely necessary. The hearing in Contempt matters should be attended by an officer not below the rank of DCIT/ACIT.

11. The officer in charge of litigation in the office of the Pr. CCIT should send the list of all the service and vigilance related cases pending, by 20th day of every month so that timely action can be initiated. Soft copy of such list should also be simultaneously sent to the CBDT at the designated e-mail servicelitigation@gmail.com. (for service litigation matters) and usvl2014@gmail.com (for vigilance matters)

13. The above instruction may be brought to the notice of all the concerned authorities concerned for strict compliance.

Yours Faithfully


Ravi Kumar Verma
Under Secretary, (V&L)-II, CBDT

Enclosed: as above.

Copy for information to:

1. PPS to Member (P&V), CBDT.
2. PS to JS (Admn)/DT, CBDT.
3. PS to CIT (Vigilance), CBDT.
4. DS (Ad VI & VIA), CBDT.
5. DS (AD VII & IX), CBDT.
6. Data Base Cell and IRS Web Manager for uploading on IRS website www.irsofficeronline.gov.in

Annexure-A**Steps to be followed for handling Court Matters in "Service Litigation"****I. CAT Matters.**

- (i) Receiving intimation regarding filing of OA.
- (ii) Issue of authorization letter to Pr. CCIT.
- (iii) Obtaining PWCs from AD VI/DGIT(Vig.)/ any other agency concerned like DBC/ DOPT/ DOP&PW etc.
- (iv) Forwarding PYCs to Pr. CCIT for preparing reply.
- (v) Preparation of draft reply/ affidavit and forwarding the same to the Board for vetting.
- (vi) Vetting of draft reply by the concerned agency.
- (vii) Sending back the vetted reply to the Pr. CCIT.
- (viii) Filing of reply by Pr. CCIT.

II. High Court Matters.

- (i) Date of Pronouncement of the Judgement by Hon,ble CAT.
- (ii) Making application for certified copy of the judgement by the Standing Counsel.
- (iii) Receipt of copy of judgement in the Board.
- (iv) Obtaining comments from Pr. CCIT and CGSC.
- (v) Obtaining comments from AD VI/DGIT(Vig.)/any other agency concerned regarding acceptability or otherwise of Hon'ble CAT.
- (vi) If the court order is against the GOI instructions on service matters, the matter to be referred to DOPT, the nodal Department, and DOLA for advice in terms of DOPT OM dated 01.05.2000. In case the advice of the DoPT is at variance with the advice rendered earlier in a particular matter, the same will be referred to DoPT for reconsideration.
- (vii) No order shall be implemented by the Department without first referring it to DOPT and DOLA.
- (viii) After obtaining advice from DOPT and DOLA , seeking approval from the Competent Authority to file WP.
- (ix) Conveying the approval to the Pr. CCIT.
- (x) Preparation of Draft WP by the Pr. CCIT.
- (xi) Vetting of draft WP by the concerned agency.
- (xii) Conveying of approval to Pr. CCIT for filing the WP.
- (xiii) Filing of WP in High Court.

III. Filing of the SLPs

- (i) Date of pronouncement of judgement in High Court.

- (ii) Making application for certified copy of the judgement by the Standing Counsel.
- (iii) Receipt of copy of judgement in the Board.
- (iv) Obtaining comments from Pr. CCIT and CGSC.
- (v) Obtaining comments from AD VI/DGIT(vig)/any other agency concerned regarding acceptability or otherwise of the Orders.
- (vi) Obtaining comments of DOPT, the nodal Department regarding acceptability or otherwise of the orders. In case the advice of the DoPT is at variance with the advice rendered earlier in a particular matter, the same will be referred to DoPT for reconsideration.
- (vii) Obtaining comments from DOLA for filing SLP against the Court Orders.
- (viii) Preparation of Draft SLP by CAS.
- (ix) Vetting of the draft SLP by the Pr. CCIT/DGIT(Vig.)
- (x) Vetted SLP to be sent back to CAS.
- (xi) Filing of SLP in Apex Court.
- (xii) Obtaining of SLP no from CAS

Annex B**TIMELINES FOR THE PROCESS OF SERVICE LITIGATION CASES
IN GROUP A, B & C****Time lines to be observed for Appeals filed in CAT**

Event	No. of days	Cumulative days
Receipt of intimation regarding filing of OA/other appeal in the CAT Tribunal in Pr.CCIT / concerned office.	0	0
Intimation about the OA from office of the Pr. CCIT/concerned office to CBDT.	3	3
Issue of authorization letter by CBDT to Pr. CCIT.	4	7
Comments from V&L-I/Ad. VI/Ad VI A/ Ad VII/ Ad IX/DBC/Pr. DGIT (Vig.)/Any other agency	10	17
Forwarding PWCs to Pr. CCIT for preparing reply.	1	18
Preparation of draft reply/affidavit and forwarding the same to the Board for vetting.	5	23
Vetting of draft reply by the concerned agency.	5	28
Sending back the vetted reply to the Pr. CCIT.	1	29
Filing of reply by Pr. CCIT.	1	30

(In cases where the case is listed for hearing before 30 days of the receipt of the OA in the concerned office, the Government Counsel should be instructed to move the Hon'ble Tribunal immediately seeking adequate time to file a reply)

Time-Line to be observed for filing appeals in High Court

Event	No. of days	Cumulative days
Date of pronouncement of the judgement	0	0
Making application for certified copy of the judgment by the Standing Counsel and simultaneously obtaining copy of the judgment from the web site	3	3
Obtaining opinion of the CGSC	2	5
Transit to Pr. CCIT	2	7
Comments from the Pr. CCIT	4	11
Comments from V&L-I/Ad. VI/Ad VI A/ Ad VII/ Ad IX/DBC/Pr. DGIT (Vig.)/Any other agency	10	21
Preparation of SCN and seeking approval of the RS	7	28
Comments from DOPT/any other concerned agency outside the Income Tax Department.	15	43
Transit to Deptt.	2	45
Preparation of SCN for DOLA	3	48
Transit to DOLA	2	50
Advice from DOLA and Law officer	10	60
Seeking approval of Competent Authority in the Deptt.	7	67
Conveying the approval to Pr. CCIT	2	69
Drafting of WP in consultation with the Government Counsel	5	74
Vetting of Draft WP by the concerned agency	7	81
Transit back to Board	2	83
Conveying approval of WP and Transit to PR. CCIT	3	86
Preparation of sets with annex in the O/o Pr. CCIT and sending them to the standing counsel for filing	3	89
Actual filing in the High Court Registry	1	90

Time-Line to be observed for filing appeal/SLP in Supreme Court:

Event	No. of days	Cumulative days
Date of Pronouncement of the judgement	0	0
Making application for certified copy of the judgment by the Standing Counsel and simultaneously obtaining copy of the judgment from the web site.	3	3
Opinion of CGSC	2	5
Transit to Pr. CCIT	2	7
Comments from the Pr. CCIT	5	12
Comments from V&L-I/Ad. VI/Ad VI A/ Ad VII/ Ad IX/DBC/Pr. DGIT (Vig.)/Any other agency	7	19
Preparation of SCN and seeking approval of RS	10	29
Comments from DOPT/any other agency outside the Income Tax Department	15	44
Transit to Deptt.	2	46
Preparation of SCN for DOLA	3	49
Transit to DOLA	2	51
Advice from DOLA and Law Officer	10	61
Preparation of Draft/ Paper Book by CAS	10	71
Transit to Department	2	73
Transit to Pr. CCIT/ Other Agency	1	74
Vetting by Pr. CCIT/Other procedure	7	81
Transit to back to CAS	2	83
Paper book preparation	5	88
Affidavit	1	89
Filing in registry	1	90

- SCN- Self Contained Note
- CGSC-Central Govt. Standing Counsel

