

CBIC calls for 'disciplinary' action in case of appeal dismissed on account of late filing

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- **Officials told to strictly adhere to timeline in filing appeals/ petitions before courts or tribunal.**

The Central Board of Indirect Taxes & Customs (CBIC) has asked its supervising officials to take disciplinary action in case an appeal is dismissed by the courts due to delay in filing the appeal. It has also called for following prescribed timeline 'strictly' when filing appeal at various judicial forums. The CBIC is the apex policy making body at the Centre for indirect taxes.

A circular sent to all Principal Chief Commissioners/ Chief Commissioners of Customs & GST and all Principal Director Generals/ Director Generals of Customs & GST asked field formations to strictly adhere to the aspect of limitation in filing appeals/ petitions before courts or tribunal. "The practice of filing Condonation of Delay Application in a mechanical fashion, without attributing cogent reasons, if any, must be discouraged," it said. Instructions, issued in 2017, prescribed 43 days for filing civil appeal against the order of CESTAT (the Customs Excise and Service Tax Appellate Tribunal) and 60 days for filing the Special Leave Petition (SLP) against the order of High Courts. Similarly, a total of 120 days were prescribed for filing appeal in the High Court. Now, the latest circular says supervising officers should personally monitor that the appeals/petitions are filed on time in the interest of the tax department. "Any appeal/petition dismissed, solely on the grounds of limitation, may be scrupulously examined and corrective steps may be taken, including disciplinary action, wherever merited," the circular said.

Delay from govt

It has taken note of Supreme Court's remarks in various matters on delay from the government side. In one such case (Union of India vs Jitendra, 2020), the apex court had remarked, "We have specified the object to file such cases to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, record that nothing could be done because the highest Court has dismissed the appeal. It is a completion of formality with endeavourer to save the skin of the officers who may be in default in following the appropriate legal process in time. The irony is that despite our repeated orders, very little is done at least in taking action against concerned officers who sit on files and do nothing. The presumption is as if this Court will condone the delay for the asking. We refuse to follow such a course." The Court imposed the cost on the petitioner, that is, the government.

Law of limitation

In another case (Office of the Chief Post General & Ors. v. Living Media India, 2012), the top court said the law of limitation undoubtedly binds everybody, including the Government. "The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments," the court had said.

Tax officials admitted that delay in filing appeal affect tax mobilisation and even in some genuine cases, the Department has to contend with dismissal of appeal.