

F.No.280/05/2018-CX.8A
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect taxes & Customs)
Legal Cell

Wing 5 'C' HUDCO-VISHALA Building
Bhikaji Cama Place, R.K. Puram
New Delhi, the 23rd May'2018.

Instruction

To,

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

Sir/Madam,

Sub: Suo motu transfer of Authorizations on behalf of Union of India by the Authorized Commissioners – reg.

Instances have been brought to the notice of the Board wherein the Authorizations issued to the Field Commissioners for representing Union of India & Others, before the Hon'ble High Courts, have been suo motu amended/transferred by the authorized Commissioners to other Commissioners. Such suo motu amendment/transfer of authorization may critically impact the interests of Revenue before the Hon'ble High Courts, specifically if the Petitions are related to GST, and the decisions may have all India ramifications.

2. In this regard, Para 1(c) of the Instruction vide F.No. 275/65/2013-CX.8A dated 19.06.2015 is reiterated wherein it is stated that "In case where in the petition filed before the High Court, no jurisdictional Commissioner/ Officer is made respondent, the authorization is issued in the name of the nodal Commissioner in whose jurisdiction the bench of the High Court where petition is filed, is located." The same has been repeated in Para 2(iii) of the Instruction vide F.No. 276/65/2013-CX.8A dated 08.12.2015. On the same lines, Para 3(b) of the Master Instruction on Defence against Writ Petitions/ PILs relating to GST, vide F.No. S-29012/12/2017-ST-1-DoR dated 27.11.2017, issued by the Department of Revenue clearly states that "it is the prerogative of the CBEC to authorize any Principal Commissioner/Commissioner to defend the UoI and others before the High Court(s). No transfer of Authorization should be done on unilateral basis and a reference should be made to Commissioner (Legal) clearly pointing out the reasons for change in the Authorization. The decision of the CBEC in this regard would be final."

3. Some field Commissioners, are suo motu transferring the Authorizations on the pretext that the Petitioner is falling under the jurisdiction of some other Commissionerate or is registered with the respective State tax authorities, as the case may be. In this regard, it is stated that when these Petitions are filed on certain policy

issues, wherein the jurisdiction of the Petitioner is irrelevant, the change in Authorization on the pretext of jurisdiction is unwarranted.

4. In any case, the reference should be made to the Board for any change in authorization, pointing out cogent reasons for the said change. Nevertheless, original authorized Commissioner will continue to defend the interests of Revenue, till the amended authorization is not received by the concerned field formation. The decision of the Board in this regard would be final.

5. Accordingly, you are requested to direct the Principal Commissioners/Commissioners under your jurisdiction to not transfer/amend the authorization without the express approval of the Board. It is reiterated that all Petitions, specifically GST related petitions, should be efficaciously defended by the authorized Commissioners. The contents of this Instruction may also be brought to the notice of concerned field formations under your jurisdiction.

Yours faithfully,



(Anish Gupta)

OSD (Legal)

011-26177514

Copy to:

1. Chairman, CBIC, New Delhi for information
2. All Members of CBIC, New Delhi for information
3. Special Secretary, GST Council, New Delhi for information.
4. Additional Secretary (Revenue), Department of Revenue, New Delhi for information.