

PROCEDURE FOR E-HEARING OF APPLICATIONS BY CESTAT

(www.cestatnew.gov.in)

I. Introduction

The lock down declared by the Government due to COVID 19 pandemic has affected the regular hearing of appeals by all the Benches of the Tribunal since 16 March 2020. Even if the situation improves, the risk involved in conducting regular Courts is high. Therefore, a system of hearing of cases through video conferencing has emerged as an alternative for regular Court sitting in some of the Courts and Tribunals in the country. The Hon'ble Supreme Court, in *Suo Moto Writ (Civil) No. 5 of 2020*, has permitted Courts across the country to conduct legal proceedings by leveraging technology, thereby furthering the objective of Article 39A of the Constitution. The Customs, Excise and Service Tax Appellate Tribunal also endeavors to dispose cases of urgent applications through e hearing in all its Benches by utilizing the technology to the best extent possible.

II. Video Conferencing Platform

Various video conferencing platforms are available for use. For conducting e hearing of urgent applications on video conferencing platform, *Jitsi meet* appears to be more adaptable having regard to the functional environment of CESTAT. *Jitsi meet* is an open source software and is available for download at <https://play.google.com/store/apps/details?id=org.jitsi.meet> The registration process is fairly simple and requires only an e-mail address.

III. Technical and Infrastructural Requirement

To have a proper hearing on the video conferencing platform it is necessary that the exchange of information is seamless and without interruption. The minimum requirements are the following.

- 1. Desktop/Laptop:** The system should have a proper processor and RAM. The system should be equipped with a webcam which will support HD video. It should also have an inbuilt **mike and speakers**. However, external headphones with mike may also be used for hearing. **i pads** of proper configuration may also be used. Mobile phones should be avoided as the hearing can be interrupted by incoming calls and screen size constraints.
- 2. Internet Connection:** The internet connection should be of good speed and it is advisable that no other device is connected to the *wifi* router during the hearing.
- 3. Telephone/Mobile phone:** A telephone/mobile phone maybe kept as an alternative mode for uninterrupted hearing in case there is an unforeseen break in video streaming.

IV. Procedure for listing

1. Any party desirous of getting an application of urgent nature heard by video conferencing may send a request, as prescribed in Annexure II, to the Registry by e mail. The party making the request must also indicate the approximate time that it would take to make submissions so that hearing is conducted in a time bound manner.

2.

- (a) If a regular Division Bench is not sitting due to non-availability of a Member, the party seeking the hearing shall, in addition to the hard copies, submit a soft copy of the appeal memo and complete paper book (scanned PDF format in black and white) to the respective Deputy Registrar/Assistant Registrar by e mail at the address given in Paragraph V.
- (b) The soft copy of the documents shall contain three separate attachments/files as below.
 - (i) **Appeal Memo and Application** – Excise Appeal-3/Customs Appeal-3/Service Tax-5, Statement of Facts, Grounds of Appeal and Verification and the Application.
 - (ii) **Paper book I** – Show Cause Notice and Impugned Order (both original order and the appellate order) and/or Bills of Entry or any other relevant document(s).
 - (iii) **Paper Book II** – All papers other than mentioned at (a) and (b) above which were already filed and available on record in the concerned file.
- (c) If the number of pages in the attachment exceeds the maximum space, separate mails may be sent. It is incumbent upon such party to forward a soft copy of all the documents as referred in paragraph 2 (b) (i) to (iii) above to the other side by e mail at least two days prior to the date of hearing.

3. The Assistant Registrar will, with the approval of the Senior Member available, issue a cause list for hearing of the urgent application. The list will also indicate the time at which each hearing will start. The Assistant

Registrar shall, wherever it is required, scrutinize the soft copies of the documents to find whether they are in order before issuing the cause list.

4. The parties who are called for the e hearing shall send copies of the following in separate files by e-mail attachments.

- a. **Brief synopsis** stating the facts;
- b. **Written submissions** with reference to the paper book already submitted;
- c. **Compilation** of relevant provisions of the statute and case laws.

5. The Brief synopsis/Written submissions/Compilation referred in paragraph 4 above shall be filed at least two days before the date of hearing with copy to the other side by e mail. All such documents should be typed on double space on A4 size paper, arranged in separate paragraphs and consecutively page numbered and must be legible such that they are readable on the screen.
6. The e-mail address of the Commissioner (Authorised Representative) at all Benches is available in the Tribunal's website.
7. On the date of hearing, the Court Master will send a mail to the Counsel/Authorized Representative at the e-mail address as given in the application with a link inviting the parties concerned for hearing.
8. The e hearing on the video conferencing platform is secured by a password which will be made known to the parties concerned one hour before the commencement of hearing. The parties are required to enter appearance by accepting the invitation link as intimated and they must not share the password with any other person.
9. The hearing is scheduled allotting a specific time slot for each case. The parties will not normally be permitted to seek adjournment. However,

the Bench may, in its discretion, adjourn the hearing. In case of adjournment of a case, the next case, if any, in the cause list will be taken.

10. In the event a party that has made a request for e-hearing does not wish to be heard through video conferencing, this fact shall be stated in the request form. It shall, however, be open to the other party to indicate that they would like to be heard in person through video conferencing or not. The party shall, however, follow the procedure indicated in paragraphs 4 and 5 above. The Application will be decided on the basis of the documents supplied by the parties.

11. The Registry shall maintain an e hearing of Application Register containing the details of the appeal and application, date and time of hearing, the names of Counsel and the Authorized representative, the Coram and the nature of the order passed. The SPS/Steno of each member in the Bench also will maintain similar Register for the record of the Member concerned. The Court Master shall maintain the Court Proceeding register as usual. Uploading of Court proceedings/Daily Orders/Final Orders shall be done in the same manner as is now being done.

V. E – mail addresses

The e mail IDs for the Principal Bench and the Regional Benches are given below.

Sl. No.	Bench	E – mail address
1.	Principal Bench, New Delhi	cestatdel.e@gmail.com
2.	West Regional Bench, Mumbai	cestatmum.e@gmail.com

3.	East Regional Bench, Kolkata	cestatkol.e@gmail.com
4.	South Regional Bench, Chennai	cestatche.e@gmail.com
5.	South Regional Bench, Bengaluru	cestatbang.e@gmail.com
6.	West Regional Bench, Ahmedabad	cestatahm.e@gmail.com
7.	North Regional Bench, Allahabad	cestatall.e@gmail.com
8.	North Regional Bench, Chandigarh	cestatcha.e@gmail.com
9.	South Regional Bench, Hyderabad	cestathyd.e@gmail.com

VI. Protocol

1. Quality time during e hearing is the norm and the parties should adhere to it. Only authorized Counsel/party in person/Department's Authorized Representative will be permitted to participate in the hearing through video conferencing.
2. The parties should join the link thirty minutes before the scheduled time for sound check and for meeting other technical aspects. This will ensure that in the event of any technical issues, another matter may be taken up and time is not wasted.
3. The parties are required to secure well in advance the device (desktop/laptop/i pad) connected to UPS or with sufficient battery charge along with web camera, microphone and speakers. Formal sitting arrangements as in an office environment with zero disturbance, adequate lighting and proper acoustics may be ensured in advance.
4. The link sent to the party is unique and they shall not share or forward the link to any other device, nor shall they enable others to join the hearing through video conferencing. No party is allowed to record the

proceedings either and, posting of any comments on the social media is strictly prohibited.

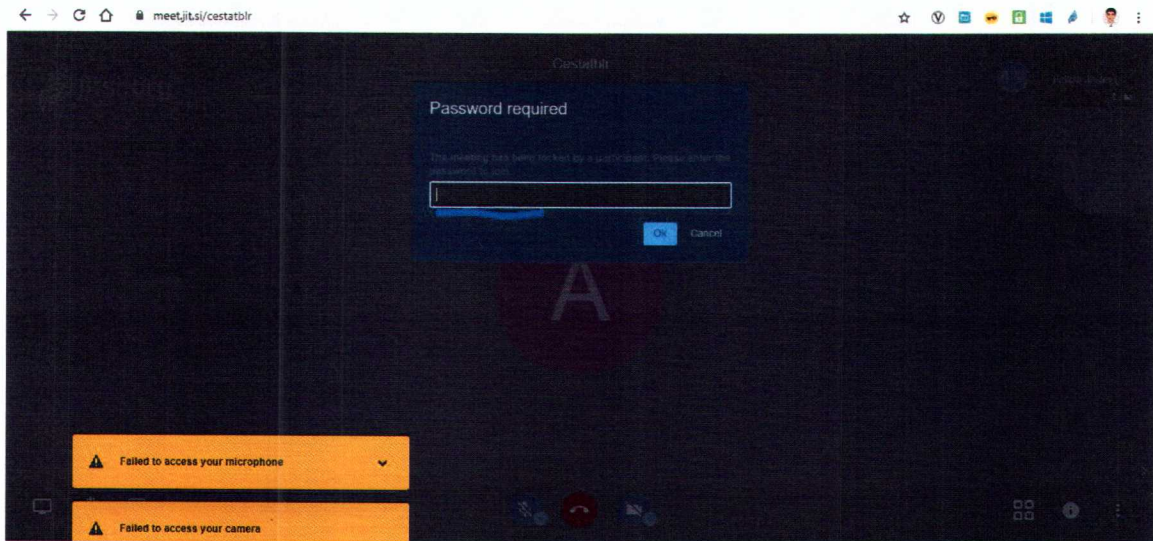
5. Once the hearing commences, the party who is not advancing the argument should not speak. If there is a need for an interjection the party may raise hand and seek permission from the Bench. As there may be lag in the relaying of information, the best practices require parties not to speak at the same time.
6. The efficiency of e-hearing will depend on the quality of video streaming, both image and sound transmission. If the video streaming is not functioning for any reason, a telephone line maybe kept as a backup for uninterrupted hearing.
7. The dress code during the e hearing are as follows:
 - a. For the Counsel
 - Male: Plain white shirt with a plain white neck band and black or white pant.
 - Female: White salwar-kameez/white saree with a plain white neck band.
 - b. For the Authorized Representatives
 - Male: Plain white shirt with black tie and black or white pant.
 - Female: White salwar-kameez/white saree.
8. The co-operation of all stakeholders including the assistance of Bar Associations will go a long way in implementing this system effectively and creating a credible e hearing platform in a sustainable environment by saving energy, time, money and other resources.

VII. Standard Operating Procedure to join e hearing on *Jitsi* meet platform

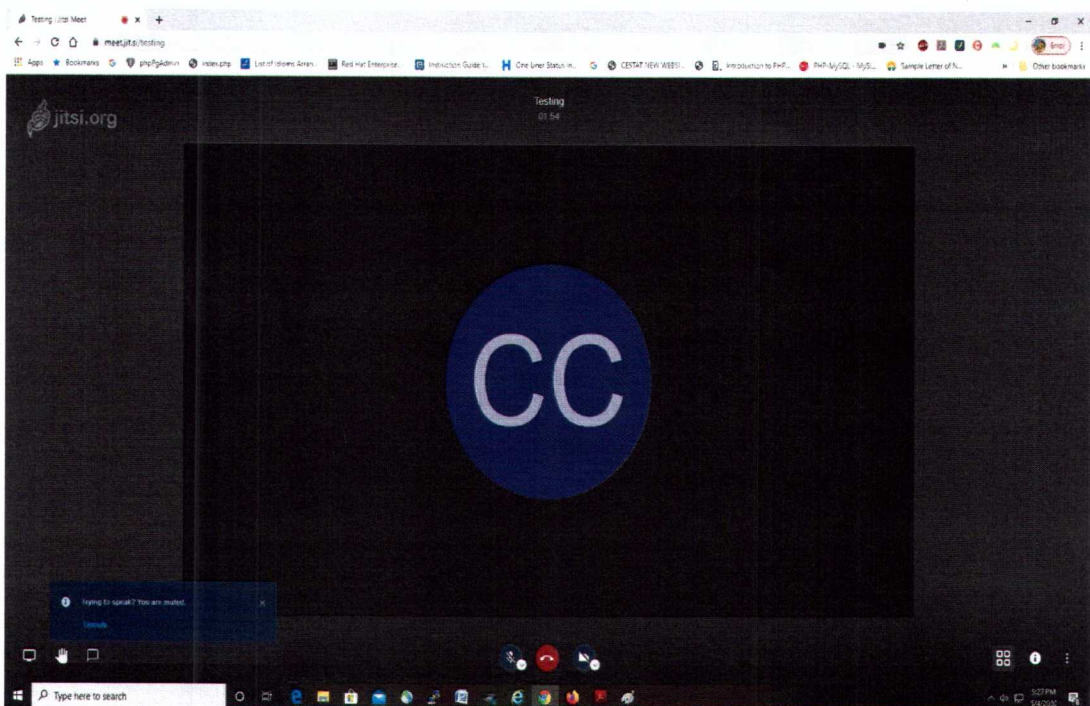
1. The parties will receive an invitation link for hearing from the Registry to the given mobile number/e-mail id.
2. The parties concerned may click on the link provided in the mail, upon which a window will open. The parties will be required to enter the password which will be provided by separate mail one hour before the start of the meeting.
3. The party then enters the 'Jitsi Meet' room. The party is required to write his/her name with designation in the profile box which will appear after clicking on the three vertical dots found at the right side bottom corner and the name of the Appellant or the Respondent, as the case may be, and the Appeal/Application/Cross Objection number(s) in the chat box at left bottom corner.
4. After joining e Hearing Room the Appellant, either in person or represented by the Counsel/Authorized Representative and the Respondent may wait for further instructions by the Bench.

VIII. Pictorial Guidelines to join e Hearing

1. The party concerned may click on the link provided in the mail, upon which a window will open. The meeting is secured by a password for credibility and cyber security reason.
2. Enter the password sent (one hour prior to the meeting) to the party by separate mail and click **OK** button.



3. Once the **OK** button is clicked, the user will join the video meeting window.



4. The party is required to write his/her name with designation in the profile box which will appear after clicking on the three vertical dots given at the right bottom corner and the name of the Appellant or the

Respondent, as the case may be, and the Appeal/Application/Cross Objection number(s) in the chat box at left bottom corner.

5. After joining the meeting, the party shall mute the audio and wait for further instructions from the Bench.
6. Use appropriate controls to handle the audio and video. It is advised to be acquainted with these controls (to mute and un-mute the audio, etc.) to assist the Bench as may be required.