



2026:DHC:9362-DB



\$~47 to 49, 51, 53 to 57

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 14.10.2026**

CNR No. DLHC010824642025

+ **SERTA 21/2025 & CM APPL. 66489/2025**

**PRINCIPAL COMMISSIONER OF GST AND CENTRAL
EXCISE, COIMBATOR** Appellant

Through: **Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.**

versus

M/S RIYA TRAVEL AND TOURS INDIA PVT. LTD.

.....Respondent

Through: **Mr. Yogendra Aldak, Mr.
Kunal Kapoor & Mr. Yatharth
Tripathi, Advs.**

(48)

CNR No. DLHC010836902025

+ **SERTA 22/2025 & CM APPL. 67655/2025**

**PRINCIPAL COMMISSIONER OF CGST AND CENTRAL
EXCISE, MADURAI** Appellant

Through: **Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.**

versus

M/S RIYA TRAVEL AND TOURS INDIA PVT. LTD.

.....Respondent

Through: **Mr. Yogendra Aldak, Mr.
Kunal Kapoor & Mr. Yatharth**

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Tripathi, Advs.

(49)

CNR No. DLHC010836912025

+ SERTA 23/2025 & CM APPL. 67797/2025

COMMISSIONER OF CGST AND CENTRAL EXCISE,
MADURAI

.....Appellant

Through: Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.

versus

M/S RIYA TRAVEL AND TOURS INDIA PVT. LTD.

.....Respondent

Through: Mr. Yogendra Aldak, Mr.
Kunal Kapoor & Mr. Yatharth
Tripathi, Advs.

(51)

CNR No. DLHC010887882025

+ SERTA 29/2025 & CM APPL. 70787/2025

COMMISSIONER OF CGST AND CENTRAL EXCISE
SALEM

.....Appellant

Through: Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.

versus

M/S RIYA TRAVEL AND TOURS INDIA PVT. LTD.

.....Respondent

Through: Mr. Yogendra Aldak, Mr.
Kunal Kapoor & Mr. Yatharth
Tripathi, Advs.



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(53)

CNR No. DLHC010894542025

+ SERTA 31/2025 & CM APPL. 71183/2025

COMMISSIONER OF CGST AND CENTRAL EXCISE,

MADURAI

.....Appellant

Through: Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.

versus

M/S AKBAR TRAVELS OF INDIA PVT LTD Respondent

Through: Mr. Prakash Shah, Senior Adv.
with Mr. Jas Sanghavi, Mr.
Jasdeep Singh Dhillon, Mr.
Rajpal Singh & Mr. Aditya
Bajaj, Advs.

(54)

CNR No. DLHC010894552025

+ SERTA 32/2025 & CM APPL. 71270/2025

COMMISSIONER OF CGST AND CENTRAL EXCISE

COIMBATORE

.....Appellant

Through: Mr. Aditya Singla, SSC with
Ms. Arya Suresh Nair, Adv.

versus

M/S AKBAR TRAVELS OF INDIA PVT. LTD.....Respondent

Through: Mr. Prakash Shah, Senior Adv.
with Mr. Jas Sanghavi, Mr.
Jasdeep Singh Dhillon, Mr.
Rajpal Singh & Mr. Aditya
Bajaj, Advs.



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(55)

CNR No. DLHC010968902025

+ SERTA 34/2025 & CM APPL. 76089/2025

PRINCIPAL COMMISSIONER OF CGST AND CENTRAL
EXCISE, TIRUCHIRAPPALLI Appellant

Through:

versus

M/S AKBAR TRAVELS OF INDIA PVT. LTD.....Respondent

Through: Mr. Prakash Shah, Senior Adv.
with Mr. Jas Sanghavi, Mr.
Jasdeep Singh Dhillon, Mr.
Rajpal Singh & Mr. Aditya
Bajaj, Advs.

(56)

CNR No. DLHC010977422025

+ SERTA 35/2025 & CM APPL. 76865/2025

COMMISSIONER OF CGST AND CENTRAL EXCISE
DELHI NORTH Appellant

Through:

versus

M/S AKBAR TRAVELS OF INDIA PVT. LTD.....Respondent

Through: Mr. Prakash Shah, Senior Adv.
with Mr. Jas Sanghavi, Mr.
Jasdeep Singh Dhillon, Mr.
Rajpal Singh & Mr. Aditya
Bajaj, Advs.



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(57)

CNR No. DLHC010035522026

+ SERTA 4/2026 & CM APPL. 7302/2026 & CM APPL.
7304/2026

COMMISSIONER OF CGST AND CENTRAL EXCISE,

TIRUCHIRAPALLI

.....Appellant

Through:

versus

M/S RIYA TRAVEL AND TOURS (I) PVT LT.....Respondent

Through: Mr. Yogendra Aldak, Mr.
Kunal Kapoor & Mr. Yatharth
Tripathi, Advs.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

HON'BLE MS. JUSTICE SHAIL JAIN

AVNEESH JHINGAN, J. (ORAL)

1. These appeals are filed under Section 35G of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994 against the order dated 25.09.2024 of the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter 'the tribunal').
2. For convenience, the facts are being taken from SERTA 21/2025.
3. On 19.10.2015, a show cause notice (for short 'SCN') was issued to the respondent for recovery of service tax on the services rendered as an air travel agent. The order-in-original (OIO) dated



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30.05.2018 was passed confirming the demand raised in SCN. The respondent was successful before the tribunal and *vide* order dated 25.09.2024, the impugned demand was set aside. Hence, the present appeal was filed and the substantial questions of law proposed are reproduced below:-

- “a. Whether the amount of service tax retained by the 'agent' i.e. the Respondent, is recoverable under Section 73A(3) of Finance Act, 1994?
- b. When the commission received from the airlines by the 'agents' and some part of it is passed on to 'sub-agents' whether in this case the service is provided by sub-agents to agents in the head 'air travel agent services'?
- c. Whether the Ld. CESTAT is correct in holding that the Respondent has not provided any services to the Airlines?
- d. Whether the Ld. CESTAT is correct in holding that commission received by the Respondent from the airlines was not inclusive of service tax?
- e. Whether the Ld. CESTAT is correct in holding that the Respondent had provided services to the sub-agents and charging of Service Tax from the sub-agents was justified when the Respondent had paid/shared the commission received from the Airlines to the sub-agents?
- f. Whether the Respondent rendered air travel agent services to the airlines as contended by the department or the Respondent rendered this service to the sub-agents or customers as contended by the Respondent?
- g. Whether it is the Respondent that is providing service to the sub-agents or the sub-agents are providing service to the Respondent?
- h. Whether the Respondent rendered any service to the airlines or services were rendered by the Respondent only to the subagents?”



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4. Learned counsel for the respondent raises a preliminary objection that the department could not have preferred the appeals in view of the instructions dated 06.08.2024 as the amount involved is less than two crores.

5. Learned counsel for the appellant contends that the demand in dispute is less than two crores. The submission is that there are cascading effects of the issue involved in the appeals and hence the circular should not apply. Reliance is on the decision of the Supreme Court in the case of ***Commissioner of Income Tax v. Surya Herbal Limited (2011) 15 SCC 482*** to contend that in case of a cascading effect, the circular *ipso facto* shall not apply. Reliance is upon the decision of the Gauhati High Court in the case of ***Central Goods and Service Tax v. M/s Pan Parag India Limited 2021 SCC OnLine Gau 2737*** and the decision of Patna High Court in the case of ***Commissioner of Central Excise and Service Tax v. Indian Oil Corporation Limited Miscellaneous Appeal No. 376 of 2019*** decided on 14.05.2026 to contend that the decision of the Supreme Court in ***Commissioner of Income Tax v. Surya Herbal Limited*** (supra) was followed by the High Courts in cases of Central Excise as well as under the Goods and Service Tax.

6. Before proceeding further, it would be relevant to reproduce the instructions issued by the Central Board of Excise and Customs (CBEC) dated 17.08.2011, 26.12.2014, 17.12.2015, 03.04.2018, 22.08.2019 & 06.08.2024.



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Instruction of CBEC dated 17.08.2011

Order-Instruction - Central Excise

F. No. 390/Misc./163/2010-JC

Government of India

Ministry of Finance

(Department of Revenue)

Central Board of Excise & Customs

New Delhi, dated 17/08/2011

Subject : Reduction of Government litigation - providing monetary limits for filing appeals by the Department before CESTAT/High Courts and Supreme Court - Regarding.

In exercise of the powers conferred by [Section 35R](#) of the [Central Excise Act, 1944](#) made applicable to Service Tax vide [Section 83](#) of the [Finance Act, 1994](#) and [Section 131BA](#) of the [Customs Act, 1962](#) the Central Board of Excise & Customs (hereinafter referred to as the Board) fixes the following monetary limits below which appeal shall not be filed in the Tribunal, High Court and the Supreme Court:

Sl.No.	Appellate Forum	Monetary limit
1.	CESTAT	Rs.5,00,000/-
2.	HIGH COURTS	Rs.10,00,000/-
3.	SUPREME COURT	Rs.25,00,000/-

2. For ascertaining whether a matter would be covered within or without the aforementioned limits, the determinative element would be duty/tax under dispute. To illustrate it further in a case involving duty of ₹ 5 lakhs or below with equal penalty and interest, as the case may be, no appeal shall be filed in the Tribunal. Similarly, no appeal shall be filed in the High Courts if the duty involved does not exceed ₹ 10 lakhs with or without penalty and interest. Further, the Commissionerates shall not send proposal to the Board for filing Civil Appeal or Special Leave Petition in the Supreme Court in a case involving duty up to ₹ 25 lakhs, whether with penalty and interest or otherwise. However, where the imposition of penalty is the subject matter of dispute and the said penalty exceeds the limit prescribed, then the matter could be litigated further. Similarly, where the subject matter of dispute is the demand of interest and the amount of interest exceeds the prescribed limit, then the matter may require further litigation.

3. Adverse judgments relating to the following should be contested irrespective of the amount involved:

- Where the constitutional validity of the provisions of an Act or Rule is under challenge.
- Where Notification/ Instruction/ Order or Circular has been held illegal or ultra vires

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4. Several queries connected with application of monetary limits have been raised by the field formations which were considered by the Board and are being clarified as below:-

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Issues	Clarifications
a) Whether duty involved mentioned in the Instruction dated 20.10.2010 refers to duty outstanding to be collected or the total duty demanded for deciding the threshold limit prescribed therein.	In a case where a part of the duty demanded is not disputed and is paid and the outstanding duty under dispute is less than the monetary limit prescribed by the Board, no appeal shall be filed. In other words, monetary limit shall apply on the disputed duty and not on the total duty demanded in a case.
b) Whether monetary limits would apply to cases of refund.	It is clarified that the monetary limits being prescribed by the Board would apply to cases of refund as well.
c) Whether applications being filed by the Department before office of Joint Secretary (Revision Application) would also be covered under the stipulation of monetary limits.	The limit specified herein will not be applicable to application filed before the Joint Secretary (Revision Application).
d) Whether exclusion of audit objections mentioned in para 6(c) of Instruction dated 20.10.2010 would cover internal audit objection cases also or whether they would be limited to cases of revenue audit alone.	The intention was to apply the exclusion clause mentioned at para 6(c) only to disputes arising out of revenue audit objections accepted by the Department. It has now been decided to delete the said exclusion clause (refer para 3 of this Instruction). Therefore, in all cases of audit objections accepted by the Department, while protective demands may continue to be issued but the same would be subjected to the monetary limits for filing appeal in the Tribunal, High Courts and the Supreme Court.

5. The revised monetary limits shall come into force from 1.9.2011.

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6. This Instruction is in continuation of earlier Instruction of even number dated 20.10.2010 and seeks to revise the monetary limits, exclusion clauses and clarifies the doubts raised by the field formations on this issue.

(Sunil K. Sinha)

Director (R)

26162156

Instruction of CBEC dated 26.12.2014

Strict Adherence to Monetary Floor of Rs. 5 Lakh (Trib) Rs. 10 Lakh (HC) Rs. 25 Lakh (SC) for Appeals in All Situations, says Board

No Clubbing of Cases or Situations Allowed

[CBEC Instruction dated 26th December 2014]

Sub: Monetary limit for filing appeal in the Tribunal/Courts.

Your attention is invited to Instruction of even number dated 20.10.2010 modified vide Instruction dated 17.8.2011 by which the Board had fixed monetary limits below which appeal shall not be filed in the Tribunal/Courts by the Department. As stated in the Instruction dated 17.8.2011, the present monetary limits are Rs 5 lakhs/Rs 10 lakhs/ Rs 25 lakhs respectively for appeal to be filed in the Tribunal/High Courts and the Supreme Court. Appeal is not required to be filed in cases below these monetary limits unless the dispute falls in the two exclusion category mentioned in para 3 of Instruction dated 17.8.2011.

2. The Board has been receiving letters from the field seeking clarifications on various aspects relating to implementation of the Instructions governing monetary limits for filing appeal in the Tribunal and Courts. Mostly, the clarifications sought is whether cases of recurring nature, whether involving the same party or even other parties, need to be pursued in litigation irrespective of the amount involved in such cases. The second issue relates to applicability of the threshold limits in various situations, mostly where the adjudicating/appellate authority disposes of more than one appeal in a common order which is sought to be challenged. Such order, generally involve cases of more than one parties, some of which fall below the monetary limit fixed for filing appeal in the forum of appeal.

3. It is hereby clarified that the existing Instruction regarding applicability of monetary limits to cases of recurring nature would continue. Therefore, all cases, including cases of recurring nature, are covered under the Instruction on monetary limits and appeal is not to be filed in such cases except those falling in the two exclusion clauses mentioned above. Even if an appeal is pending in the higher appellate forum, subsequent case of the same party or other party shall not be pursued further in litigation if the case falls below the monetary limit prescribed by the Board.

4. The Instructions mentioned above used the word "case". However, the same was not defined. The term "case" needs to be interpreted in the context of National Litigation Policy which aims at reduction of litigation. In respect of a composite order which disposes of more than one appeal/SCN and the Department contemplates filing of appeal, every appeal would be a "case" and should be subjected to the threshold limit prescribed. To illustrate, if the Tribunal passes one composite order disposing of more than one appeal filed before it, and if the Department being aggrieved is required to file more than one appeal against the said Tribunal order, then each appeal shall be subject to the monetary limit prescribed.

5. There is no change in the monetary limits prescribed by the Board.

6. The above clarification may be taken note of while processing appeals before the Tribunal and Courts. Difficulties faced, if any, may be brought to the notice of the



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Board.

F. No. 390/Misc/163/2010-JC

Instruction of CBEC dated 17.12.2015

F. No. 390/Misc./163/2010-JC
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi 17th December, 2015**INSTRUCTION**

To,

1. All Principal Chief Commissioners/Chief Commissioners and Directors General under the Central Board of Excise and Customs.
2. CC (AR), Customs, Excise & Service Tax Appellate Tribunal.
3. All Principal Commissioners/Commissioners of Customs/Central Excise/Service Tax/All Joint Chief Departmental Representatives/Commissioners, Directorate of Legal Affairs.
4. <webmaster.cbec@icegate.gov.in>

Sub: - Reduction of Government litigation – providing monetary limits for filing appeals by the Department before CESTAT/High Courts and Supreme Court – Regarding

In exercise of the powers conferred by Section 35R of the Central Excise Act, 1944 made applicable to Service Tax vide Section 83 of the Finance Act, 1944 and Section 131BA of the Customs Act, 1962 and in partial modification of earlier instruction issued from F. No. 390/Misc./163/2010-JC dated 17.08.2011, the Central Board of Excise & Customs (hereinafter referred to as the Board) fixes the following monetary limits below which appeal shall not be filed in the Tribunal, High Court and the Supreme Court:

S.No.	Appellate Forum	Monetary Limit
1.	CESTAT	Rs. 10,00,000/-
2.	HIGH COURTS	Rs. 15,00,000/-
3.	SUPREME COURTS	Rs. 25,00,000/-

2. In para 3 of the instruction dated 17.8.11 a sub clause 'c' shall be added which shall read as "classification and refunds issues which are of legal and/or recurring nature".

3. Except for above, all other terms and condition of instruction dated 17.8.11 stands.


(Rohit Singhal)
Dy. Secretary (Review)

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Instruction of CBEC dated 03.04.2018

F No 390/Misc/163/2010-JC/Pt. I
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi 03 April 2018

INSTRUCTION

To

1. All Principal Chief Commissioners/ Chief Commissioner of Customs/ Central Excise & Service Tax and Directors General under the Central Board of Excise and Customs.
2. DG, Directorate of Systems and Data Management
3. CC (AR), Customs, Excise & Service Tax Appellate Tribunal.
4. All the Principal Commissioners/ Commissioner of Customs/ Central Excise & Service Tax/ All Joint Chief Departmental Representatives/ Commissioners, Directorate of Legal Affairs.
5. webmaster.cbec@icegate.gov.in; Webmaster, CBEC

Madam/ Sir,

Subject: Reduction of litigation in Central Excise and Service Tax by omission of Exclusion Subclause 'c' in para 3 of the Instruction dated 17.08.2011 by amending instruction dt 17.12.2015 from F No 390/Misc/163/2010-JC for legacy matters and approval to extend withdrawal on the basis of identical matters (as per Instruction dt 18.12.2015, from F No 390/Misc/67/2014-JC) to Commissioner (Appeals) : Regarding

1. Deletion of sub clause 'c' of para 3 of the Instruction dated 17.08.2011, introduced vide Instruction dated 17.12.2015.:

In exercise of the powers conferred by Section 35R of the Central Excise Act, 1944 made applicable to Service Tax vide Section 83 of the Finance Act, 1994 and Section 131BA of the Customs Act, 1962 and in partial modification of earlier Instruction dated 17.12.2015 from F No 390/Misc/163/2010-JC the Central Board of Excise & Customs has decided to omit para 2 of the instruction dt 17.12.2015 from F No 390/Misc/163/2010. This para introduced a sub clause 'c' in the instruction dt 17.08.2011 from F No 390/Misc/163/2010-JC that was an exclusion clause that operated as an exception to the general monetary limits instruction. By this exception, adverse judgements pertaining to "*classification and refunds issues which are of legal and/or recurring nature*", were to be contested irrespective of the amount involved. This sub clause 'c' stands withdrawn with effect from the date of this instruction.

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2. Withdrawal of Departmental cases from Commissioner (Appeals) on the basis of decision of the Supreme Court upon an identical matter

As per Instruction dt 18.12.2015, from F No 390/Misc/67/2014-JC field formations had been directed to withdraw cases pending in High Court/Cestat, where the Supreme Court has decided on an identical matter and the decision has been accepted by the Department. This was only in respect of High Court and CESTAT cases. The Central Board of Excise & Customs has decided to extend this decision to Departmental cases with the Commissioner (Appeals) as well.

4. Other conditions:

Para 1 above, is applicable to legacy matters only. Both paras 1&2 would be applicable to pending matters as well. Except for above mentioned changes, all other terms and conditions of concerned earlier instructions continues.

5. Monthly reports in MPR:

Since withdrawal of Departmental Appeals is a long drawn activity requiring routine and constant monitoring, formats have been introduced in the Monthly Performance Report for all field formations to send monthly reports regarding status of withdrawal of appeals to Directorate of Data Management (refer table A to C). Details of the said cases should also be available in a separate register for further perusal by the Board as and when required. Tables are in the **Annexure -A** attached. The description of the Tables in brief is provided below:

i. Table A

Position of withdrawal of Departmental cases within monetary limits but excluding clause c cases in the HC (0-20 Lakh/Cestat (0-10 Lakhs)

ii. Table A- 1

Position of withdrawal on account of removal of clause 'c' cases only .

iii. Table A-2

Combined position (tables A plus A-1)

iv. Table A-3

Remaining to be filed and withdrawn (wrt Table A-2).

v. Table -B

Position of withdrawal of Departmental Appeals on Identical matters in HC/CESTAT/Commissioner (A).

vi. Table B 1

Analysis of Cases Remaining to be filed/withdrawn in Departmental Appeals on identical matters in HC/CESTAT/Commissioner (A).



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**vii. Table C**

Overall Position of all cases identified, filed and withdrawn by the Department in SC/HC/CESTAT and Commissioner (A) on monetary Limits/exclusion clause 'c'/ Identical matters.

6. Difficulties faced any in implementation of the above Instruction may be brought to notice of the Board.

(RanjanaJha)
JS (Judicial Cell)

Instruction of CBEC dated 22.08.2019

**MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS
(JUDICIAL CELL)**

F. No. 390/Misc/116/2017-JC

New Delhi: 22.08.2019

INSTRUCTION

To

1. All Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioners of Customs/ Customs (Preventive)/ GST & CX;
2. All Principal Director Generals/ Director Generals under CBIC;
3. Chief Commissioner (AR); Commissioner (Legal), Principal Commissioner, Directorate of Legal Affairs, CBIC;
5. webmaster.cbec@icegate.gov.in

Subject: Reduction of Government Litigation — Raising of monetary limits for filing appeals by the Department before CESTAT/High Courts and Supreme Court in Legacy Central Excise and Service Tax-regarding.

In exercise of the powers conferred by Section 35R of the Central Excise Act, 1944 and made applicable to Service Tax vide Section 83 of the Finance Act, 1994, the Central Board of Indirect Taxes and Customs fixes the following monetary limits below which appeal shall not be filed in the CESTAT, High Courts and Supreme Court.

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S. No.	Appellate Forum	Monetary Limit
1.	CESTAT	Rs. 50,00,000/-
2.	High Courts	Rs. 1,00,00,000/-
3.	Supreme Court	Rs.2,00,00,000/-

2. This instruction applies only to legacy issues i.e. matters relating to Central Excise and Service Tax, and will apply to pending cases as well.

3. Withdrawal process in respect of pending cases in above forums, as per the above revised limits, will follow the current practice that is being followed for the withdrawal of

cases from the Supreme Court, High Courts and CESTAT. All other terms and conditions of concerned earlier instructions will continue to apply.

4. It may be noted that issues involving substantial questions of law as described in para 1.3 of the instruction dt 17.08.2011 from F. No. 390/Misc/163/2010-JC would be contested irrespective of the prescribed monetary limits.

5. Since withdrawal of Departmental Appeals is a long drawn activity requiring routine and constant monitoring, formats have been introduced in the Monthly Performance Report for all field formations to send monthly reports regarding status of withdrawal of appeals in the MPR (refer table P/P-1). Details of the said cases should also be available in a separate register for further perusal by the Board as and when required. Tables are in the Annexure-A attached. The description of the Tables in brief is provided below.

a) Table P: Position of withdrawal with reference to raised monetary limits SC/HC/CESTAT (as per instruction dated 22/08/2019)

b) Table P-1: Remaining to be filed/withdrawn SC/HC/CESTAT.

(Rohit Singhal)
Director (Review)



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Annexure -A

Table P
Raised Monetary limits
(as per Instruction dated 22/08/2019)

As on (Last working day)-
-/-/-

Position of withdrawal in Departmental Cases raised monetary limits SC 1Crore -2 Crores / HC 50 lakhs -1 Crore/ CESTAT 20 lakhs-50 Lakhs												
S No	I. Zones (in alphabetical order)	II. Identified				III. Filed				IV. Withdrawn		
		SC	HC	CESTAT	TOTAL	SC	HC	CESTAT	TOTAL	SC	HC	FILED
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
												WITHDRAWN (l)

Table P -1
Cases remaining to be filed / withdrawn
(as per Instruction dated 22/08/2019)

As on (Last working day)-/-/-

Remaining to be Filed /Withdrawn									
S No	I. Zones (in alphabetical order)	I. Remaining to be filed*				II. Remaining to be withdrawn**			
		SC	HC	CESTAT	Total	SC	HC	CESTAT	Total
		(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)

*Identified minus filed in Table P

**filed minus withdrawn in Table P

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Instruction of CBEC dated 06.08.2024

BIC-160390/20/2024-JC-CBEC

1/94558/2024

भारत सरकार, वित्त मंत्रालय
राजस्व विभाग, न्यायिक सेल
(केन्द्रीय अप्रत्यक्ष कर एवं सीमाशुल्क बोर्ड)

4 वीं मंजिल, B विंग, हुडको विशाला बिल्डिंग
नई दिल्ली दिनांक .8.2024

Subject: Reduction of Government litigation – raising of monetary limits for filing appeals by the Department before CESTAT, High Court and Supreme Court in legacy Central Excise & Service Tax -reg.

In exercise of powers conferred by section 35R of the Central Excise Act, 1944 made applicable to Service Tax vide section 83 of the Finance Act, 1994, and in partial modification of the Board instructions issued from F. No. 390/Misc./163/2010-JC dated 17.08.2011, the Central Board of Indirect Taxes and Customs hereby fixes the following monetary limits below which appeal shall not be filed in the CESTAT, High Court and Supreme Court:

S. No.	Appellate Forum	Monetary limit
1.	CESTAT	Rs. 60 lakh
2.	High Court	Rs. 2 Crore
3.	Supreme Court	Rs. 5 Crore

2. This instruction applies only to legacy issues i.e., matters relating to Central Excise and Service Tax, and will apply to pending cases as well.

3. Adverse judgements relating to the following should be contested irrespective of the amount involved -

- Case where the constitutional validity of the provisions of an Act or Rule is under challenge; or
- Case where Notification/ Instruction / Order/ Circular has been held illegal or ultra vires.

4. Except for the above, all other terms and conditions of Instructions dated 17.08.2011 stands.

5. Relevant extracts from Section 35R of the Central Excise Act, 1944 are reproduced below for ease of reference-

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section (1), the Central Excise Officer has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Central Excise Officer from filing appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Central Excise Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal, application, revision or reference shall contend that the Central Excise Officer has

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acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(4) The Commissioner (Appeals) or the Appellate Tribunal or court hearing such appeal, application, revision or reference shall have regard to the circumstances under which appeal, application, revision or reference was not filed by the Central Excise Officer in pursuance of the orders or instructions or directions issued under sub-section (1).

6. Difficulties faced in implementation of these Instructions, if any, may be brought to the knowledge of the Board.

(Bhagwat Sharma)
Deputy Secretary (Judicial Cell)
Email: sojc-cbec@nic.in

Signed by Bhagwat Prasad
Sharma
Date: 06-08-2024 08:28:28

7. The instruction dated 17.08.2011 carved out two exceptions. The first where the validity of the provisions of an Act or Rule is under challenge and second where notification/instruction/order or circular has been held illegal or *ultra vires*.

8. On 26.12.2014, CBEC issued a clarification stating that the monetary limits for filing appeals would apply to cases of a recurring nature and appeals in such cases would not be filed, except in two

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cases specified in the circular dated 17.08.2011. It was further clarified that despite pending appeals in the higher appellate forums subsequent case of the same party or other party shall not be pursued if it falls below the prescribed monetary limit.

9. The instructions dated 17.12.2015 partially modified the instructions dated 17.08.2011 by adding one more exception in paragraph 3 relating to classification and refunds issues of a legal and/or recurring nature.

10. By the instructions dated 03.04.2018, sub-clause 'c' of paragraph 3 of the instructions dated 17.08.2011 which operated as an exception to the general monetary limits was withdrawn.

11. By the instructions dated 06.08.2024, the monetary limits were enhanced. The two exceptions provided in the instructions dated 17.08.2011 were retained and it was clarified that except for the modification to the monetary limits, all other terms and conditions of the instructions dated 17.08.2011 stand.

12. From the instructions quoted above, it is clear that the *vires* or validity of the provisions of the Act or Rule or notification/instruction/order or circular are the only exception for filing the appeal below the prescribed monetary limit. It is an admitted fact that the dispute in these appeals involves neither the validity of any provision nor of circular/notification/instruction.

13. The reliance placed by learned counsel for the appellant on the decision of the Supreme Court in ***Commissioner of Income Tax v. Surya Herbal Limited*** (supra) is of no avail. The case was with regard



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to circular issued by the CBDT for filing appeals under the Income Tax Act, 1961. The issue of applicability of circular was not decided, only liberty was granted to the Income Tax Department to approach the High Court to point out that there is a cascading effect and that the circular *ipso facto* would not apply.

14. In the case of ***Central Goods and Service Tax v. M/s Pan Parag India Limited*** (supra), the department relied upon the decision of the Supreme Court in ***Commissioner of Income Tax v. Surya Herbal Limited*** (supra) to contend that the instructions would not apply where there is a cascading effect and a common principle may be involved in a subsequent group of matters or a large number of matters. Reliance was placed by the department on instructions dated 22.08.2019, it is by this instruction the monetary limits were increased. Clause 4 of the instructions dated 22.08.2019 stated that the substantial questions of law as described in paragraph 1.3 of instructions dated 17.08.2011 would be contested irrespective of the monetary limit. On perusal of the instructions dated 17.08.2011, it is evident that there is no paragraph 1.3. The reference in clause 4 of the instructions dated 22.08.2019 is in fact to paragraph 3 of the instructions dated 17.08.2011 which provides only two exceptions as discussed above and no exception for cascading effects or bunch matters is there.

15. With due respect we are not in concurrence with the view taken by the Gauhati High Court.

16. The department made another attempt to rigour out of the



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instructions issued before the Patna High Court in ***Commissioner of Central Excise and Service Tax v. Indian Oil Corporation Limited*** (supra) contending that the issue of a recurring nature had to be entertained irrespective of the amount involved as mentioned in the instructions. The same argument is made before this Court.

17. The department failed to bring to the notice of the Patna High Court that the instructions dated 17.12.2015 were withdrawn by the instructions dated 03.04.2018, with effect from 03.04.2018.

18. The monetary limits for filing an appeal prevailing as on date are Rs. 60 lakhs before the CESTAT, Rs.2 crores before the High Court and Rs.5 crores before the Supreme Court. The two exceptions being:

- (i) Challenge to the constitutional validity of the provisions of an Act or Rule.
- (ii) Challenge to the notification/instructions/order or circular held to be illegal or ultra *vires*.

19. Before concluding we would be failing if we do not appreciate the efforts put by learned counsel for the appellant to assist the court on instructions and circular.

20. The department, if it deems appropriate, should take up this matter with the Board/Secretary to ensure uniform implementation of the instructions and circular. It is noticed regularly, that Commissionerate's are filing appeals despite the binding instructions issued with an object to reduce litigation.



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21. The present case does not fall in any of the exceptions. The appeals are dismissed as not maintainable. The substantial questions of law proposed are kept open. All pending applications are also disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 14, 2026

'JK'

Reportable: Yes