

F. No 275/65/2013-CX.8A
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Excise and Customs

New Delhi the, 19th June 2015

To,
 All the Chief commissioners of Customs, Central Excise and Service Tax
 All the Directors General
 Webmaster cbec@icegate.gov.in for uploading this on CBEC website.

Sir/ Madam

Subject: Procedural clarifications in respect of the issues relating to the "authorization" of the Commissioners to represent the Union of India and Others in matters before the High Court.

It has been noticed that there is no uniformity and clarity in respect of the procedure to be adopted by the field formations in matters relating to representation of the cases before the High Court on the behalf of Union of India (UOI) and the officers in the Ministry/ Board. Accordingly, following instructions are being issued to streamline the process of filing the counter affidavit by the Commissioner in whose name such authorization has been issued.

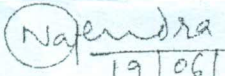
	Issue	Instruction
a	Whether the jurisdictional Commissioner can further authorize any of his subordinates to represent the interests of UOI or officers in Ministry/ Board, after he has been authorized by the Board to represent UOI or officers in Ministry/ Board	Since the Commissioner is authorized by the Board to file affidavit on behalf of the UOI and officers in the Ministry/ Board who are joined as respondents in any petition before the High Court, Commissioner cannot further authorize any of his subordinates to represent UOI or any of these officers of the Ministry/ Board. In fact, Commissioners do not have the authority to authorize anybody else. Accordingly, Commissioner should himself sign the vakalatnama and counter affidavit in all such cases.

b	Procedure in respect of the petitions before the High Court where more than one Ministry/ Department are jointly made respondents.	In case where more than one Ministry/ Department are jointly made respondent in a petition before the High Court, then the petition needs to be forwarded to the concerned Ministry/ Department for filing the counter on behalf of the said Ministry/ Department.
c	Procedure in respect of the cases where no jurisdictional officer is joined as respondents and the petition is filed against UOI and officers in Ministry/ Board	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 High Court where petition is filed, is located. As such in line with Sl No (a) above, Commissioner himself should sign the counter affidavit etc on behalf of UOI or officers in Ministry/ Board after obtaining comments from them on the petition.
d	Procedure for obtaining comments on policy issues from the policy wing or the concerned sections in the Ministry/ Board for drafting the counter.	In case where the comments of policy wings or the concerned section in the Board/ Ministry are needed, the Commissioner in whose name the authorization is issued should obtain comments directly from the said section under intimation to legal section. On the basis of the comments so received from the policy sections in the Ministry/ Board, the Commissioner who is authorized, will vet and file the counter affidavit.

2.0 The above instructions may further be circulated amongst the officers in your jurisdiction.

3.0 Kindly acknowledge the receipt.

Yours faithfully


19/06/15
(Nagendra Yadav)

OSD (Legal)