



**Office of the Commissioner,
State Goods and Services Tax Department
Tax Tower, Thiruvananthapuram**

No. L1-20085/2016/CT

Dated: 06.05.2018

CIRCULAR NO. 11/2018

**Sub: SGST Dept. - Appeal cases pending before various Appellate Forums -
Follow up action - Instructions issued – reg.**

GST has rolled out throughout the Country from 01.07.2017. In order to concentrate maximum attention towards the new taxation system, the pendency in several activities under VAT scenario are to be wiped out in a fruitful way. One of the major fields identified in this regard is the pendency of appeal cases before various Appellate Forums. It has come to the notice of the Head Quarters that due to lack of proper co-ordination between the field officers and Appellate Authorities, a major portion of State revenue from cases in appeal could not be realised within a reasonable time.

The pendency position of appeals before various authorities as on 28..02..2018 is as follows:

Appellate Forum	No of cases pending	Amount involved
DC(A)/AC(A)	25167	2167.80
Tribunal	6327	382.35
High Court	2879	1266.60
Supreme Court	104	142.10
Total	34477	3958.90

For the speedy disposal of appeals pending before the First Appellate Authorities, the Department have created 4 posts of DC(A) and 12 posts of AC(A). The performance and progress of disposal of appeal of each First Appellate Authority have been reviewed by conducting individual meetings held on 06..03..2018 to 09..03..2018 in the Head Quarters along with respective IAC's. The review revealed the deficiencies prevailing in the system of proper follow up of appeal cases.

The assessing authority completes the assessment and takes steps to recover the demand. The dealer prefers appeal against the above proceedings. From this point, the assessing authority becomes

blind in further course of action due to lack of co-ordination between assessment wing and appeal wing. Thus revenue due to the State remains idle. Hence a system of meticulous follow up in appeal cases should be evolved in assessment wing, and efficient officials should be designated for this purpose urgently.

Several cases have been identified in which the dealer had obtained stay from High Court, but not filed appeal before Appellate Authority, in which the stay from the High Court has become unconditional and not vacated for ever. Certain cases have also been identified in which dealers have remitted 20%, but not filed appeal before first Appellate Authority, which is essential for automatic stay. Negligence can be seen in such cases that no RR action has been initiated by respective IAC's even there exists violation of stay conditions.

Repeated instructions have been issued from the Head Quarters during the review meetings of District DC's and Appellate Authorities regarding the effective disposal of appeal cases. Preparation of priority list every month, revision and updation of the list periodically, preparation of chart regarding automatic stay, displaying of flow chart in notice board in the office of the Assessing Authority as well as that of the appellate authority, submission of remarks to the Appellate Authority within 2 weeks, quick disposal of Modified/Remanded orders etc. are the major actions entrusted to District Deputy Commissioners. But most of the districts have shown least interest in the above actions. The priority lists are prepared in a mechanical way. Instances are noticed in which the decision is in favour of Government, but no actions seen taken for years. There are reluctance on the part of certain officers to do legally correct actions. The callousness and reluctant attitude on the part of the officers cannot be tolerated.

All the hindrances in this area should be removed urgently. Hence certain effective measures are to be adopted in the field offices as well as in the Appeal wing. The immediate actions to be taken at the field are detailed below:

1. The appeals and revisions pending in the district before various appellate forums are to be identified and prioritised based on the following criteria:
 - Cases involving greater amount.
 - Older pending appeal cases.
 - Appeal cases in which there are court directions.
 - Sustainable cases in which judgment pronounced in favour of revenue.
 - LAR related cases.
 - Amnesty cases.
 - OR/CR cases.
 - Bogus Form issue cases.

While preparing the priority list, the following points are to be noted.

- The reason for selecting the case as priority must be shown in remarks column.
- The pending cases are carried over to the new list and should be updated each month.

- The number of cases included in the priority list should be limited to a maximum of 60, since the target of disposal fixed for each appellate authority is 75
- The new list to be cross-checked with the list of previous month and cases disposed be rounded off.
- RR cases to Revenue Authorities, automatic stay cases in which appeals are filed but not initiated RR action etc are to be considered.
- List shall be prepared with much more diligence. Chance of realization of revenue should be given prime importance.

The final priority list of district should be prepared by concerned Deputy Commissioner's. Separate list are to be given to each Appellate Authorities based on the file allocation.

The priority list so prepared should be handed over to the respective Appellate Authorities on the 7th working day of each month, marking a copy to JC(Law), Tvpm. To enable this, the Appellate Authorities shall hand over the list of appeals disposed during each month to concerned Deputy Commissioner's on the 3rd working day itself.

2. All appeals pending upto the assessment year 2010-11 will be given top priority for disposal as the Amnesty Scheme expires on 30.06.2018.
3. Direction has already been given to prepare a flow chart regarding automatic stay cases (stay obtained by remitting 20% as per Rule 72 A). A report in this regard shall be furnished before the Joint Commissioner (Law), Thiruvananthapuram.
4. Identify whether there is any instances in which the appeal cases stating that 20% have been remitted and no proof produced while filing appeal. If so such cases should be reported to the HQ.
5. It is noticed that there are cases where the dealers have remitted 20% of the disputed tax but not filed appeal before the First Appellate Authority which is an essential condition for automatic stay. Such cases shall be identified and RR actions be initiated.
6. Similar cases are found in stay granted by High Court, in which the dealers have not filed appeal before the first Appellate Authority. As such stay becomes un conditional and not vacated till the disposal of appeal. Such cases are to be identified and steps be taken to realize the amount.

Remarks on orders of the First Appellate Authority should be furnished within 2 weeks. In cases having scope for filing second appeal, steps shall be taken to file the same immediately. Action should be taken against the assessing authority who failed to give remarks on the appellate orders and statement of facts in respect of Appeals and Revisions filed by the various authorities including High Court and Supreme Court in time. The present system of Nodal officer mechanism to be continued ie., Deputy Commissioners should act as Nodal Officer in cases pending before High Court and Supreme Court and IAC's shall act as Nodal Officer in other cases pending before the Appellate Authorities and Revisional Authorities.

The work related to preparation of priority list, reconciliation of details with Appellate Authorities, disposal of prime important cases, etc are to be reviewed by conducting review meetings and the effectiveness in follow up, disposal of cases in various appellate forums, collection from disposed cases (collection from amnesty cases separately), etc are to be reported to Head Quarters on every month. For the effective follow up actions, available staff are to be deployed properly. Sufficient number of officials are to be deputed from the field where the pendency of appeal cases are huge in number and an official to be designated from Appeal wing for the effective co-ordination and reconciliation. The staff so deployed shall visit the appeal wing after intimating the same to the Appellate Authority.

The report of the above actions should be furnished to the Head Quarters along with monthly diary marking a copy to Joint Commissioner (Law).

The report should contain the following details:

- Priority list.
- 20% (automatic stay) cases in which appeal not filed.
- High Court stay cases in which appeal not filed before FAA.
- Minutes of the review meeting of the follow up.
- Effectiveness in the follow up action.

The **first report** in this regard should reach the Head Quarters on or before 31/05/2018. The name and Designation of officials nominated for reconciliation work, Updated list of cases mentioned in point 4 to 6, should also be furnished along with the details mentioned above.

All Supervisory officers shall see that the above instructions are strictly complied with.

Sd/-

Principal Secretary & Commissioner.

To

All Joint Commissioners.
All Deputy Commissioners.
All Appellate Authorities.
All Assessing Authorities.