

# **The Customs and Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982**

UNION OF INDIA

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### **Rule**

### **THE-CUSTOMS-AND-EXCISE-AND-GOLD-CONTROL-APPELLATE-TRIBUNAL (Procedure) Rules, 1982**

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The Customs and Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982 Published vide Notification No. 1/CEGAT/82, dated 25th October, 1982 Notification No. 1/CEGAT/82, dated 25th October, 1982 - In exercise of the powers conferred by sub-section (6) of Section 129-C of the Customs Act, 1962 (52 of 1962), read with sub-section (1) of Section 35-D of the Central Excises and Salt Act, 1944 (1 of 1944), and sub-section (1) of Section 81-B of the Gold (Control) Act, 1968 (45 of 1968), the Customs, Excise and Gold (Control) Appellate Tribunal hereby makes the following rules, namely : -

#### **1. Short title and commencement.**

(1) These rules may be called the Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982. (2) They shall come into force on the 25th October, 1982.

#### **2. Definitions.**

- In these rules, unless the context otherwise requires, -(a) "Acts" means the Customs Act, the Central Excises Act and the Gold (Control) Act; (b) "Administrator" means the Administrator appointed under Section 4 of the Gold (Control) Act; (c) "authorized representative" in relation to any proceedings before the Tribunal means (i) a person authorized by the person referred to in sub-section (1) of Section 146-A of the Customs Act or, as the case may be sub-section (1) of Section 35-Q of the Central Excises Act or sub-section (1) of Section 101-A of the Gold (Control ) Act, to appear on his behalf in such proceedings; or (ii) a person duly appointed [by the Central Government

or by an officer duly authorised in this behalf] [Substituted by CEGAT Notification No. 1/83, dated 3rd February, 1983.] as authorized representative to appear plead and act for the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word Collector.] or Administrator, in such proceedings;(d)[ (1) "Bench" means the Bench of the Tribunal and includes a Principal Bench and a Member sitting singly; [Substituted by CEGAT Notification No. 1/95, dated 30th May, 1995.](2)"Principal Bench" means a Bench constituted at the principal seat of the Tribunal (at Delhi) to which the cases arising anywhere in India may also be assigned.(3)"Zonal Bench" means a Bench (located at a place other than Delhi or at Delhi) but having jurisdiction over a specified Zone.](e)"Central Excises Act" means the [Central Excise Act, 1944] [Renamed by the Finance (No. 2) Act, 1996, Section 71.] (1 of 1944);(f)"certified copy" means the original copy of the order received by the party or a copy (including a photostat copy) thereof duly authenticated by the concerned department;(g)[Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] means the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] of Customs or the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] of Central Excises as the case may be;(h)"Customs Act" means the Customs Act, 1962 (52 of 1962);(i)"departmental authorities" means the Customs authorities as Central Excise authorities or Gold (Control) Authorities , as the case may be;(j)"Gold (Control) Act" means the Gold (Control) Act, 1968 (45 of 1968);(k)"member" means a member of the Tribunal including the President and a vice-President;(l)"prescribed" means prescribed by or under these rules;(m)"President" means the President of the Tribunal;(n)"Registrar" means the person who is for the time being discharging the functions of the Registrar" of the Tribunal, and "Registry" means the office of the Tribunal;(o)[\* \* \*] [Omitted by CEGAT Notification No. 1/95, dated 30th May, 1995.](p)"Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under sub-section (1) of Section 129 of the Customs Act, and includes, where the context so requires, the Bench exercising and discharging the powers and functions of the Tribunal; and(q)"Vice-President" means a Vice-President of the Tribunal and includes a Senior Vice-President appointed by the Central Government.

### **3. Sittings of Bench.**

- Subject to such general or special order as may be made by the President a Bench shall hold its sittings either at Headquarters or at such other place falling within its jurisdiction as it may consider expedient.

### **4. Powers of Bench.**

(1)A Bench shall hear and determine such appeal and applications made under the Acts at the President may by general or special order direct.(2)Where two or more Benches are functioning at any place, the President, or in his absence the senior amongst the Vice-Presidents present, or in their absence the senior most member present, may transfer an appeal or application from one Bench to another.

## **5. Language of the Tribunal.**

(1) The language of the Tribunal shall be English : Provided that the parties to a proceeding before the Tribunal may file documents drawn up in Hindi if they so desire : Provided further that a Bench may in its discretion, permit the use of Hindi in its proceeding; so however, the final order shall be in English. (2) Notwithstanding anything contained in sub-rule (1), the Tribunal may pass such orders in Hindi, as and when it deems fit : Provided that every such order shall be accompanied by a translation in English of the same, duly attested by the Bench concerned.

## **6. [ Procedure for filing appeals.] [Substituted by CEGAT Notification No. 1/83, dated 26th December, 1983.] - (1) A memorandum of appeal to the Tribunal shall be in the relevant form and shall be presented by the appellant in person or by an agent to the concerned officer, or sent by registered post addressed to the concerned officer.**

Provided that the appellant may, in case of urgency or for other sufficient reason, present or send the appeal to the concerned officer of the Bench nearest to him, even though the matter relates to a different Bench, and in such a case the officer receiving the appeal shall, as soon as may be, forward it to the concerned officer of the appropriate Bench. (2) A memorandum of appeal sent by the post under sub-rule (1) shall be deemed to have been presented to the concerned officer on the date on which it is received in the office of the concerned officer. Explanation. - (1) For purposes of this rule, "Form" means a form prescribed for the purpose of presenting an appeal under the Customs (Appeals) Rules, 1982, or the Central Excise Rules, 1944, or as the case may be, the Gold (Control) Appeal Rules, 1982. (2) In this rule "Concerned Officer" in relation to a Bench means the Registrar, Assistant Registrar or any other officer authorised to receive appeals falling within the jurisdiction of that Bench as defined by the President from time to time.

## **7. Date of presentation of appeals.**

- The Registrar or, as the case may be, the officer authorized by him under rule 6, shall be endorsed on every memorandum of appeal the date on which it is presented or deemed to have been presented under that rule and shall sign to endorsement.

## **8. Consent of a memorandum of appeal.**

- [(1) Every memorandum of appeal shall set forth, concisely and under distinct heads, the grounds of appeal and such grounds shall be numbered consecutively and shall be typed in double space of the paper. (2) Every memorandum of appeal, cross-objections, reference applications, stay applications or any other miscellaneous applications shall be typed neatly in double spacing on the fool-scape paper and the same shall be duly paged, indexed and tagged firmly with each paper book put in a separate folder.] [Substituted by CEGAT Notification No. 6/95, dated 4th September, 1995.] (3) [ Every memorandum of appeal/application/Cross-objection shall be signed and verified by the appellant/applicant/respondent or the Principal Officer duly authorised to sign

Memorandum of appeal/application/Cross objection. The appellant/applicant/ respondent or the Consultant or Advocate retained by them shall certify as true the documents produced before the Tribunal.] [Substituted by CEGAT Notification 10/95, dated 1st December, 1995.]

**9. [ What to accompany memorandum of appeal - (1) Every Memorandum of appeal required be to heard by a two-Member Bench shall be filed in quadruplicate and shall be accompanied by four copies, one of which shall be a certified copy of the order appealed against in the case of an appeal against the original order passed by the Additional Commissioner or Commissioner of Excise or Customs and where such an order has been passed in appeal or revision, four copies (one of which shall be certified copy) of the order passed in appeal or in revision and four copies of the order of the original authority.**

Explanation. - "Copy" for the purpose of this Rule shall mean a true copy certified by the appellant or appellant's representative to be a true copy.(2)In an appeal filed under the direction of the Collector or the Administrator or the Central Board of Excise and Customs, one of the copies of the order appealed against shall be an attested copy instead of a certified copy.(3)In the case of an appeal which can be heard by a single Member, Memorandum of appeal shall be filed in triplicate and number of copies of the order shall be three instead of four.Note : - As to which appeals are to be heard by single Members shall be determined by the President by separate orders in the light of the relevant statutory provisions.(4)Where an appeal which can be heard by a single Member is referred to or placed before a two-Member Bench or an appeal which can be heard by a two-Member Bench is referred to a Larger Bench, the appellant shall immediately furnish an additional copy of the memorandum of appeal and of the order or orders [of the lower authorities.] [Substituted by CEGAT Order dated 28th August, 1996.]

## **10. Grounds which may be taken in appeal.**

- The appellant shall not except by leave of the Tribunal, urge or be heard in support of any grounds not set forth in the memorandum of appeal, but the Tribunal, in deciding the appeal, shall not be confined to the grounds set forth in the memorandum of appeal or those taken by leave of the Tribunal under these rules :Provided that the Tribunal shall not rest its decision on any other grounds unless the party who may be affected thereby has had a sufficient opportunity of being heard on that ground.

## **11. Rejection or amendment of memorandum of appeal.**

(1)The Tribunal may, in its discretion, on sufficient cause being shown, accept a memorandum of appeal which is not accompanied by the documents referred to in rule 9 or is in any other way defective, and in such cases may require the appellant to file such documents or, as the case may be, make the necessary amendments within such time as it may allow.(2)The Tribunal may reject the

memorandum of appeal referred to in sub-rule (1), if the documents referred to therein are not produced, or the amendments are not made, within the time-limit allowed.(3)On representation of any memorandum of appeal after making the necessary amendments referred to in sub-rule (1), the memorandum of appeal shall be signed and dated by the officer competent to make an endorsement under rule 7.(4)[ The President may in his discretion authorise any officer of the Tribunal to return any memo of appeal, application or document(s) which is/are not in accordance with the Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982. The Officer so authorised may, however, allow the documents to be refiled after removal of the defects in the specified time.On representation the Bench concerned may in its discretion either accept the memorandum in terms of 11(1) or reject the same in terms of 11(2) but the appeal/application may not be restored to its original number unless the Bench allows it to be so restored on sufficient cause being shown.] [Inserted by CEGAT Notification 1/95, dated 30th May, 1995.]

## **12. Who may be joined as respondents.**

(1)In an appeal or an application by a person other than the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] or the Administrator, the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] concerned or the Administrator shall be made the respondent to the appeal or, as the case may be, application.(2)In an appeal or an application by the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] or the Administrator, the other party shall be made the respondent to the appeal or, as the case may be, application.(3)The provisions of sub-rules (1) and (2) shall apply to a proceeding transferred to the Tribunal under Section 131B of the Customs Act, Section 35P of the Central Excises Act or Section 82K of the Gold (Control) Act.

## **13. Document authorising representative to be attached to the memorandum of appeal.**

- Where the parties to an appeal or application are being represented in such appeal or application by authorised representatives, the documents authorising such representatives to appear on their behalf shall be appended to the memorandum of appeal, application or memorandum of cross-objection if they are signed by the authorised representatives and the said documents shall indicate clearly the status of the authorised representatives as to whether they are relatives or regular employees of the parties and the details of the relationship or employment or, in cases where they are not relatives or regular employees, their qualifications to act as authorised representatives under the Acts or, in the case of a person referred to in rule 2(c)(ii), particulars of the notification by which he has been appointed :Provided that where the authorised representative is a legal practitioner, such document of authorisation shall be a duly executed vakalatnama.

## **14. Filing of authorisation at a later stage.**

- [(1) Subject to satisfaction of the Bench, in cases, where an authorised representative known to the

Court has been engaged but is unable to file immediately the document authorising him to appear and plead along with the appeal or application for any reason, he may file memo of appearance along with an undertaking to file duly executed vakalatnama or document of authorisation during such time as the Bench may in its discretion allow.] [Substituted by CEGAT Notification 6/95, dated 4th September, 1995.](2)In case the direction of the Bench (including extended time, if any) is not followed, the Bench may in its discretion withhold the issue of the order or stay its operation till the compliance is duly made and/or refrain from extending the facility in future.(3)Any misrepresentation for the purpose of this Rule will be considered as a misconduct and may invite the same action in the same way as indicated in Section 35Q(5) of the [Central Excise Act, 1944] [Renamed by the Finance (No. 2) Act (33 of 1996).]

### **15. [Filing of memorandum of cross-objections, applications or replies to appeals/applications] [Inserted by CEGAT Notification 6/95, dated 4th September, 1995.]**

-Every memorandum of cross-objections filed, and every application made, under the provisions of the Acts, shall be registered and numbered, and the provisions of these rules, relating to appeals shall, so far as may be, apply to such memorandum or application.[15A. Reply to appeal. - After a copy of the appeal has been served the respondents may file a reply within one month and on the receipt thereof, the appellant may file a rejoinder within one month or within such time as may be specified/extended.] [Inserted by CEGAT Notification 1/95, dated 30th May, 1995.]

### **16. Preparation of paper book.**

(1)The appellant shall, along with the appeal or within one month of filing of the appeal, submit in such number of copies as of the memorandum of appeal, a paper book containing copies of the documents, statements of witnesses and other papers on the file of, or referred to in the orders of, the departmental authorities, which he proposes to rely upon at the hearing of the appeal.(2)The respondent may also file a paper book containing such documents as are referred to in sub-rule (1), which he proposes to rely upon at the time of hearing of the appeal, in such number of copies as of the memorandum of appeal, within one month of the service of the notice of the filing of the appeal on him, or within two weeks of the service of the paper book, whichever is later.(3)The Tribunal may, in its discretion, allow the filing of any paper book referred to in sub-rule (1) or sub-rule (2) after the expiry of the period referred to therein.(4)The Tribunal may on its own motion direct the preparation of as many copies as may be required of a paper book by and at the cost of the appellant or the respondent, containing copies of such statements, papers or documents as it may consider necessary for the proper disposal of the appeal.(5)[ The President may in his discretion direct by a general or special order that only such documents as may be specified by him in his order may be initially filed with the appeal; and the paper book as prescribed in sub-rule (1) and (2) may be filed subsequently on receipt of notice of hearing of the appeal by way of a general or specific notice for the case (s) or advance cause list.The President may further direct that in case of non-filing of the documents as specified under this Rule, the Registrar/Deputy Registrar or any other authorised officer would be competent to return the specified documents or sets of documents and to receive

the same back only after rectification of the defects to the satisfaction of the proper officer or the Bench as the case may be and on the return the case may be assigned a new number.(6)President may by a general or special order allow attestation of the documents filed along with appeal/application or as a part of paper book or otherwise by a gazetted officer or such other person as may be authorised by the President to attest or certify such documents or photo copies thereof.(7)All paper books shall contain clearly legible documents duly paged indexed and be tagged firmly.] [Inserted by CEGAT Notification 6/95, dated 4th September, 1995.][17. Endorsing copies to the party.] [Substituted by CEGAT Notification No. 6/85 (Tech.), dated 21st March, 1985.] - A copy each of appeal and paper-book shall be provided to the Departmental Representative as well as to the concerned Executive [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.]. In case of Departmental appeal, a copy of the same shall be served on the other party as soon as they are filed.

## **18. Date and place of hearing to be notified.**

(1)The Tribunal shall notify to the parties the date and place of hearing of the appeal or application.(2)The issue of the notice referred to in sub-rule (1) shall not by itself be deemed to mean that the appeal or application has been admitted.

## **19. Hearing of appeal.**

(1)On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.(2)The Tribunal shall then, if necessary, hear the respondent against the appeal and in such a case the appellant shall be entitled to reply.

## **20. Action on appeal for appellant's default.**

- Where on the day fixed for the hearing of the appeal or on any other day to which such hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Tribunal may, in its discretion, either dismiss the appeal for default or hear and decide it on merits :Provided that where an appeal has been dismissed for default and the appellant appears afterwards and satisfies the Tribunal that there was sufficient cause for his nonappearance when the appeal was called on for hearing, the Tribunal shall make an order setting aside the dismissal and restore the appeal.

## **21. Hearing of appeals ex parte.**

- Where on the day fixed for the hearing of the appeal or on any other day to which the hearing is adjourned the appellant appears and the respondent does not appear when the appeal is called on for hearing, the Tribunal may hear and decide the appeal ex parte.

## **22. Continuance of proceedings after death or adjudication as an insolvent of a party to the appeal or application.**

- Where in any proceedings the appellant or applicant or a respondent dies or is adjudicated as an insolvent or in the case of a company, is being wound up, the appeal or application shall abate, unless an application is made for continuance of such proceedings by or against the successor-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the appellant or applicant or respondent, as the case may be :Provided that every such application shall be made within a period of sixty days of the occurrence of the event :Provided further that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period so specified, allow it to be presented within such further period as it may deem fit.

## **23. Production of additional evidence.**

(1)The parties to the appeal shall not be entitled to produce any additional evidence, either oral or documentary before the Tribunal, but if the Tribunal is of opinion that any documents should be produced or any witness should be examined or any affidavit should be filed to enable it to pass orders or for any sufficient cause, or if adjudicating authority or the appellate or revisional authority has decided the case without giving sufficient opportunity to any party to adduce evidence on the points specified by them or not specified by them, the Tribunal may, for reasons to be recorded, allow such documents to be produced or witnesses to be examined or affidavits to be filed or such evidence to be adduced.(2)The production of any document or the examination of any witness or the adducing of any evidence under sub-rule (1) may be done either before the Tribunal or before such departmental authority as the Tribunal may direct.(3)Where any direction has been made by the Tribunal to produce any documents or to examine any witnesses or to adduce any evidence before any departmental authority, the authority shall comply with the directions of the Tribunal and after such compliance send the documents, the record of the deposition of the witnesses or the record of evidence adduced, to the Tribunal.(4)The Tribunal may, of its own motion, call for any documents or summon any witnesses on points at issue, if it considers necessary to meet the ends of justice.

## **24. Adjournment of appeal.**

- The Tribunal may, on such terms as it thinks fit and at any stage of the proceedings, adjourn the hearing of the appeal.

## **25. Proceedings to be open to public.**

- The proceedings before the Tribunal shall be open to the public :Provided that the Tribunal may, if it thinks fit, order at any stage of the proceedings of any particular case that the public generally or any particular person shall not have access to, or be or remain in, the room or building used by the Tribunal.



## **26. [ Order to be signed and to bear dated. [Substituted by CEGAT Notification No 1/98, dated 26th June, 1998.]**

- Every order of the Tribunal shall be in writing and shall be signed by the members constituting the Bench concerned and the last date of hearing of the matter and date of dictation on the Bench or if order is reserved for pronouncement, the date of such pronouncement, as the case may be, shall be typed on the first page of the order. Such date shall be typed on the part page of the order also.]

## **27. Publication of orders.**

- Such of the orders of the Tribunal as are deemed fit for publication in any authoritative report or the press, may be released for such publication on such terms and conditions as the Tribunal may lay down.[28A] [Rule 28 re-numbered as rule 28A by CEGAT Notification No. 6/95, dated 4th September, 1995.]. Procedure for filing and disposal of stay petitions. - (1) (a) Every application preferred under the provisions of the Acts for stay of the requirement of making deposit of any duty demanded or penalty levied shall be presented in triplicate by the appellant in person or by his duly authorised agent, or sent by registered post to the Registrar or any other officer authorised to receive memorandum of appeals, as the case may be, at the Headquarters of the Bench having jurisdiction to hear the appeal in respect of which the application for stay arises :[\* \* \* \*] [Omitted by CEGAT Notification No. 6/95, dated 4th September, 1995.](b)One copy each of such application shall be served on the authorised representative of the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collectoror'.] or, as the case may be, the Administrator simultaneously by the applicant.(2)Every application for stay shall be neatly typed on one side of the paper and shall be in English and the provisions of rule 5 shall apply to such applications.(3)An application for stay shall set forth concisely the following :(a)the facts regarding the demand of duty or penalty, the deposit whereof is sought to be stayed;(b)the exact amount of duty or penalty and the amount undisputed therefrom and the amount outstanding;(c)the date of filing of the appeal before the Tribunal and its number, if known;(d)whether the application for stay was made before any authority under the relevant Act or any civil court and, if so, the result thereof (copies of the correspondence, if any, with such authorities to be attached);(e)reasons in brief for seeking stay;(f)whether the applicant is prepared to offer security and, if so, in what form; and(g)prayers to be mentioned clearly and concisely (state the exact amount sought to be stayed).(4)[ The contents of the appeal/application/cross-objection shall be supported by a verification regarding their correctness by the appellant or respondent or the principal officer authorised to sign appeal/cross-objection.The Bench may, however, in a particular case direct filing of an affidavit by the appellant/respondent or any other person, if so considered necessary or desirable in the circumstances of a given case.] [Substituted by CEGAT Notification No. 6/95, dated 4th September, 1995.](5)Every application for stay shall be accompanied by three copies of the relevant orders of the authorities of the department concerned, including the appellate orders, if any, against which the appeal is filed to the Tribunal by the appellant and other documents, if any :[Provided that it shall not be necessary for the applicant to file copies of the documents which have already been filed with the related appeal.] [Substituted by CEGAT Order No. 17/85, dated 1st October, 1985.](6)Any application which does not conform to the above requirements is liable to be summarily rejected.(7)[ Subject to any general or special orders of the President in this behalf, an

application for stay shall be decided by the Bench having jurisdiction to hear the appeal to which the application relates.] [Inserted by CEGAT Order No. 7 (Tech.)/1986, dated 31st January, 1986 (w.e.f. 15th February, 1986).][28B.Change of authorised representative. - (1) In case an appellant/respondent changes the person authorised to represent him after the filing of the appeal or application then the fact of such a change may be indicated by way of a memorandum addressed to the tribunal or an endorsement or Vakalatnama or document of authorisation and upon such communication or endorsement the bench may not insist on filing of a no-objection certificate from the previous authorised representative except where in the opinion of the bench it was called for given case.

## **28C. Procedure for filing of and disposal of Miscellaneous Application.**

- The provisions of the rules regarding the filing of stay applications shall, in so far as may be, apply to the filing of applications under this rule (mutatis mutandis).] [Inserted by CEGAT Notification 6/55, dated 4th September, 1995.]

## **29. Reference to High Court.**

(1)An application for reference to the High Court shall be filed in [quintuplicate] [Substituted by CEGAT Order 6/85 (Tech.) dated 21st March, 1985 for the word 'triplicate'.] and shall be accompanied by a list of documents (particulars whereof shall be stated) which, in the opinion of the applicant, should form part of the case and a translation in English of any such documents, where necessary, and [five copies] [Substituted by *ibid*, for the words 'three copies'.] of the order passed by the Tribunal in the appeal concerned.(2)Where an application for reference is filed by any person other than the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] or the Administrator, the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] or the Administrator shall be made the respondent, and where the application for reference is filed by the [Commissioner] [Substituted by the Finance Act, 1995 (22 of 1995), Section 50, for the word 'Collector'.] or the Administrator, the other party shall be made the respondent.(3)The provisions of the rules relating to the filing of appeals shall, so far as may be, apply to the filing of an application under this rule.

## **30. Reference to Supreme Court in case of conflict in decisions of High Courts.**

- Where, on an application for reference to a High Court, the Tribunal considers it expedient, on account of conflict in the decisions of High Courts in respect of any particular question of law, to make a reference direct to the Supreme Court, such reference shall *inter alia* set out concisely the decisions of the High Courts and the points of conflict in the decisions.

### **31. Same Bench to hear the reference applications.**

- The same Bench which heard the appeal giving rise to the application for reference to the High Court or Supreme Court shall hear such application unless the President directs otherwise.[31A.Same Bench to hear applications for rectification of mistakes.] [Inserted by CEGAT Order 11 (Tech.)/1986, dated 11th February, 1986.] - An application for rectification of a mistake apparent from the record, under sub-section (2) of Section 129B of the Customs Act, or sub-section (2) of Section 35C of the [Central Excise Act, 1944] [Renamed by Section 71 of the Finance (No. 2) Act, 1996 (33 of 1996).], or sub-section (2) of Section 81A of the Gold (Control) Act, shall be heard by a Bench consisting of the Members who heard the appeal giving rise to the application, unless the President directs otherwise.[32. Submission of reply to reference application. - The respondent may, if he so desires, within forty-five days from the date on which he was served with a copy of the application for reference, submit a reply in writing to the application.] [Substituted by CEGAT Order 5/86 (Tech.), dated 22nd January, 1986.]

### **33. Contents of reply.**

(1)The reply referred to in rule 32 shall be filed in [quintuplicate] and shall specifically admit or deny whether any question of law as formulated by the applicant arises out of the order of the Tribunal.(2)If any question formulated by the applicant is defective, the reply shall state in what particulars the question is defective and what is the exact question of law which arises out of the said order.(3)The reply shall be accompanied by a list of documents (the particulars of which shall be stated) which in the opinion of the respondent, should form part of the case and a translation in English of any such documents, where necessary.[34. Statement of case. - (1) Where after hearing the applicant, and the respondent if he appears before the Tribunal in response to the notice of hearing, the Tribunal is of the opinion that a question of law arises out of its order, it shall draw up a statement of the-case.] [Substituted by *ibid.*](2)The Tribunal shall append to the statement of the case a list of documents which, in its opinion, should form part of the reference.(3)Within such time after the statement of the case is drawn up as the Tribunal may direct, the applicant or respondent, as the case may be, at whose instance any such document is included in the list, shall file as many certified and uncertified copies of the documents which form part of the reference as are required to be forwarded to the High Court or Supreme Court :Provided that the Tribunal may, at the request of the parties, in its discretion, allow further time to enable the parties to file copies of such documents.

### **35. Communication of orders to parties.**

- Any order passed in an appeal or on an application shall be communicated to the appellant or the applicant and to the respondent either in person or by registered post.

### **36. Same Bench to deal with requisition from High Court or Supreme Court.**

- Where a requisition to state the case from the High Court or where a direction to make any addition or alteration in a statement of the case from the High Court or the Supreme Court is

received by the Tribunal under the Acts, it shall be dealt with by the same Bench referred to in rule 31, unless otherwise directed by the President.

### **37. Receipt of judgment of the High Court or Supreme Court.**

- Where a copy of the judgment of the High Court or the the Supreme Court is received by the Tribunal, it shall be sent to the Bench referred to in rule 31 or any other Bench as directed by the President for such orders as may be necessary.

### **38. Copying fees.**

- [Copies of documents relating to a case/order/cause list may be supplied on request, on payment of the prescribed fees :(1)Photocopies of whole or part of an order sheet may be supplied on payment of the prescribed fees to the appellant/ respondent or their authorised representative.(2)In case of reported as well unreported orders, the copies may be supplied to journals on payment of an amount prescribed by the President for payment on annual or half yearly basis.(3)Photocopies of cause lists may be supplied to the authorised representative on payment of the prescribed fees and to the departmental representatives without fees, if so requested.] [Substituted by CEGAT Notification 6/95, dated 4th September, 1995.](4)Copying fees shall be payable in cash in advance.(5)No fee is required to be paid by any departmental authority connected with the matter in question before the Tribunal.

### **39. No fees for inspection of records.**

- No fees shall be charged for inspecting the records of a pending appeal or application by a party thereto.

### **40. Control over departmental authorities in certain matters.**

- The Tribunal shall exercise control over the departmental authorities in relation to all matters arising out of the exercise of the powers or of the discharge of the functions of the Tribunal.

### **41. Orders and directions in certain cases.**

- The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect or in relation to its orders or to prevent abuse of its process or to secure the ends of justice.[42. Working hours of officer of the Tribunal. - Except on Saturdays, Sundays and other public holidays, the offices of the Tribunal shall subject to any order made by the President, be open daily from 9.30 A.M. to 6.00 P.M. ; but no work, unless of urgent nature, shall be admitted after 5.30 P.M.] [Substituted by CEGAT Order No. 23/86 (Tech.), dated 14th November, 1986.]

### **43. Sittings of the Tribunal.**

(1)The Tribunal shall not ordinarily hold sittings on Saturdays, nor on any Sundays and other public holidays.(2)[ The sitting hours of the Tribunal shall ordinarily be as under :In New Delhi, Bombay and MadrasFrom 10.30 A.M. to 1.30 P.M. and from 2.15 P.M. to 4.45 P.M.In CalcuttaFrom 10.15 A.M. to 1.15 P.M. and from 2.00 P.M. to 4.30 P.M.] [Substituted by CEGAT Order No.I/94, dated 27th September, 1994.]

### **44. Officers of the Tribunal and their functions.**

(1)The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions as are assigned to him under these rules or by the President by separate order.(2)The Registrar may, with the approval of the President, delegate to [the Deputy Registrar or] [Inserted by CEGAT Order No. 6/85 (Tech.), dated 21st February, 1986.] an Assistant Registrar any function required by these rules to be exercised by the Registrar.(3)In the absence of the Registrar [the Deputy Registrar or] [Inserted by CEGAT Order No. 6/85 (Tech.), dated 21st February, 1986.] the Assistant Registrar may exercise all the functions of the Registrar.(4)The official Seal shall be kept in the custody of the Registrar [or Deputy Registrar or Assistant Registrar.] [Inserted by CEGAT Order No. 6/85 (Tech.), dated 21st February, 1986.](5)Subject to any general or special directions given by the President, the Seal of the Tribunal shall not be affixed to any order, summons or other processes save under the authority in writing of the Registrar [of Deputy Registrar or Assistant Registrar.] [Inserted by CEGAT Order No. 6/85 (Tech.), dated 21st February, 1986.](6)The Seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing of the Registrar [or Deputy Registrar] [Inserted by CEGAT Order No. 6/85 (Tech.), dated 21st February, 1986.] or Assistant Registrar.

### **45. Additional powers and duties of the Registrar.**

- In addition to the powers conferred by other rules, the Registrar shall have the following powers and duties subject to any general or special order of the President, namely : -(i)to require any memorandum of appeal, application, petition or other proceeding presented to the Tribunal to be amended in accordance with the practice and procedure of the Tribunal or to be represented after such requisition as the Registrar is empowered to make in relation thereto has been complied with;(ii)subject to the directions of the respective Benches, to fix the date for hearing appeals, applications petitions or other proceedings and issue notices thereof;(iii)to settle the index in cases where the record is prepared in the Tribunal;(iv)to direct any formal amendment or record; and(v)to order the grant of copies of documents to parties to proceedings, and to grant leave to inspect the records of the Tribunal under rule 39.

### **46. Seal and Emblem.**

- The official Seal and Emblem of the Tribunal shall be such as the President may prescribe.

#### **47. Dress for the Members.**

- The dress for the Members shall be such as the President may prescribe.[48. Dress for the parties. - Every authorised representative other than a relative or regular employee of a party shall appear before the Tribunal in his professional dress, if any, and, if there is no such dress, -(i)if a male, in a close-collared black coat, or in an open-collared black coat, with white shirt and black tie; or(ii)if a female, in a black coat over a white sari or any other white dress :Provided that during the summer season from 15th April to 31st August, the authorised representatives may, when appearing before a Bench of the Tribunal, dispense with the wearing of a black coat.Explanation. - For the purpose of this Rule, the expression 'regular employee of a party' shall not include an employee of the Customs or Central Excise Department who is appointed as an authorised representative in pursuance of sub-clause (ii) of sub-rule (c) of rule 2.] [Substituted by CEGAT Notification No. 2/CEGAT/84, dated 23-5-1984.]