

**GOVERNMENT OF INDIA  
FINANCE  
LOK SABHA**

UNSTARRED QUESTION NO:2436  
ANSWERED ON:23.07.2004  
APPEAL FILED BY CENTRAL EXCISE DEPARTMENT  
Singh Shri Prabhunath

**Will the Minister of FINANCE be pleased to state:**

- (a) whether it is a fact that the check of the records in 16 commissionerates of central excise revealed that 32 appeals filed by the department involving revenue of Rs.50.41 crore were dismissed by the Supreme Court and three cases involving Rs.2.00 crore by CEGAT on account of abnormal delays in filing the appeals;
- (b) if so, the reasons for delay in filing the appeals ;
- (c) whether any action taken against the authorities responsible for the delay in filing the appeals ;
- (d) if so, the details thereof, and
- (e) if not, the reasons therefore?

**Answer**

MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHM &JS. PALANIMANICKAM1

(a) Partly admitted.

Report No. U of 2003 (Union Government, Indirect Taxes - Central Excise and Service Tax) of the Comptroller and Auditor General of India, laid on the Table of the Lok Sabha and Rajya Sabha on 22nd April 2003 highlights this at Chapter 3, Para 3.5.1. However, as per examination of the individual cases, it has come to light that while 31 cases were dismissed by the Hon`ble Apex Court, one case was dismissed on merits by the Supreme Court after condonation of delay caused. In two cases involving revenue of Rs.1,35 crores the law point has since been settled against the department hence no revenue loss is admitted. It may also be appreciated that in all these cases the judgment has been pronounced by the Tribunal/High Court against the Department. By going in appeal against these issues, department was only seeking to obtain relief by way of final determination of law by the Hon`ble Apex Court.

(b) The reasons for delay in filing the appeals have been examined. Primarily, an appeal proposal moves through three tiers before the same is filed before the Honble Supreme Court; the Commissioner's office, the office of the Central Board of Excise and Customs, the Central Agency Section of the Ministry of Law. Time taken to process the case at each of these tiers has been identified. Reasons for delay in these cases are as follows:

- i. There is an admitted administrative lapse in timely processing at all level in most cases,
- ii. Further sometimes an issue has necessitated more in-depth scrutiny and therefore, other formations, including the Board, have been consulted by the Commissioner before arriving at a decision to file appeal;
- iii. At the level of the Board, in some cases discussions on merits of filing appeal have involved consultations with other wings of the Board as well as learned Law Officers which has taken time,
- iv. At the level of the Central Agency Section, time has been taken by panel counsels in drafting appeals and sometimes in curing of defects.

(c) Yes,

(d) The department has taken stock of the situation and has in recent times by way of instructions and continuous monitoring, sensitized the field formations on the need to file appeals within the stipulated period. Further in each case, action has been taken to call the errant departmental authorities to task for delay caused in filing the appeal. With reference to delay caused at the level of Central Agency Section/panel counsel, the department is in continuous dialogue with the Ministry of Law to take action against the concerned government counsels who are responsible for having caused delay in filing appeal.

(e) Does not arise.