

F.No. 01/10/218/01/Misc./AM14/LS  
Government of India  
Department of Commerce  
Directorate General of Foreign Trade  
Litigation Section  
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Udyog Bhawan, New Delhi – 110 011

Dated 04.09.2020

OFFICE MEMORANDUM

Subject: **Comprehensive Guidelines/Protocol for dealing with Court Cases - regarding**

In order to streamline the procedure of processing Court Cases, drafting petitions in cases where Directorate General of Foreign Trade (DGFT) moves the court and obtaining competent authority's approval on parawise reply/counter affidavit to be filed in court of law etc. it has been decided to follow the following course of action.

**1. Cases in which Union of India/DGFT is respondent and is processing for preparing counter affidavit/parawise reply:**

- (i) In certain cases, notice to file counter affidavit is received in the DGFT (Hqrs) without detail documents. The concerned section dealing with the court case shall obtain a copy of writ petition/plaint immediately.
- (ii) The petition/plaint shall be examined carefully by the concerned division/section and shall bring out on the note sheet the list of parties to the case and the impugned order in the case, if any.
- (iii) A short description of policy/procedure stipulations that the impugned order pertains to alongwith a copy of the relevant policy / procedure / document shall be placed in file.
- (iv) Prayer made by the petitioner must be brought out clearly on the note sheet.
- (v) Date of hearing of the case shall also be produced on the note sheet.
- (vi) Whether any interim order (like stay) has been granted by the court. If so, it should be examined in details for any action required on the part of DGFT(HQ).



- (vii) Based on above material, concerned Addl.DG/JDG heading the division will go through the parawise reply and recommend for approval of DGFT. In case the Addl.DG/DGFT feels that there are sensitive issues to be seen at higher level, then he / she shall clearly record the sensitive issue involved and propose a decision at higher level.

## **2. Cases in which DGFT is filing Appeal/SLP.**

- (i) The concerned section shall obtain a copy of order against which DGFT proposes to file Appeal.
- (ii) The concerned section shall seek opinion of the Government Counsel on filing Appeal and place the same on file.
- (iii) A short description of the operative portion of the impugned order, if any, and financial implication, if any, shall be highlighted on the note sheet.
- (iv) A copy of policy / procedure / document relevant to the impugned order will be placed in correspondence.
- (v) The major grounds in the court order based on which the impugned order has gone against the Government should be examined. The contention of this Directorate against each such ground should be brought out on the note sheet. Care should be taken that the gist of ground is brought on the note sheet and the whole order is not just reproduced.
- (vi) Any other contentions based on which this Directorate is proposing to challenge the impugned order may also be highlighted on the note sheet.
- (vii) The contentions on which this Directorate is proposing to challenge the order will be submitted for approval at the level of DG. According to the approval of DG, the parawise petition/plaint will be finalized by the concerned Addl.DG/JDG with Government Counsel and file in the court.
- (viii) In cases where Secretary, Union of India (or UOI through Secretary) is the first Respondent, the contentions on which the Directorate is challenging the order will be submitted along with para-wise reply/plaint (finalized by the concerned Addl.DG/JDG in consultation with Central Government Standing Counsel) for the approval of Commerce Secretary.



**3. In cases when RAs are proposing to file Appeal against Court Judgement.**

- (i) The concerned RA shall obtain a copy of order against which RA proposes to file Appeal.
- (ii) The concerned RA shall seek opinion of the Government Counsel on filing Appeal.
- (iii) The major grounds in the court order based on which the impugned order has gone against the Government should be examined. The contention of the RA against each such ground should be brought out.
- (iv) RAs to seek inputs/comments of the concerned division in the DGFT(Hqrs) dealing with the subject matter before filing Counter affidavit. Whenever inputs/comments is sought, RAs may prepare a gist of writ petition alongwith draft PWC and send to the relevant division in DGFT(Hqrs). In case an appeal or advice on appeal is sought, a copy of the judgement should also be enclosed alongwith the specific point/para of the judgement which is to be appealed against.

**4. DGFT being impleaded as respondent:**

- (i) In some court cases, DGFT has been impleaded as respondent and affidavits are being filed by RAs due to the fact that the notification imposing restriction on import / export has been issued by DGFT, whereas the recommendation for imposing such restriction was made based on inputs by the concerned Ministry/Department. In such cases, the following course of action may be adopted:
- (ii) To take inputs from the concerned Line Ministry/Department before filing of counter affidavit
- (iii) In case the Line Ministry has not been impleaded as a respondent, the copy of petition be forwarded to them for comments/appropriate action. Views of Central Government Standing Counsel (CGSC) be solicited for impleading Line Ministry as a respondent in such cases so that the case can be appropriately defended and government interest protected.



- (iv) All concerned RAs shall send draft affidavit/counter affidavit/parawise comments for vetting by DGFT(Hqrs) directly to the concerned division/office instead of routing through Litigation Section to avoid any delay in filling the same.

**5. Court case data in Legal Information Management System (LIMBS).**

Department of Legal Affairs, Ministry of Law & Justice has implemented Legal Information Management Briefing System (LIMBS) – a website on which all court cases of Government of India is to be uploaded/monitored. All Divisions/sections of DGFT (Hqrs) shall ensure that:

- (i) Regular updation of details of all court cases on LIMBS are done by all divisions/sections.
- (ii) Regular updation of details of cases marked “Important” on LIMBS and monitor them regularly by all divisions/sections.
- (iii) All divisions shall furnish names and contact details of nodal officer in the divisions/sections who is responsible for updating the website of LIMBS to Litigation Section.
- (iv) All divisions shall make concerted efforts to reduce the pendency of cases in various courts.
- (v) All RAs shall also implement instructions of the LIMBS.

**6. This issues with the approval of competent authority.**

  
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To,

- (i) All ADGs of DGFT
- (ii) All JDGs of DGFT
- (iii) All DDG, of DGFT
- (iv) All divisions/Sections of DGFT
- (v) Copy for file.