No.278A/54/2015-Legal
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs
(Legal Cell)
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C-Wing, 5th Floor, Hudco Vishala Bldg.,
Bhikaji Cama Place, R.K.Puram,
New Delhi, the 29th February, 2016

Instruction

To

1. All the Principal Chief Commissioners/Chief Commissioners of Customs/Central Excise/Service Tax.
2. The Directors General, Revenue Intelligence/ CEI.
3. < webmaster.cbec@icegate.gov.in>; Webmaster, CBEC

Subject: Procedure for selection of Special Public Prosecutors (SPPs) for handling CBEC cases before the Subordinate Courts/Courts of Session and High Court – reg.

Sir/Madam,

Please find enclosed guidelines for selection of Special Public Prosecutors (SPPs) for handling CBEC cases before the Subordinate Courts/Courts of Session and High Court.

2. In this regard, it may be mentioned that the attached guidelines will be effective from **01.03.2016**. It is, however, clarified that all such proposals for extension of existing SPPs or otherwise, which have been sent by the concerned Chief Commissioner to the Board on or before **29.02.2016** will be examined as per the earlier procedure.

3. Difficulties faced, if any, in implementation of these Instructions may be brought to the notice of the Board.

This issues with the approval of the Competent Authority in Ministry of Finance.

Encl: As above

(Y.S.Karoo)
Under Secretary (Legal)
Phone:-011-26195406

Issued
29/2/16

Procedure for selection of Special Public Prosecutors (SPPs) for handling CBEC cases before the Subordinate Courts/Courts of Session and High Court.

In order to streamline the procedure for selection of SPPs for handling CBEC cases before the Subordinate Courts/Courts of Session and High Court, the following procedure is laid down:-

1. The concerned Chief Commissioner will assess the number of SPPs required for prosecution/criminal cases of CBEC in his Zone. While deciding the number of SPPs in the Zone, the requirement of cases of the DGRI/DGCEI will also be taken into consideration. In case there is more than one Chief Commissioner in a Zone, the Chief Commissioner of Customs, will be the nodal authority. In case there is more than one Chief Commissioner of Customs in a Zone, the Chief Commissioner of Customs-Zone -1 will be the nodal authority. This vacancy position will then be circulated to all the Commissioners. Based on the requirement, the following procedure will be adopted:-

2. Procedure for engagement

2.1 The concerned Commissioner will at least 5 months before the expiry of the term of the existing SPP or immediately on occurrence of the vacancy due to any reason such as resignation, death, removal, promotion, fresh recruitment etc. will call for applications either by advertisement in local newspapers, or by displaying "Notice for Application" on the notice Board/website of the Commissionerates and also forward the Notice inviting applications from the aspiring advocates, who qualify in terms of Section 24 (8) of the Criminal Procedure Code, 1973 to the Bar Council of the High Court/Bar Associations of Subordinate Courts falling under the jurisdiction of the Commissionerate.

2.2 The applicants should apply along with the Bio-data and willingness to the concerned Commissioner. The fresh application should be received within 3 weeks of the date of "Notice of Application".

2.3 A three-member Committee shall be formed for the purpose of evaluation of the proposals received (both seeking extension and fresh applicants). The Committee will comprise of the concerned Commissioner and a Commissioner nominated by the concerned Chief Commissioner. The 3rd Member will be the Zonal Addl. Director General of the Dte. of Revenue Intelligence, failing which the Zonal Addl. Director General of the Central Excise Intelligence will be the Member. All eligible candidates (both seeking extension and fresh applicants) will be interviewed by the said Committee. The Committee will assess the applicants' expertise in handling criminal/prosecution matters and their suitability to represent the cases of the Department before the various judicial fora. The said Committee will record the proceedings and give its recommendations to the concerned Chief Commissioner, who will send his views along with the recommendations of the Committee to the Board at least 2 months before the date of expiry of the term of SPP. The Chief Commissioner will submit the proposal for renewal of the period of engagement to the Board for existing SPPs' in the proforma-I. It should be ensured that the process of engagement is transparent and broad based.

2.4 The Board will thereafter examine such proposals received from the Chief Commissioner for appointment/extension of SPPs.

2.5 The first engagement of an SPP shall normally be for a period of 18 months. Such engagement will be renewable on receipt of recommendation of the concerned Chief Commissioner along with the annual performance appraisal on completion of first 12 months of the engagement.

3. Performance Review

3.1 On the basis of the reports received from the Jurisdictional Commissioner, the Chief Commissioner concerned shall review the performance of the SPP for every Year and send an Annual Report to the Legal Cell of the Board by 31st March of the following year in the proforma-II.

4. The concerned Chief Commissioner will ensure equitable distribution of workload to all SPPs in his jurisdiction.

5. In this regard, it is brought to the notice that the Ministry of Law and Justice appoints Additional Public Prosecutors/Public Prosecutors for defending the interests of Union of India in various criminal/prosecution matters within the jurisdiction of the concerned High Court/Subordinate Courts, whose services can be availed by the Commissionerate for the prosecution/criminal matters of CBEC.

6. The Board with the concurrence of Ministry of Law and Justice had issued revised terms and conditions for appointment (including fees and allowances) of SPPs for CBEC before Subordinate Courts/Courts of Session and High Court vide letter No. 278A/82/2008-Legal dated 25.5.2010, which shall stand until revised further.

Encl: As above

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PROFORMA-I

PERFORMANCE APPRAISAL OF SPECIAL PUBLIC PROSECUTOR (SPP) FOR THE PERIOD_____ (To be sent at the time of renewal of term of engagement)	
PART-I	
1. Name of the zone	
2. Name of the Special Public Prosecutor	
3. Date of Birth	
4. Date of Engagement	
5. Date of expiry of existing Tenure (Board's reference No. by which last renewal was sanctioned should be specified)	

PART-II		
PERFORMANCE REPORT		
1.	No. of cases handled by the SPP	
2.	Cases decided in favour of the Department	
3.	Cases decided against the Department	
4.	Any other information	

PART-III		
1.	Does the SPP take interest in his work and generally alert in the Department's interest in various litigation entrusted to him	
2.	Specific comments should be given about the promptness in :	
2.1	Informing the Department from time to time regarding hearing of cases, supply of copies of Judgment etc.	
2.2	Taking steps for vacation of stay	
3.	Whether the Chief Commissioner is satisfied with the performance of the SPP? If no, the instances may be indicated.	
4.	Whether continuance is recommended?	

CHIEF COMMISSIONER OF CUS./CE/ST.

PROFORMA-II

ANNUAL PERFORMANCE APPRAISAL OF SPECIAL PUBLIC PROSECUTOR (SPP) FOR THE YEAR _____		
PART-I		
1. Name of the zone		
2. Name of the Special Public Prosecutor		
3. Date of Birth		
4. Date of First Engagement		
PART-II		
PERFORMANCE REPORT		
Cases handled during the period under review		
1.	No. of cases handled by the SPP (list of cases to be enclosed)	
2.	Cases decided in favour of the Department	
3.	Cases decided against the Department	
4.	Any other information	
PART-III		
Comments of the Commissioner on the performance of the SPP		
COMMISSIONER OF CUS.CE.S.T.		
Review of the performance by the Chief Commissioner		
Whether the performance is found satisfactory		YES/NO
CHIEF COMMISSIONER OF CUS./CE/ST.		

NOTE:

Part-I and Part-II of the pro-forma are to be filled by the SPP. Part-II should be verified by the respective Commissioner before offering their comments on the performance.