

OFFICE OF THE COMMISSIONER
C.G.S.T. & C. EX., COMMISSIONERATE
117/7, SARVODAYA NAGAR, KANPUR

TRADE NOTICE
DATED : 01.05.2020

Subject : Guidelines for conduct of personal hearings in virtual mode under Customs Act,1962-regarding

Board has been reviewing various procedures under the Customs Act, 1962, on account of recent outbreak of COVID-19 (Coronavirus) with a view to adopt measures to ensure social distancing, reduce physical presence, use modern information and communication technology systems and change conventional mode of work, in areas not covered by Customs ICES EDI system/ ICEGATE online gateway, by creating a virtual customs working environment.

2. While ensuring compliance with various guidelines and instructions issued by the Govt. and public health authorities with a view to contain the spread of COVID-19, Board has decided that personal hearing, in respect of any proceeding under Customs Act, 1962, given by various authorities, such as Commissioner(Appeals), original adjudicating authorities and compounding authority, may be conducted through video conferencing facility.

3. Board guidelines to conduct such virtual hearing are being provided so that ongoing customs work of appeals and adjudications are completed expeditiously for quick delivery of justice-through quasi-judicial proceedings and in compliance of overall directions given by Hon'ble Supreme Court under article 142 of the constitution of India (refer suo- moto Writ (Civil) No.5/2020). This would also facilitate importers, exporters, passengers, advocates, tax practitioners and authorized representatives to maintain social distancing while performing their work at ease, from a place of their choice.

4. The guidelines for the conduct of virtual more of personal hearing through video conferencing facility are as under :

(i) In any proceedings before appellate or adjudicating authority under the Customs Act , 1962 the party, either as an appellant or a respondent, shall given his consent to avail the personal hearing before such authority, through video conferencing facility, at the time of filing his appeal or immediately after the issue this instruction, in the case of pending appeals / adjudication matter. He should also indicate his e-mail address for correspondence etc.

(ii) The date and time of hearing alongwith a link for the video conference shall be informed in advance to the appellant/respondent or their consultant/counsel and the concerned commissioner representing revenue through the official e-mail or electronic media of the adjudicating/appellate authority, giving the details of officer-in-charge who would provide assistance to the party, for conducting the virtual hearing. This link should not be shared with any other person without the approval of the adjudicating / appellate authority.

(iii) The advocate/consultant /authorized representative, appearing on behalf of the party, in virtual hearing, should file his vakalatnama or authorization letter along with a copy of his photo ID card and contact details to the adjudicating/appellate authority through official e-mail address of the concerned authority after scanning the same. All persons participating in the video conference should be appropriately dressed and maintain the decorum required for such an occasion.

(iv) Virtual hearing through video conference shall be held from the office of adjudicating/appellate authority or any official video conference facility set up in the office of the adjudicating / appellate authority.

(v) The virtual hearing through video conference will be conducted through available applications like VIDYO, or other secured computer network. The appellant/respondent should download such application in their computer system/laptop/mobile phone beforehand for ready connectivity during virtual hearing, and join the video conference at the time allotted to them, as given in point (ii) above.

(vi) In case where the party/his representative wishes to participate in the virtual hearing proceeding along with their advocate, they should do so under proper intimation to the adjudicating/appellate authority as mentioned at point (ii) above. They may participate in virtual hearing along with their advocate /authorized representative or join the proceedings from their own office.

(vii) The submissions made by the appellant or their representative through the video conference will be reduced in writing and a statement of the same will be prepared, which shall be known as "record of personal hearing". A soft copy of such record of personal hearing in PDF format will be sent to the appellant through e-mail ID provided by advocate/appellant/respondent, within one day of such hearing.

(viii) If the appellant /their representative wants to modify the contents of e-mailed record of personal hearing, they can do so and sign the modified record, scan and send back the signed record of personal hearing to the adjudicating /appellate authority.

(ix) if, however, the appellant / their representative do not resend the above e-mailed record of personal hearing within 03 days of receipt of such e-mail as at point (viii) above, it will be presumed that they agree with the contents of e-mailed record of personal hearing and adjudicating authority/appellate authority will proceed to decide the case accordingly. No modification in e-mailed record of personal hearing will be entertained after 03 days of its receipt by appellant/their representative. The date of receipt of the e-mail by the appellate/adjudicating authority will not be counted for this purpose.

(x) The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of Customs Act, 1962 in terms of section 138 C of the said Act, read with Section 4 of the Information Technology Act, 2000.

(xi) If the party/advocate prefers to submit any document including additional submission during the virtual hearing, he may do so by self-attesting such document and a scanned copy of the same may be e-mailed to the adjudicating/appellate authority immediately after

virtual hearing and in no case after 03 days of virtual hearing. The date of the hearing will be excluded for this purpose.

(xii) Any official representing the Department's side can also participate in the virtual hearing through video conferencing. The Commissionerate concerned shall inform the details in advance regarding such participation, on receipt of intimation as mentioned at point(ii) above

5. The aforesaid guidelines will mutatis mutandis would apply to personal hearing granted under Central Excise Act, 1944 & chapter V of Finance Act, 1944.

All approved trade associations and members of RAC/PGC are requested to bring the contents of this trade notice to the notice of their constituents members and other concerned.

Difficulties if any, faced in the implementation of this trade notice may be brought to the notice of the undersigned.

(P.K.Katiyar)
COMMISSIONER
CENTRAL GOODS & SERVICE TAX
KANPUR

C.No. V(30)Tech./Public & Trade Notice/28/2018

Dated: .05.2020

Copy forwarded for information and necessary action to:-

1. PS/PA to the Principal Chief Commissioner, CGST & C.Ex., Lucknow Zone, 7-A, Ashok Marg, Lucknow.
2. PS/PA to the Commissioner, CGST & C.Ex., Kanpur.
3. The Dy./Asstt. Commissioner, Central Goods & Service Tax Division – I / II / III / Kanpur Dehat/Jhansi / Farrukhabad.
4. The Assistant Commissioner (P&V) / C.P., Central Goods & Service Tax, Kanpur.
5. The Superintendent (Systems), Central Goods & Service Tax, Kanpur for uploading this public notice on the website of Kanpur Commissionerate
6. All the Member of RAC./ Trade Associations.
7. Guard file / Notice Board.


ASSISTANT COMMISSIONER (TECH.)
CENTRAL GOODS & SERVICES TAX
KANPUR