



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद

"सीमा शुल्क भवन", पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा, अहमदाबाद - 380 009.

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File no.cus/pros/misc/45/2020-legal

Dated: 01.12.2020

DIN : 20201271MN000000C9E4

NOTICE FOR APPLICATION

Sub: Procedure for selection of Special Public Prosecutor (SPPs) for Handling CBIC cases before the subordinate Court/Courts of Session and High Court- Reg.

Applications are invited from eligible Advocates for constituting a panel of Special Public Prosecutor to handle prosecution cases of CBEC (Now CBIC) before various subordinate Courts/Court of Session, High Court and other judicial fora. The period of first engagement shall normally be for a period of 18 months.

2. The requisite qualification, terms & conditions of engagement and the schedule of fees and allowance are as per Instruction letter No. 278A/54/2015 Legal dated 29.02.2016 and letter No. 278A/82/208-Legal dated 25.05.2010, both issued by CBEC (Legal Cell) and can be downloaded from the website [http:// ahmedabadcustoms.gov.in/](http://ahmedabadcustoms.gov.in/)

3. Interested advocates may apply in proforma-A (Enclosed) addressed to the Joint Commissioner (Legal) Customs, Ahmedabad, 2nd Floor, Custom House, Near All India Radio Building, Navrangpura, Ahmedabad-380009. The last date for the submission of application is **8th December-2020 at 18-00 hours.** Proforma-A can be downloaded from the website <http://ahmedabadcustoms.gov.in/>

4. This issued with the approval of Principal Commissioner, Ahmedabad Customs.


Joint Commissioner (Legal)

Customs, Ahmedabad

Performa – A

Particulars to be furnished by an advocate applying for appointment as Special Public Prosecutor for Subordinate Courts/Courts of Session

1. Name of the Person :
2. PAN-Permanent Account Number :
3. Father's Name :
4. Date of Birth :
5. Phone No./Mobile No.:
6. Address for correspondence :
7. Permanent Address :
8. *Educational Qualification :
9. *Date of Enrollment in District & Session Court:
10. District & Session Court to which enrolled :
11. *Date of empanelment as member of Bar Council of District & Session Court :
12. If partner in a firm, name/names of the firm and other partners :
13. *Number of cases relating to indirect taxes & NDPS cases dealt with during last 3 years as an Advocate
14. Number of cases published in Journals/Newspaper etc :
15. Income from professional practice (copy of the latest IT return to be attached) :

Verification

I,.....D/o S/o.....do hereby
declare that what ever has been stated in the above application is true to the best of my knowledge and belief.

Signature.

Dated :-

Place :

*Applicant to submit documentary proof with respect to aforesaid items/Information.

No.278A/54/2015-Legal
 Government of India
 Ministry of Finance
 Department of Revenue
 Central Board of Excise and Customs
 (Legal Cell)

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.

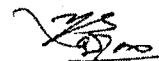
Sir/Madam,

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
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F.No.278A/54/2015-Legal

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.

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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.

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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.		

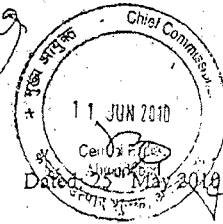
NOTE:

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.

Annexure-II

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278A/82/2008-Legal
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Speed post (4)



To,

1. All Chief Commissioner of Customs, Customs (Preventive)/Central Excise
2. DGR/DGCEI

Subject:- Revision in Terms & conditions of appointment including Fees & allowances for engagement of Special Public Prosecutors (SPPs) for CBEC before Subordinate Courts/Courts of Session & High Court - regarding.

Sir/Madam,

I am directed to convey the approval of the Ministry to the revision of the present terms and conditions (including fees and allowances of Special Public Prosecutors(SPPs) for CBEC before Subordinate Courts/Courts of Session & High Court on the following lines:

2.A) Terms of Appointment/Extension of Tenure

The term of Appointment of the Special Counsel will be for a period of three years from the date he actually takes over charge. The appointment can be renewed for another terms of three years on satisfactory performance.

B) Termination of Appointment

The appointment of the counsel shall be terminated without assigning any reasons, by the Govt. or by the counsel, after giving one month's notice on either side.

C) Fees payable to the counsel

I For cases in Districts/Sessions/Metropolitan Courts/Economic Offences Courts, etc.

Sr. No.	Type of activity	Amount Payable	Maximum amount Payable in a case
1.	Effective Hearing	Rs.1500/- per case per day	--
2.	Non-Effective Hearing	Rs.500/-	Rs.1500/-



3. For drafting written Statements, affidavit, Counter affidavit, Application, counter-reply of Application, miscellaneous Application only Rs.400/-
4. Clerkage fee 10% of the fee at Sr. No.1 to 3 above

NOTE: 'Effective hearing' means a hearing in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given, or only judgment is delivered by the Court, it would not constitute an effective hearing but will be termed as 'non-effective hearing'.

II. For cases before High Court

Sr. No.	Type of activity	Amount Payable	Maximum amount Payable in a case
1.	Effective Hearing	Rs.3000/- per case	--
2.	Non-Effective Hearing	Rs.1000/-	Rs.3000/-
3.	For drafting written Statements, affidavit, Counter affidavit, Application, counter-reply of Application, miscellaneous Application only	Rs.500/-	--
4.	Clerkage fee	10% of the fee at Sr. No.1 to 3 above	

NOTE: 'Effective hearing' means a hearing in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given, or only judgment is delivered by the Court, it would not constitute an effective hearing but will be termed as 'non-effective hearing'.

III Other Fee & Allowances - Applicable for all Courts

(i) **Out of Headquarters:** When the counsel is required to go out of headquarters in connection with any litigation matter eg for conference with the law officer or for appearance in any court out side the Headquarters, he will be entitled to daily fee of Rs.400/- per days of his absence from the headquarters including the day of departure including holidays and till his arrival back at the headquarters. However no fee will be paid for the days of departure if he leaves headquarters after court hours and for the date of arrival if he arrives at the headquarters before the commencement of the court hours.

(5)

(ii) Travel/Hotel expenses: In addition to the daily fee the counsel will be entitled to travel expenses for travel by 1 class/AC II tier by train or at prescribed rates for taxi when the journey is actually performed by taxi/own car (as per SR 46, TA rules) in case of road journey. He will also be paid a lump-sum amount of Rs.200/- as conveyance charges for performing local journey while going out side headquarters by train or air. He will be entitled to actual expenses for stay in hotel subject to a maximum of Rs.400/- per day.

(iii) A consolidated fee of Rs.800/- shall be payable for drafting Criminal Revision Application/Miscellaneous criminal applications.

(iv) No fee will be payable to the counsel if an advance notice about the adjournment has been issued or the case has been adjourned at his request due to the reasons personal to him.

(v) For written opinion on any legal matter not relating directly to any of his entrusted court cases, the counsel shall be entitled to a fee of Rs.1000/-.

(vi) The amount required for court fees at the time of filing a case and other miscellaneous expenses would be paid to the Counsel on actuals. An account of the expenses incurred should be rendered to the concerned office of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence who have assigned the case while presenting the final bill.

(vii) The 25% of the fee payable to the Counsel shall be deducted if the certified copy of the judgment in cases of acquittal is not handed over to the Concerned office of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence within ten days (excluding the time taken by the Courts) from the date of the judgment for ensuring speedy disposal of such cases.

3. The appointment of aforesaid advocates as Special Prosecutors shall be subject to the following terms & conditions:

- (a) The Counsel will not be paid any retainer/monthly remuneration.
- (b) The Counsel shall maintain a record of all the cases entrusted to him pending with or before the Sessions Court/Special Court.
- (c) The Counsel shall appear in the Sessions Court/Special Court, wherever the trial is going on in which he is appointed.
- (d) The Counsel shall attend to the preparations of paper books and the completion of record of all cases.
- (e) The Counsel shall render all assistance to the officers of the Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence.

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- (5)
- (f) The Counsel, shall inform sufficiently well in advance the dates and proceedings of all hearings of such cases to concerned office of the Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence.
 - (g) The Counsel shall keep himself acquainted with the facts of the case and receive instructions from the officers of the Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence.
 - (h) The Counsel shall obtain uncertified/certified copies of all judgments from the trial courts in all cases and forward them to the concerned officers of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence. He should also send his comments on the judgment/order passed by the court suggesting further course of action, where required.
 - (i) The Counsel shall inform important developments in the case entrusted to him to the concerned officers Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence.
 - (j) The Counsel shall perform all other duties of legal nature, which may be assigned to him by the officer of the concerned officers of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence relating to the cases assigned to him.
 - (k) The Counsel shall immediately apply for certified copy of the judgment in case of acquittal. After obtaining the certified copy of the judgment/order he should immediately sent the same to the concerned officers of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence alongwith his comments and suggestions for the future course of action.
 - (l) If any misc. application is filed in the court by the accused persons the Counsel should seek instructions from the officers of Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence before making submission in the court.
 - (m) The Counsel shall not appear in any NDPS case against the Govt./Department.
 - (n) A case would be considered as one case for the purpose of fees, even though it involves more than one accused/person or leads to filing of supplementary complaints against accused persons arrested/identified at a later date.
 - (o) The Counsel shall send his annual performance Report for the period ending 31st December every year to the concerned officers of the Customs/Central Excise/Directorate of Revenue Intelligence/Central Excise Intelligence.
 - (p) The fee to the counsel will be paid on presentation of stamped receipt, and on submission of a copy of the document drafted if it is a drafting fee and submission of minutes or gist of proceedings or a copy of order/judgment where it is necessary in case the claim is for appearance fee. The Counsel shall submit his fee bills within three months from the date on which the fee has accrued.


The above revised Terms & conditions (including Fees & allowances) shall take effect from the date, the proposal was received in the Law Ministry i.e. on 04.12.2009.

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4. This issues with the concurrence of Ministry of Law and Justice, Department of Legal Affairs, New Delhi, vide their FTS No.161 dated 14.05.2010.

Yours faithfully,



(Sanjeev Behl)

Under Secretary to the Government of India

Copy forwarded for information to:-

1. Pay and Accounts Officers of All Chief Commissioner of Customs, Customs (Preventive), Central Excise, DGR1 & DGCEI.
2. Ministry of Law and Justice, Department of Legal Affairs (Judicial Section), Shastri Bhawan, New Delhi.