

# **OFFICE OF THE COMMISSIONER CGST & C.X.**

**38 M.G. MARG, CIVIL LINES, ALLAHABAD-211001**

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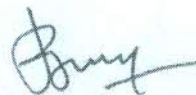
## **Notice for Appointment of Government Counsels**

Applications are invited for the appointment of Government Counsels to represent in the Hon'ble High Court of Allahabad (Principal Bench)/ Judicial bodies in cases related to Indirect Taxation. The Department proposes to engage the counsels in following categories:

<b><u>Category of Counsel</u></b>	<b><u>Number of Vacancies</u></b>
<b>01. Senior Standing Counsel</b>	<b>09</b>
<b>02. Junior Standing Counsel</b>	<b>06</b>

All the eligible counsels who are also otherwise eligible for participating at the Hon'ble High Court Allahabad (Principal Bench) and have suitable experience in handling the Indirect Tax cases related to CGST, Central Excise & Service Tax on behalf of the Department (Offices under CBIC) may submit their applications at above mentioned address latest by 15.03.2019 before 18:00 Hrs. Eligibility and other terms & conditions will be as contained in CBIC's DOF No. 278A/43/2007-Legal dated 05.12.2007 and 278A/50/2011-Legal dated 14.09.2012. The particulars are to be furnished by advocates in Proforma-A and application by officers who have retired from Customs & Central Excise Department in Proforma-A-1 (contained in Annexure-I of letter D.O.F. No. 278A/43/2007-Legal dated 05.12.2007).

The terms and references of appointment are available at the official website [www.cbic.gov.in](http://www.cbic.gov.in) or with the President of Bar Association, Allahabad (Principal Bench) or the office of the Commissioner, CGST & Central Excise, 18, M.G. Marg, Civil Lines, Allahabad-211 001.



**COMMISSIONER**

ANNEXURE - I

1. Category and qualification of Counsels:

Counsels are engaged by the department for representing the department before different High Courts/other judicial bodies in cases relating to the indirect taxation. The Counsels engaged by the department will fall into three categories viz-

- a. Junior Standing Counsels
- b. Senior Standing Counsels
- c. Standing Counsels

Qualifications of each category of counsel will be as under:

**A. Junior Standing Counsel:** In order to be eligible for appointment as Junior Standing Counsel a person should

- i. be enrolled/registered as an advocate with the High Court
- ii. have a minimum experience of three years of handling preferably Customs and Central Excise and Service Tax matters before High Courts or Tribunals

OR

Have been an officer of the Custom & Central Excise Department who retired/resigned from the post of Additional Commissioner of Custom/Excise or below and is enrolled/registered as an advocate in the High Court. Provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action against him and no disciplinary proceeding under service rules or pension rules is pending against him.

**B. Senior Standing Counsels:** In order to be eligible for appointment as Senior Standing Counsel a person should

- i. be enrolled/registered as an advocate with the High Court
- ii. have a minimum experience of five years of handling preferably Customs and Central Excise and Service Tax matters before High Courts or Tribunals

OR

Have been an officer of the Custom and Central Excise Department who retired/resigned from the post of Commissioner of Customs / Central Excise or above or retired/resigned as Member/Vice President/President of CESTAT/Settlement Commission and is enrolled/registered as an advocate in the High Court. Provided that he has not been removed/dismissed or compulsorily retired from service on account of disciplinary action against him and no disciplinary proceeding under service rules or pension rules is pending against him.

**C. Standing Counsels:** In a station where counsels do not have sufficient experience to be appointed as Senior Standing Counsels, the senior most among the panel of Junior Standing Counsels of the Department at that station may be designated by the Chief Commissioner of Custom/Central Excise as the Standing Counsel while other Counsels should be categorized as Junior Standing Counsels.

The Standing Counsel so designated shall perform the function of arguing cases before the Hon'ble High Court/CESTAT/other forums in the absence of a Senior Standing Counsel.

2. Appointment of Counsels.

2.1 For the purpose of appointment, the Chief Commissioner of Custom/Central Excise will call for applications in Proforma -A & A-I (as applicable), either by advertisement in local newspapers, or from the Bar Council of High Court or otherwise. Terms and conditions of appointment should be in accordance with Annexure I & II as enclosed.

2.2 Particulars of the applicants' expertise in handling indirect tax matters by the applicant will be examined by the Chief Commissioner of Custom/Central Excise matters and an evaluation report along with recommendation of the Chief Commissioner concerned will be sent to the Board in Proforma -B

2.3. The First appointment of each Counsel shall normally be for a period of three years.

3. Performance Review:

The following procedure shall be adopted for reviewing performance of the Counsels appointed by the department:

a. The Commissioner of Customs /Central Excise having jurisdiction over a case shall submit a half yearly report to the Chief Commissioner in Proforma-C in respect of the cases represented by the Counsels.

b. On the basis of the reports received from the Commissioners, the Chief Commissioners will review the performance of the appointed Counsels every year before 30<sup>th</sup> June of each year and send an annual report to the Board in Proforma-D.

4. Renewal of appointment :

4.1 Proposals for renewal of terms of the Counsels should be submitted to the Board at least 3 months before the expiry of the existing term.

4.2 The renewal of a term of a Counsel can be made for a period of three years if his performance is found to be satisfactory. Before making recommendation for

renewal of appointment of the Counsel, the Chief Commissioner should necessarily make an evaluation of the performance of the Counsel during the preceding term and forward it to the Board alongwith the proposal for renewal in Proforma -E.

5. Allocation of cases to Counsel:

The Chief Commissioner of Customs/Central Excise will be overall in charge of entire litigation work on behalf of the Commissionerates falling within his jurisdiction. In respect of

cases taken up by the DGDR/DGCEI, the DG concerned will be the incharge. Allocation of cases to the Counsel may be made by the Chief Commissioner/Director General or by the Commissioner/Director authorized by them.

6. Termination of appointment/resignation:

The appointment/empanelment of the Counsel would be terminable on one month's notice in writing by either side without assigning any reason.

7. Duties of the Counsel

The Counsel shall:

(i) appear in the High Court in the cases assigned to him and also appear, if so required on behalf of the Department, in other High Courts, Tribunals, BIFR, AAIFR/ DRT / other Tribunals/ Settlement Commission, Commissioner (Appeals) and other courts and statutory bodies;

(ii) give legal advice to the Department on such civil, criminal and revenue matters pertaining to indirect taxes and such other matters arising in the course of administration of the Department as are referred to him by the officers of the Department including:

- (a) examination and settling of drafts of legal nature;
- (b) drafting of applications, petitions etc. to be filed in courts of law;
- (c) prompt removal/curing of defects in appeals/petitions filed, as may be pointed out by the registry.

(iii) when any case attended to by him is decided against the Department, give his opinion regarding the advisability of filing an appeal from such a decision not later than 5 working days of the order( kuchha copy).

(iv) apply for the copy of the judgement of the Court in a case attended by him on the same day or the next day and provide the same within 10 days of the receipt of the order (excluding the time taken by the Court in preparation of the copy);

(v) if required, render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, who may be engaged in a particular case before the Supreme Court, High Courts, Tribunal, etc;

(vi) keep the department informed of the important developments in the case from time to time particularly with regard to drafting, filing of papers, dates of hearing of the case, order of the Court on the date of its pronouncement, supplying copies of judgement etc;

(vii) furnish to the Department monthly statement about the cases represented by him before the High Court or any other authority.

(viii) perform such other duties of legal nature, which may be assigned to him by the Department.

8 Right to private practice

The Counsel will have the right of private practice, which should not however, interfere with the efficient discharge of work of the Department but he shall not advise, hold briefs or appear against the Department before any authority, tribunal or court in matters under the statutes relating to indirect taxes.

If the counsel happens to be a partner of the firm of lawyers or solicitors, it will be incumbent on the firm, not to take up any case against the Department in the same High Court, before any authority, tribunal or any case arising in other courts out of those cases e.g. appeals and revision in the High Court or the Supreme Court.

ANNEXURE - II

1 Schedule of Fees and allowances

The fees and allowances for Senior Standing Counsels are given hereunder: The Standing Counsels and Junior Standing Counsels shall be entitled to only 1/3<sup>rd</sup> of the amount specified against each item of work (except item no. 7). The Junior Standing Counsel shall not be entitled to retainership payable to Sr. Standing Counsel and Standing Counsel mentioned at S.No.7 below.

1. For appearance in the High Court

Appeals under section 130/130A of the Customs Act 1962/Section 35G/35H of Central Excise Act, 1944 /Finance Act 1994/ Civil or Criminal Writ Petition under Articles 226 and 227 of the Constitution/ orders made in such Petition, including appearance at admission Stage/ for cases before other Authorities	Rs.4500/-
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However, for each substantial and effective hearing, following the first hearing, an additional fees of Rs.2000/- per substantial and effective hearing may be paid as refresher fees.

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| 2. Certificate of fitness  | Rs.1500/- (for each application) |
| 3. For Civil Miscellaneous Application   | Rs. 1500/- per case              |
| 4. For Civil or Criminal revision Petition   | Rs. 2100/- per case              |
| 5. For drafting pleadings, written statements in suits, counter affidavits/returns/answers pleading to the writ petition, grounds of appeal, etc. application for leave to appeal to Supreme Court ; | Rs. 1500/- per case              |

If substantially identical affidavits, written statements etc. are drafted in connected cases, only one drafting fee will be payable in the main case and no separate drafting fee will be payable in connected cases.

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| 6. Written opinion<br>Other than what is referred in<br>Para 7(iii) of Annexure I | Rs. 900/- per case |
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7. Retainership

The senior Standing Counsel and Standing Counsel will be entitled to a Retainership of Rs. 6,000/- per month (which includes charges for staff, office rent, postage and all other establishment charges).

8. Clerkage

Clerkage at the rate of 10% of the hearing fee subject to a maximum of Rs.3,600/- in a case or batch of cases before the High Court.

9. Out of pocket expenses

The amount required for court fees at the time of filing a case and other miscellaneous expenses should be paid to the Counsel in advance by the Commissioner concerned. An account of the expenses incurred should be rendered to the Commissioner while presenting the final bill.

10. Perquisite

The reimbursement of telephone expenditure, subject to a maximum of Rs. 1,000/- per month, shall be made by the Commissioner for calls that have been made in connection with Departmental litigation matters only.

11. For appearance before any other Courts, CESTAT, BIFR /AAIFR/ DRT /other Tribunals and other Statutory bodies and authorities.

(a) at headquarters: same as payable for appearance before the High Court.

(b) out of headquarters: when the Counsel is required to go out of headquarters in connection with any litigation matter e.g. for conference with a Senior Counsel/ Special Counsel or with the Law Officer or for appearance in any Courts/Tribunal/other Statutory Bodies etc. outside the headquarters, he will be entitled to a daily fee of Rs.3,600/- per day for the days of his absence from the Hqrs. including the days of departure from, intervening holidays and arrival back at the headquarters. However, no fee will be paid for the day of departure if he leaves headquarters after court hours and for the date of arrival if he arrives at the headquarters before the court hours..

(c) travel/hotel expenses : in addition to the daily fee, the Counsel will be entitled to travel expenses for travel by air (economy class) or first class AC by train. Road mileage for the journey from his headquarters to the airport/railway station and vice versa and from the airport/railway station to the place of his stay out of headquarters and vice-versa will be paid at the rates admissible to Class 1 officers of the Central Government (having basic +NPA +SI in the pay range Rs. 8000/- to Rs. 16399/-). He will also be paid a lump-sum amount of Rs. 600/- as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to actual expenses for stay in hotel, subject to maximum for Rs.1,200/- per day.

