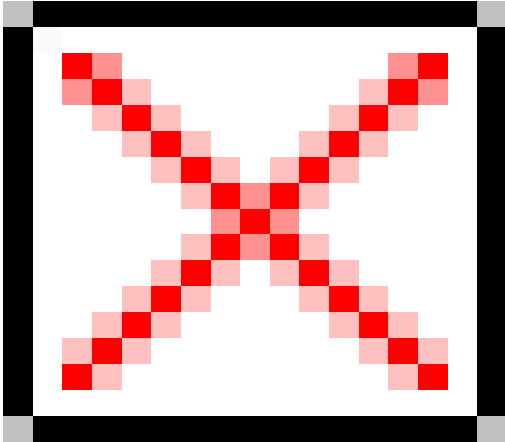


**Payment by Government Departments through e-payment**



TIOL-DDT 2985

06 12 2016

Tuesday

**ON**

31st March 2012, the Government issued a memorandum that with effect from 1st April 2012 all Ministries/Departments of the Government of India are directed to make all payments to private parties such as suppliers, contractors, grantee, loanee institutions etc. above Rs. 25,000 by payment advices, including electronically signed payment advices.

On 1st August 2016, the Government issued another memorandum reducing this limit to Rs. 10,000 stating,

***"Since advancements in payment and banking technology have enabled a large number of transactions to be handled smoothly through the e-payment mode, the existing limit of Rs. 25,000/- prescribed in paragraph of this office O.M. dated 31st March 2012. has been further reviewed. It has now been decided to lower the threshold limit to Rs. 10,000/- in order to bring more payments under the purview of direct credit by electronic transfer to the bank account of the payee.***

***All Ministries/Departments of the Government of India are required with immediate effect to discharge all payments above Rs. 10,000 (Rupees Ten thousand only) to suppliers, contractors, grantee/loanee institutions etc. by issue of payment advices, including electronically signed-payment advices."***

Now, the Government has further reduced the limit. A memorandum issued yesterday states,

***In order to attain the goal of complete digitization of Government payments, the existing limit of Rs. 10,000/- prescribed in paragraph 2 of this office O.M. dated 1st August 2016 has been further reviewed. It has now been decided to lower the threshold limit to Rs. 5,000/- (Rupees five thousand only).***

***All Ministries/Departments of the Government of India shall ensure with immediate effect that all payments above Rs.5,000/- (Rupees five thousand only) to suppliers, contractors, grantee/loanee institutions etc. are made by issue of payment advices only.***

### *Haywire Biometric Apparatus in CESTAT*

IN a note for an RTI reply from CESTAT:

*The biometric apparatus goes haywire and normalcy is restored on its own after sometime. After inspection, authorized agencies of NIC have informed that the defects in the machine may be due to different reasons like networking failure, mishandling of apparatus by users or wi-fi failure. No date wise record has been kept about malfunctioning/non functioning of bio-metric apparatus.*

*There are two machines installed in CESTAT- one is installed in wing no.2 on second floor, and another on first floor near court hall.*

*There is only one camera working on first floor. Six cameras are installed on second floor out of which 5 are working as on date. Camera installed in Single Member Branch registry (second floor) is non functional as on date.*

### *GST will accelerate long haul transport - PM*

ADDRESSING the inaugural session of PETROTECH - 2016 exhibition yesterday, the Prime Minister said,

*The long awaited legislation on a national Goods and Services Tax has been passed. By removing physical barriers at state boundaries, GST will accelerate long haul transport and further increase efficiency.*

### *Appeal to CESTAT from Commissioner (A) - Quantum of pre-deposit*

AS

per the Laws as amended by the Finance Act 2014 with effect from 06.08.2014, the amount of pre-deposit payable for appeals in Customs, Central Excise and Service Tax matters are:

1	Appeal to Commissioner (Appeals)	7.5% of the duty.
2	Appeal to CESTAT against an order of the jurisdictional Commissioner	7.5% of the duty
3	<b>Appeal to the CESTAT against an order of Commissioner (Appeals)</b>	<b>10% of the duty</b>

When you appeal to the Tribunal from an order of the Commissioner (Appeals), you have already deposited 7.5% at the time of appealing to the Commissioner (Appeals). So, when you appeal to the Tribunal, should you pay 10% or the difference of 2.5%?

In [DDT 2439 17.09.2014](#)

, I raised this question - As per the amended provisions, a pre-deposit of 10 percent is to be made for an appeal to the Tribunal against an order of a Commissioner (Appeals). While appealing to the Commissioner (Appeals), an amount of 7.5 percent of the duty/penalty must have already been deposited. Now the doubt is whether the 10 percent deposit for appeal to the Tribunal is in addition to the 7.5 percent already deposited or is it inclusive of that?

Earlier in [DDT 2394 - 11.07.2014](#), we had raised this doubt -

**"There is a doubt on payment of another 10 percent for the second appeal. Though the TRU letter states that another 10 percent, the amendment does not say so clearly. So, there is a doubt whether the pre-deposit at the second appellate stage is 10 percent or 17.5 percent. Even if it is 17.5 percent, what will happen to the 7.5% deposited with the Commissioner (A)? Shouldn't that also be considered as pre-deposit? This also needs clarification statutorily."**

A single Member Bench of the Tribunal in [2016-TIOL-3050-CESTAT-KOL](#) held:

**Neither Section 35F(iii) of the Central Excise Act, 1944 nor CBEC Circular dated 16.09.2014 specifically mention whether 10% deposit required before Appeal is entertained should be inclusive or exclusive of 7.5% deposit made before the first appellate authority.**

**It is a well known fact that success rate of departmental cases before the appellate authorities is very poor. That is the reason that percentage of deposit required to be made before the first appellate authorities is as low as 7.5% of the disputed amounts or penalties. After success at the level of first appellate authority may be Legislature wants that the case has passed one test of first appeal successfully and Revenue deserves an additional 10% of the duty or penalty as deposit till the issue is finally decided in the second appellate stage.**

**In any case, Appellant is not at a loss in the above procedure of paying additional 10% of deposit, because in case Appellant wins then Appellant is eligible to interest from the date of deposit it made, as per Section 35FF of the Central Excise Act, 1944 or Section 129EE of the Customs Act, 1962, all introduced w.e.f. 06.08.2014.**

**In case Appellant loses the case, then also Appellant will have to pay lesser interest for the period when amount was lying with the department as deposit.**

Recently, a Division Bench of the Tribunal also came to a similar conclusion:

**On plain reading of the afore said provisions, we find that the wordings employed therein is as clear as daylight. In clause (iii) it is unambiguously prescribed that any person aggrieved by a decision or order referred to Clause (b) of sub-Section (1) of Sec129A/35B of Customs Act/Central Excise Act, unless deposits 10% of the duty/penalty or duty and penalty, as the case may be, the appeal shall not be entertained. We do not find any reason to read the said provision in any other manner so as to come to the conclusion that the Appellants are required to deposit 2.5% and not 10% as prescribed under the said provision in view of the settled principle of statutory interpretation.**

But what happens to the 7.5% already deposited at the time of appeal to the Commissioner (Appeals). Will they refund it when the appellant files a further appeal to CESTAT?

For more details, please see [Breaking News](#).

Until Tomorrow with more [DDT](#)

Have a nice day.

Mail your comments to [vijaywrite@tiol.in](mailto:vijaywrite@tiol.in)