

[2023 LiveLaw \(SC\) 333](#)

IN THE SUPREME COURT OF INDIA

DR. D.Y. CHANDRACHUD; CJI., PAMIDIGHANTAM SRI NARASIMHA; J., J.B. PARDIWALA; J.

Civil Appeal No.674/2021; 17-04-2023

C.C.E. AND S.T., SURAT I *versus* BILFINDER NEO STRUCTO CONTRUCTION LTD.

E-Filing - It would defeat the purpose if in addition to e-filing, the ITATs insist on filing of the appeals in the physical mode. This has to be discontinued since it imposes an unnecessary burden on litigants. If there is a training deficit in respect of the Members of the ITAT, this shall be attended to immediately so that all Members of the ITAT are equipped to handle e-filed cases.

For Appellant(s) Mr. Balbir Singh, ASG Mr. Vikramjit Banerji, ASG Mr. A.K. Panda, Sr. Adv. Mr. Mukesh Kumar Maroria, AOR Mr. Sudhershnan K, Adv. Mr. S.A. Haseeb, Adv. Mr. Merusagar Samantaray, Adv. Mr. Shyam Gopal, Adv. Mr. Priyanka Das, Adv. Mr. Adit Khorana, Adv. Mr. Bhuvan Mishra, Adv. Mr. Digvijay Dam, Adv. Ms. Swarupama Chaturvedi, Adv. Mr. Rupesh Kumar, Adv.

For Respondent(s) Ms. Charanya Lakshmikumaran, AOR Ms. Apeksha Mehta, Adv. Ms. Neha Choudhary, Adv. Ms. Falguni Gupta, Adv.

ORDER

1 In pursuance of the previous order dated 6 February 2023, appearing for the Union of India, Mr Balbir Singh, Additional Solicitor General has placed a note on the record. The relevant part of the note is extracted below:

“CBDT:

E-filing in High Court:

At present, field formations have been filing appeals/petitions in physical as well as in e-filing mode. Out of 8353 appeals filed in 2022-23, 5145 appeals were filed in e-filing mode. It is also informed by the field formations that e-filing of appeals is not enabled in High Courts of Allahabad, Nainital, Karnataka, Andhra Pradesh, Guwahati, Manipur, Tripura & Meghalaya. In compliance of the directions of the Hon’ble Supreme Court, **field formations have been directed to ensure that 100% filing of revenue appeals/petitions before the High Court’s takes place in the e-filing mode by 31.05.2023.** It is one of the targets of Interim Action Plan 2022-23 issued by the CBDT to the field formations for strict compliance. To summarize, in the last year nearly 62% of appeals have been filed before the High Courts in e-filing mode and this is expected to increase substantially following the directions of the Hon’ble Supreme Court *vide* order dated 6th February 2023.

E-filing in ITAT:

At present, field formations have been filing appeals/petitions in physical as well as in e-filing mode. Out of 17522 appeals filed in 2022-23, 125 appeals were filed in e-filing mode. It is also submitted by the field formations that e-filing of appeals is not enabled in ITAT benches at Mumbai. In compliance of the directions of the Hon’ble Supreme Court, **field formations have been directed to ensure that 100% filing of revenue appeals/petitions before the ITATs takes place in the e-filing mode by 31.05.2023.** It is one of the targets of Interim Action Plan 2022-23 issued by the CBDT to the field formations for strict compliance. To summarize, in the last year only 1% of appeals have been filed before the ITAT in e-filing mode but during that period not much ITAT were enabled for electronic filing. This is expected to increase substantially following the directions of the Hon’ble Supreme Court *vide* order dated 6th February 2023.

Data of appeals/ petitions filed before the High Courts and ITAT in the e-filing mode from 01/04/2022 to 31/01/2023 is as under:

Sr No	Pr. CCIT (CCA) Charge	Total No. of Appeals /Petitions before High Court	Total No. of Appeals/ Petitions filed in High Court through e-filing	Whether e-filing of appeal is enabled or not	Total No. of Appeals/ Petitions before ITAT	Total No. of Appeals/ Petitions filed in ITAT through e-filing	Whether e-filing of appeal is enabled or not
1	Pr. CCIT, Delhi	3022	3022	Yes	13484	7	Yes
2	Pr. CCIT, WB & Sikkim	426	78	Yes	842	61	Yes
3	Pr. CCIT, NER	9	0	NO	10	0	Yes
4	Pr. CCIT, Odisha	81	0	Yes	11	0	Yes
5	Pr. CCIT Pune	298	298	Yes	272	0	Yes
6	Pr. CCIT, Bhopal	798	0	Yes	689	0	Yes
7	Pr. CCIT, Bengaluru	209	0	HC of Karnataka (Bengaluru, Dharwad, Kalaburgi Bench)- No Panaji Bench- Yes	84	0	Yes
8	Pr. CCIT, AP & Telengana	186	Nil	Telangana HC-Yes AP HC-No	230	Nil	Yes
9	Pr. CCIT, Gujarat, Ahmedabad	424	0	Yes	224	0	Yes
10	Pr. CCIT, Kerala	8	8	Yes	5	0	Yes
11	Pr. CCIT, NWR, Chandigarh	420	4	Yes	179	0	Yes
12	Pr. CCIT, Tamil Nadu & Chennai	277	NIL	Yes	165	NIL	Yes
13	Pr. CCIT, Mumbai	1602	1602	Yes	700	0	No
14	Pr. CCIT, Nagpur	22	0	Yes	10	0	Yes
15	Pr. CCIT, Bihar & Jharkhand	91	7	Yes	101	0	Yes

16	Pr. CCIT, Jaipur, Rajasthan	42	18	Yes	52	51	Yes
17	Pr. CCIT, (UP West & UK), Kanpur	80	0	No	98	1	Yes
18	Pr. CCIT, UP(East), Lucknow	92	0	No	140	0	Yes
19	Pr. CCIT (Exemptions)	266	108	Yes	226	5	Yes
Total		8353	5145 (62%)		17522	125 (1%)	

ITAT:

ITAT has informed that:

- a) ITAT has already launched e-Filing Portal in June 2021 and appeals, cross objections and applications are received through e-Filing Portal at every Bench of the Tribunal. Till date, over 2400 appeals, etc. have been filed through e-Filing Portal.
- b) As of now, e-Filing of appeals before ITAT is not mandatory. Even after e-Filing, physical submission of appeals, etc. in paper form as required under Rules is required.
- c) Further, as continuation of e-Filing process, ITAT is actively pursuing proposal to set up Paperless Courts and conduct hearings in the electronically filed appeals, etc. in paperless environment. Committees and Sub-Committees constituted by Hon'ble President, Hon'ble VPs and Members have been formed to put in place necessary procedural framework, technical infrastructure, manpower resources and upgradation of employee skillsets for smooth implementation of Paperless Courts.
- d) As a Pilot Project, one Courtroom in the ITAT, Delhi Benches is under the process of upgradation as Paperless Courtroom, and trial of the software is being undertaken. On successful implementation, the same would be implemented across the country in coming six months.
- e) Once Paperless Courts become operational, necessary changes can be made in the Rules to do away with physical submission of appeals.

CBIC:

Status report was called from different Chief Commissionerates Zones for the Quarter ending 31.03.2023. It is seen that the 90.29% of cases have been Efiled. The consolidated zone wise report is as under:

Table A

Zones (1)	Petitions (Jan to Mar) (2)	Petitions filed through E-Filing (Jan to Mar) (3)
GST Zones		
BENGALURU	3	3
BHOPAL	9	6
BHUBANESWAR	4	4
CHANDIGARH	0	0

DELHI	3	3
HYDERABAD	0	0
JAIPUR	5	5
KOLKATA	3	3
LUCKNOW	4	2
MEERUT	5	5
MUMBAI	2	2
NAGPUR	0	0
PANCHKULA	0	0
PUNE	0	0
RANCHI	2	0
THIRUVANANTHAPURAM	4	4
VADODARA	8	6
Customs Zone		
BENGALURU	4	3
DELHI	22	22
DELHI (PREVENTIVE)	5	5
KOLKATA	5	5
MUMBAI ZONE-I	1	1
MUMBAI ZONE-II JNCH	5	5
MUMBAI ZONE-III	2	2
PATNA	7	7
TIRUCHIRAPPALLI PREV	0	0
Total	103	93

The Zones where the E-filing has not been operationalized by the court:

Table B

Zones (1)	Total no. petitions (Jan to Mar) (2)	of Mar)	Total no. of petitions filed through E-Filing (Jan to Mar) (3)
AHMEDABAD (GST)	4		0
CHENNAI (GST)	1		0
GUWAHATI	5		0
VISAKHAPATNAM	9		0
AHMEDABAD(Cus)	9		0
CHENNAI (Cus)	5		*1
Total	33		*1

*1 Case has been filed in Delhi High Court

Effort is on bring the zones mentioned in Table B above under the e-filing at the earliest.

CESTAT:

CESTAT has informed that the e-filing module developed by NIC for CESTAT has been tested with the participants viz. jurisdictional commissioners of Central Excise, Customs and Service Tax in all the nine benches of the Tribunal during the first week of March 2023 and the module has since been sent for security audit and the Tribunal is poised to go for e-filing of appeal by the Department as soon as the security audit for the new cloud based website and the e-filing module is obtained.”

2 The above note indicates that:

- (i) E-filing of appeals has not been enabled in the High Courts of Allahabad, Uttarakhand, Karnataka, Andhra Pradesh, Guwahati, Manipur, Tripura and Meghalaya;
- (ii) Nearly 62% of appeals by the revenue have been filed before the High Courts in e-filing mode which is expected to increase following the order of this Court dated on 6 February 2023;
- (iii) Only 1% of the appeals before the ITAT have been filed in the e-filing mode;
- (iv) As of date, even after e-filing, the ITAT is insisting on physical submission of appeals;
- (v) 90.29% of cases under falling the jurisdiction of the Chief Commissionerates have been e-filed; and
- (vi) The e-filing module developed by NIC for CESTAT has been tested during the first week of March 2023 and its module is undergoing security audit.

3 Recently, a communication has been addressed by the Chief Justice of India to all the Chief Justices of the High Courts to facilitate the process of e-filing, particularly in appeals by the revenue and to gear up for the implementation of Phase III of the e-Courts project.

4 The Registrar (Judicial) of this Court shall forward a copy of this order to the Registrars General of the High Courts of Allahabad, Uttarakhand, Karnataka, Andhra Pradesh, Guwahati, Manipur, Tripura and Meghalaya. Necessary steps should be taken to facilitate e-filing at least of revenue appeals.

5 As regards the ITAT, it is incumbent on the tribunal to ensure that revenue appeals are filed only in the e-filing mode and a target date of 30 June 2023 should be set down.

6 The Ministry of Finance shall depute a senior officer to engage with the Acting President of the ITAT. If the rules are required to be amended, they should be amended to incorporate e-filing requirements.

7 It would defeat the purpose if in addition to e-filing, the ITATs insist on filing of the appeals in the physical mode. This has to be discontinued since it imposes an unnecessary burden on litigants. If there is a training deficit in respect of the Members of the ITAT, this shall be attended to immediately so that all Members of the ITAT are equipped to handle e-filed cases.

8 We appreciate the work which has been carried out by the CESTAT and would request the President of the Tribunal to ensure that e-filing is implemented by 30 June 2023.

9 An updated status report shall be placed on the record on the next date of listing.

10 List the Civil Appeals on 28 July 2023.