**PROCEDURE FOR SPECIAL LEAVE PETITION**

Under Article 136 of the Constitution of India any person aggrieved by any judgment, decree, determination or order in any cause or matter passed or made by any Court or Tribunal in the territory of India may appeal to the Supreme Court of India. Accordingly a person aggrieved by any order or judgment of High Court or of Tribunal may appeal to the Supreme Court by filing Special Leave Petition.

The following are the important procedural aspects to be followed in order to file a Special Leave Petition(SLP) in the Supreme Court:

**Time Limit**

The Rules Governing SLP are contained in order XVI of the Supreme Court Rules 1966. Under the said Rules, SLP can be filed against either the Order of High Court rejecting petition for Leave to Appeal to Supreme Court of India; i.e., on High Court refusing to grant Certificate of Fitness for Leave to Appeal to Supreme Court or against the Order/Judgment itself. It is also possible to file SLP against the Judgment of the High Court either in Writ Petition or in the Income-tax Reference. If the Petition is filed against the Judgment of the High Court, the time limit is 90 days from the date of Judgment/Order and if the Petition is filed against the Order of High Court refusing to grant Certificate of Fitness for Appeal, the time limit is 60 days from the date of Order refusing to grant Certificate. The above time limit is subject to the time taken for obtaining certified copy of the Judgment/Order; i.e., subject to Sections 4, 5, 12 and 14 of the Limitation Act, 1963.

**Preparation of petition**

* The petition should state succinctly and clearly all facts as may be necessary to enable the Court to determine whether SLP ought to be granted or not! The petition should be signed by Advocate on record of the Petition.
* The petition should contain statement as to whether the petitioner had filed any petition in the High Court for Leave to appeal to Supreme Court or not! The petition should also contain a statement that no other SLP has been filed by the Petitioner against the Order appealed.
* The petition should be accompanied by a certified copy of the judgment appealed against and an affidavit of Petitioner verifying the petition.
* The annexures to the Petition; i.e., Exhibits to the Petition should be certified copies of documents which had formed part of the record in the High Court. If the certified copies are not available, uncertified copies can be filed and an affidavit verifying the Annexures as true copy should also be filed.
* The petitioners has to file seven copies of the petition.
* The petition is required to be filed on white paper and not on green ledger paper.
* The petition should be cyclostyled, if possible, typed or printed.

**Affidavit**

* Affidavit verifying the petition is required to be filed along with the SLP. The affidavit should be typed on plain white paper;
* Affidavit verifying the uncertified copies of the Exhibits/Annexures should be filed;
* If the petition is filed beyond 60/90 days the affidavit should be filed explaining the time taken for obtaining certified copy and/or the reason for delay.

**Interim relief**

If any interim relief is required a separate application should be filed giving facts and circumstances as to why interim relief is sought from the Court.

**Court fees payable**

* On the SLP, the Court fees payable is Rs. 250/-;
* In case of petition on certificate granted by High Court, the Court fees payable is Rs. 250/- if the amount in dispute is Rs. 20,000/- or less and for every Rs. 1,000/- in excess of Rs. 20,000/- Rs. 5/- but the maximum Court fees payable does not exceed Rs. 2,000/-.

**Vakalatnama**

The petitioner should appoint an Advocate on record in New Delhi and send a Vakalatnama in favour of the proposed Advocate on record who will be filing the SLP.

In Kunhayammed v State of Kerala[[1]](#footnote-0), the discussion was about the exercise of the jurisdiction under article 136 and if it consisted of granting of the SLP and subsequently hearing the appeal. The court has a choice to grant the SLP and if the court decides to not grant it on its findings then the appellate jurisdiction of the court does not come into existence. However, mere dismissal of the SLP petition does not mean that there is res judicata, it merely means that the case was not fit for the grant of SLP and it is open to the aggrieved party to approach the concerned court for review under article 226.

In Smt. Tej Kumari vs. CIT[[2]](#footnote-1) The Full Bench of the Patna High Court held that in case a SLP is summarily rejected or dismissed under Art 136 of the Constitution then such a dismissal does not lay down any law. The decision of the High Court against which the SLP is dismissed in limine would not operate as res-judicata. However, when Supreme Court dismisses an SLP with reason, it might be taken as the affirmation of the High Court's views on the merits of the case, thus there is no reason to dilute the binding nature of precedents in such cases.

1. AIR 2000 SC 2587 [↑](#footnote-ref-0)
2. (2001) 247 ITR 210 [↑](#footnote-ref-1)