

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 28B.

63. In section 28B of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act),—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Every person who has collected any amount in excess of the duty assessed or determined or paid on any goods or has collected any amount as representing duty of customs on any goods which are wholly exempt or are chargeable to nil rate of duty from any person in any manner, shall forthwith pay the amount so collected to the credit of the Central Government.”;

(ii) in sub-section (2), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A), as the case may be,” shall be substituted;

(iii) in sub-section (4),—

(a) for the words, brackets and figures “sub-section (1) or sub-section (3)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A) or sub-section (3), as the case may be,” shall be substituted;

(b) for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) and sub-section (1A)” shall be substituted.

Amendment of section 108.

64. In section 108 of the Customs Act, in sub-section (1), the words “duly empowered by the Central Government in this behalf,” shall be omitted and shall be deemed to have been omitted with effect from the 13th July, 2006.

Amendment of section 117.

65. In section 117 of the Customs Act, for the words “ten thousand rupees”, the words “one lakh rupees” shall be substituted.

Amendment of section 129A.

66. In section 129A of the Customs Act, in sub-section (2), the following proviso and Explanation shall be inserted at the end, namely:—

‘Provided that where the Committee of Commissioners of Customs differs in its opinion regarding the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner of Customs who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct the proper officer to appeal to the Appellate Tribunal against such order.

Explanation.—For the purposes of this sub-section, “jurisdictional Chief Commissioner” means the Chief Commissioner of Customs having jurisdiction over the adjudicating authority in the matter.’

Amendment of section 129D.

67. In section 129D of the Customs Act,—

(i) in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that where the Committee of Chief Commissioners of Customs differs in its opinion as to the legality or propriety of the decision or order of the Commissioner of Customs, it shall state the point or points on which

it differs and make a reference to the Board which, after considering the facts of the decision or order passed by the Commissioner of Customs, if is of the opinion that the decision or order passed by the Commissioner of Customs is not legal or proper, may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order, as may be specified in its order.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every order under sub-section (1) or sub-section (2), as the case may be, shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.”.

Insertion of new section 129EE.

68. After section 129E of the Customs Act, the following section shall be inserted, namely:—

Interest on delayed refund of amount deposited under the proviso to section 129E.

“129EE. Where an amount deposited by the appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal (hereinafter referred to as appellate authority), under the first proviso to section 129E, is required to be refunded consequent upon the order of the appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority, unless the operation of the order of the appellate authority is stayed by a superior court or tribunal, there shall be paid to the appellant interest at the rate specified in section 27A after the expiry of three months from the date of communication of the order of the appellate authority, till the date of refund of such amount.”.

Amendment of section 141.

69. Section 141 of the Customs Act shall be numbered as sub-section (1) thereof and, after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The imported or export goods may be received, stored, delivered, dispatched or otherwise handled in a customs area in such manner as may be prescribed and the responsibilities of persons engaged in the aforesaid activities shall be such as may be prescribed.”.

Amendment of section 158.

70. In section 158 of the Customs Act, in sub-section (2), for clause (ii), the following clause shall be substituted, namely:—

“(ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable to a penalty which may extend to fifty thousand rupees.”.

Amendment of notification issued under sub-section (1) of section 25 of the Customs Act, 1962.

71. In the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 277 (E), dated the 1st April, 2003 which was issued in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962, the condition No. 7, as inserted vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 673(E), dated the 17th November, 2005 which provides “that the importer shall be entitled to avail of the drawback or CENVAT credit of additional duty leviable under section 3 of the said Customs Tariff Act against the amount debited in the said certificate”, shall be deemed to have, and always to have for all purposes validly, come into force on and from the 4th day of June, 2005 at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Customs Tariff

Amendment of Act 51 of 1975.

72. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

- (i) the First Schedule shall be amended in the manner specified in the Second Schedule;
- (ii) the Second Schedule shall be amended in the manner specified in the Third Schedule.

