

Circular No. 1049/37/2016-CX

**F. NO. 267/40/2016-CX.8
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE AND CUSTOMS**

New Delhi, dated the 29th September, 2016

To,

All principal Chief Commissioners/Chief Commissioners of Central Excise/Service Tax

Principal Director Generals/Director Generals of Goods & Service Tax/Systems/Central Excise Intelligence/Audit/Tax Payer Services

Chief Commissioner AR CESTAT

All Principal Commissioners/Commissioners of Central Excise/Service Tax

All Principal Additional Director Generals/Additional Directors Audit

Sub: Revised Monetary Limits for adjudication of Show Cause Notice in Central Excise and Service Tax-reg.

Madam/ Sir,

Kind attention is invited to the following circulars issued by the Board regarding adjudication of cases in Central Excise and Service Tax. In supersession of these circulars and any other circular issued on the above subject, instructions from paragraph 2 onwards are hereby issued to revise the existing monetary limits for adjudication and to allow greater flexibility in allocation of cases amongst adjudicating authorities.

- i) Circular No. 752/68/2003-CX dated 01.10.2003
- ii) Circular No. 806/3/2005-CX dated 12.01.2005
- iii) Circular No. 865/3/2008-CX dated 19.02.2008
- iv) Circular No. 922/12/2010-CX dated 18.05.2010
- v) Circular No. 957/18/2011-CX dated 25.10.2011
- vi) Circular No. 80/1/2005-ST dated 10.08.2005
- vii) Circular No. 99/2/2008-ST dated 11.03.2008
- viii) Circular No. 130/12/2010-ST dated 20.09.2010

2. Adjudication of confiscation and penalty by the Central Excise Officers is provided in Section 33 of the Central Excise Act, 1944. Central Excise Officers have the power under Section 11A to adjudicate show cause notices demanding duty short paid or not paid and erroneously refunded. Similar powers exist in Service Tax under Section 73 and Section 83A of the Finance Act, 1994 (Notification No. 44/2016-Service Tax dated 28.09.2016 refers). It is hereby directed that henceforth powers of adjudication both in Central Excise and Service Tax shall be exercised, based on the monetary limit of the duty/ tax/ *credit* involved in a case, as under:-

Sl. No.	Central Excise Officer	Monetary Limits of duty/ tax/ <i>credit</i> demand for Central Excise and Service Tax
1.	Superintendent	Not exceeding rupees ten lakh
2.	Deputy/ Assistant Commissioner	Above ten lakh but not exceeding rupees fifty lakh
3.	Additional/ Joint Commissioner	Above fifty lakh but not exceeding rupees two crore
4.	Commissioner	Without limit i.e. cases exceeding rupees two crores

- i) Cases involving taxability, classification, valuation and extended period of limitation shall be kept out of the purview of adjudication by Superintendents. Such cases, upto rupees 10 lakhs, shall also be adjudicated by the Deputy Commissioner/ Assistant Commissioner in addition to the cases exceeding rupees 10 lakhs but not exceeding rupees 50 lakh.
- ii) The above monetary limits are hereby prescribed for all categories of cases, except the following:
 - a) cases of refund (including rebate) under Section 11B of the Central Excise Act, 1944, as made applicable to Service Tax cases also under Section 83 of the Finance Act, 1994, shall be adjudicated by the Deputy Commissioner/ Assistant Commissioner without any monetary limit.
 - b) cases related to issues mentioned at Sl. No. (a) and (d) under the first proviso to Section 35B(1) of the Central Excise Act, 1944 shall be adjudicated in the following manner:

Sl. No.	Central Excise Officer	Monetary Limits for Central Excise
1.	Additional/ Joint Commissioner	Exceeding Rs. 50 lakh
2.	Deputy/ Assistant Commissioner	Above Rs. 10 lakh but not exceeding Rs. 50 lakh
3.	Superintendent	Not exceeding Rs. 10 lakh

iii) *In case different show cause notices have been issued on the same issue answerable to different adjudicating authorities, Show Cause Notices involving the same issue shall be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of duty.*

iv) Every adjudicating authority of Central Excise and Service Tax in the field shall endeavour to adjudicate 100 cases in a year.

3. Further, in view of huge pendency of adjudication of Service Tax cases at the level of Commissioner, the Service Tax cases shall be earmarked to Commissioners of Central Excise and Commissioners (Audit) of Central Excise also, depending upon the pendency level in the Zone, in the following manner:

a) Central Excise Zones with no exclusive Service Tax Commissionerate

In such Zones, the Chief Commissioners shall review the position of Service Tax cases pending for adjudication at the level of Commissioner, and in exercise of powers conferred under Section 37A of the CEA, 1944 as made applicable to Service Tax by Section 83 of the Finance Act, 1994, read with notification no. 6/2009-ST dated 30.01.2009, earmark these cases to Commissioners of Central Excise and Commissioners (Audit) also within their respective Zones. Orders allocating cases for adjudication would be required to be issued. Similar exercise can be done on the Central Excise side also by exercising powers under Section 37A of the CEA, 1944 read with notification no. 11/2007-CE(NT) dated 01.03.2007.

b) Central Excise Zones having exclusive Service Tax Commissionerates (namely Ahmedabad, Bangalore, Hyderabad, Meerut and Pune Zone)

In case of Central Excise Zones having exclusive Service Tax Commissionerates, the cases may be transferred within the same Zone from Service Tax Commissionerates

to Central Excise / Audit Commissionerates. The Chief Commissioner shall exercise powers conferred under Section 37A of the CEA, 1944 as made applicable to Service Tax by Section 83 of the Finance Act, 1994, read with notification no. 6/2009-ST dated 30.01.2009, and earmark these cases to the Commissioners of Central Excise and Commissioner (Audit) also within their respective Zones. Orders allocating cases for adjudication would be required to be issued.

c) Service Tax Zones

In case of exclusive Service Tax Zones, the cases would have to be transferred across the Zones. The Zonal Member in-charge of the Zone concerned shall take stock of pending cases at the Commissioner level, and in exercise of powers conferred to the Board, earmark these cases to Commissioner (Audit) and Commissioners of Central Excise across Zones if there is a need to do so. Orders allocating cases would need to be issued in these cases also. While issuing such order, powers under Rule 3 of Central Excise Rules, 2002 would also be required to be exercised and specified in the order.

d) It may be noted that the Commissioner (Audit) had been invested with powers of Central Excise Officer for the purposes of Audit and issue of Show Cause Notice, vide Notification No. 30/2014- CE (NT) dated 14.10.2014. The said notification has now been amended vide Notification no 47/2016-Central Excise (N.T.) dated 28th September, 2016 to invest the Commissioner (Audit) with powers of adjudication.

4. The above directions shall apply only to adjudication of cases where the personal hearing is yet to be commenced. In all cases where the personal hearing has been completed, orders will be passed by the adjudicating authority before which the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

5. Notwithstanding the above directions, cases which have been remanded back for *de novo* adjudication shall be decided by an authority of the rank which passed the said remanded order.

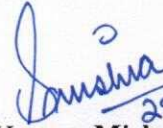
6. After issue of this circular, an immediate exercise may be undertaken by the field formations to, take stock of the present pendency, redistribute them for adjudication and

transfer the relevant files and records to respective adjudicating authorities. The exercise of transfer of case records should be completed within a month from the date of issue of this circular and the recast figures should be reflected in the subsequent Monthly Performance Report.

7. It may also be noted that the age-wise pendency of cases as shown in monthly report should be reflected based on the date of issuance of Show Cause Notice and not on the basis of transfer of cases to the new adjudicating authority.

8. The Chief Commissioners concerned are directed to ensure that once the Show Cause Notices pending for adjudication are re-distributed and re-assigned, the pending cases are to be disposed by **31.03.2017**. The Zonal Members, in-charge of respective Zones, may also monitor the progress of adjudication and ensure that these cases are disposed of within the prescribed timeline. It may be emphasised that the performance exhibited by the zones in this area shall form an important criteria at the time of performance appraisal of the officer concerned.

9. The field formations may be suitably informed. Difficulty faced, if any, in implementing the circular should be brought to the notice of the Board. Hindi version will follow.


29.09.16

(Santosh Kumar Mishra)

Under Secretary to the Government of India