

MISCELLANEOUS PROVISIONS

Sections 141 to 161 are covered under this chapter.

15.1 CONVEYANCE AND GOODS IN A CUSTOMS AREA SUBJECT TO CONTROL OF OFFICERS OF CUSTOMS [SECTION 141]

As per sub-section (1), all the conveyances and goods in a customs area shall be subject to the control of officers of customs, for the purpose of enforcing the provisions of this Act.

As per sub-section (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.

In *Oswal Spg & Wvg Mills Ltd vs. CC, 1988 (SC)*, goods were confiscated u/s 111(d) and (m). Section 141 provides that goods in the customs area are subject to the control of the officers of Customs. Besides, upon confiscation, the goods are vested in the Central Government. Therefore, the customs authorities could not shirk from their liability.

15.2 RECOVERY OF SUMS DUE TO GOVERNMENT [SECTION 142]

The recovery procedures of any sums due under this Act, is covered under this section. The need to recover sums due to Government normally arises in two situations:

- (a) on confirmation of demand for short levy of duty; and
- (b) on imposition of fine or penalty in an adjudication proceedings.

Two methods of recovery are provided for in this section. Either of the two methods can be followed to recover the dues.

SI No.	Recovery procedure	Power given to

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01	To deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs [Section 142(1)(a)].	Proper officer himself or any other officer of customs
02	By detaining and selling any goods belonging to such person which are under the control of the Asst or Deputy Commissioner of Customs or such other officer of customs [Section 142(1)(b)].	Assistant Commissioner of Customs or Deputy Commissioner of Customs; or The above authorities may require any other officer of customs to recover the amount due

If the amount cannot be recovered from such person in the manner provided in sl nos 1 and 2 above, the following is provided. Here again, either of the procedures can be followed to recover the dues.

Sl No.	Recovery procedure	Power given to
01	Prepare a Certificate signed by Asst or Deputy Commissioner of Customs, specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business. Thereon the said collector shall recover the dues as if it were an arrears of land revenue.	Assistant Commissioner of Customs or Deputy Commissioner of Customs
02	Distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid. In case, any part of the said amount or the cost of distress remains unpaid for 30 days next after such distress, may cause the	The proper officer on any authorisation by a Commissioner of Customs and in accordance with the rules made in this behalf

	said property to be sold and satisfy the amount payable from the sale proceeds. The surplus if any, shall be paid back to such person.	
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Sub section (2) of section 142 provides that, where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provision of that sub-section.

The proviso to section 142 states that if a person from whom some recoveries are due, transfers his business in whole or in part to another person, then all goods, materials, preparations, plants, machineries, vessels, utensils, implements and articles in the possession of the transferee can be attached and sold for recovery. An officer empowered by the Central Board of Excise and Customs, after obtaining written approval from the Commissioner of Customs, can make such recovery.

Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules, 1995 was notified vide Notification No. 31/95-Cus.(N.T) dt 26-5-1995 amended by Notification No. 67/97-Cus.(N.T) dt 11-12-1997. These rules were framed by the Central Government in exercise of the powers conferred by section 156 read with section 142 of the Customs Act. The rules give procedure for attachment of property, for sale of property and also special provisions in respect of sale of immovable property.

The relevant case laws are given hereunder:

1. At the stage of investigation, the assessee cannot be harassed to pay the duty – *Base Corporation Ltd vs. UOI, 1999*.
2. If an adjudication order does not demand duty but merely imposes penalty and fine, this section is inapplicable. Goods cannot be detained under this section for recovery of redemption fine – *Rishi Exports vs. CC, 1988*.
3. Company dues can be recovered only by attaching the company's properties - *Hrushikesh Panda vs. State of Orissa, 1996*.

15.3 POWER TO ALLOW IMPORT OR EXPORT ON EXECUTION OF BONDS IN CERTAIN CASES [SECTION 143]

If the importer or exporter is unable to fulfil the conditions for import/export, the Assistant or the Deputy Commissioner of Customs can permit clearance of imported goods/or export, subject to the following:

- (a) The Asst or Deputy Commissioner of Customs can grant leave for such import/or

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export or clearance of goods only if he is satisfied that having regard to the circumstances of the case the leave can be granted.

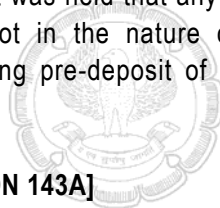
- (b) A bond in such amount, with such surety or security and subject to such conditions as the Asst or Deputy Commissioner approves.

On fulfillment of conditions within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

If the conditions are not fulfilled within the time specified in the bond, the Assistant Commissioner of Customs or Deputy Commissioner of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

In an interesting tribunal case, it was ordered to release the seized vehicle against bond equal to the value of the vehicle and a cash security of Rs. 1000/- [*Noor Jahan Alam vs. UOI*, 1999]

In *Mekaster Pvt Ltd vs. CC*, 1987 it was held that any sum recovered by enforcing a bond executed under this section is not in the nature of duty or penalty. Therefore, the provisions of section 129E requiring pre-deposit of duty, interest or penalty would not apply.



15.4 DUTY DEFERMENT [SECTION 143A]

When any material is imported under an import licence belonging to the category of Advance Licence granted under the Imports and Exports (Control) Act, 1947, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, notwithstanding anything contained in this Act, permit clearance of such material without payment of duty leviable thereon. There has to be an obligation to export the goods as are specified in the said licence within the period specified therein [Sub-section (1)].

The permission for clearance without payment of duty under sub-section (1) shall be subject to the following conditions:

- (a) the duty payable on the material imported shall be adjusted against the drawback of duty payable under this Act or under any other law for the time being in force on the export of goods specified in the said Advance Licence; and
- (b) where the duty is not so adjusted either for the reason that the goods are not exported within the period specified in the said Advance Licence, or within such extended period not exceeding six months as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, on sufficient cause being shown, allow, or for any other sufficient reason, the importer shall, notwithstanding anything

contained in section 28, be liable to pay the amount of duty not so adjusted together with simple interest thereon at the rate of twelve per cent per annum from the date the said permission for clearance is given to the date of payment.[Sub-section (2)]

While permitting clearance under sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may require the importer to execute a bond with such surety or security as he thinks fit for complying with the conditions specified in sub-section (2).

This section has by and large gone unnoticed by the Revenue, though it is a potent weapon for recovery of dues which may arise under advance license scheme. For example, if there is a disputed consignment of goods imported under advance licence, the proper officer may allow clearance of such goods without payment of duty upon execution of bond and giving sureties. This clearance is also subject to the duty on imported goods being adjusted out of duty drawback payable to the importer in the export goods specified in the advance licence. In the alternative, as such adjustment is neither possible nor is the export obligation discharged, the importer would be liable to pay such duty with 12% p.a. interest. This section overrides section 28 and hence, limitation does not create a bar to revenue recovery. However, in practice, it is seen that neither importers resort to this provision, nor revenue encourages resort to this provision. Routinely, recovery proceedings are initiated under section 28.

15.5 POWER TO TAKE SAMPLES [SECTION 144]

This section provides the necessary power to the customs authorities to draw adequate samples of such goods in the presence of the owner of the goods.

The proper officer of the customs can take the samples for:

- examination or testing, or
- ascertaining the value thereof, or
- any other purpose of this Act.

Samples may be taken on

- the entry; or
- clearance of any goods; or
- at any time while such goods are being passed through the customs area.

After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within 3 months of the date on which the sample was taken, it may be disposed of in such manner as the Commissioner of Customs may direct.[Sub-section (2)]

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Amongst several samples drawn from export goods, if one of the samples is drawn behind the back of the exporter, and such report is unfavourable to the exporter, its results cannot be relied on in an adjudication proceeding. The authorities are bound to rely on the test report of samples drawn with the knowledge of the exporter [*C.L. Jain Woollen Mills vs. CC, 1997*]

15.6 CUSTOM HOUSE AGENTS TO BE LICENSED [SECTION 146]

All importers/exporters cannot be expected to have detailed working knowledge of the procedures for clearance of imported or export goods. Further, it may not be possible for the importer/exporter to come to the custom house every time and attend to the clearance formalities personally, as it would involve time and expenditure. An institution of Custom House Agents (CHA) has thus arisen out of necessity. At the same time, it is necessary to ensure that such agents are knowledgeable, efficient, loyal both to the parties and Government.

Section 146 stipulates that no person shall carry of the business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs station unless such person holds a licence granted in this behalf in accordance with the regulations. [Sub-section (1)]

Sub-section (2) empowers the Board to make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for –

- (a) the authority by which a licence may be granted under this section and the period of validity of any such licence;
- (b) the form of the licence and the fees payable therefor;
- (c) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as an agent;
- (d) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;
- (e) the circumstances in which a licence may be suspended or revoked; and
- (f) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeals shall be filed.

In exercise of the above powers, the Central Board of Excise & Customs made Customs House Agents Licensing Regulations, 1984 vide *Notification No.85-Cus., dt 19-3-1984* and as amended from time to time.

15.7 APPEARANCE BY AUTHORISED REPRESENTATIVE [SECTION 146A]

1. Any person who is entitled or required to appear before an officer of customs or the

Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under section 108 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, appear by an authorised representative. [Sub-section (1)]

2. For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being -

- (a) his relative or regular employee; or
- (b) a custom house agent licensed under section 146; or
- (c) any legal practitioner who is entitled to practise in any civil court in India; or
- (d) any person who has acquired such qualifications as the Central Government may specify by rules made in this behalf.[Sub-section (2)]

3. The following persons shall be disqualified to represent any person under sub-section(1)–

- (a) who has been dismissed or removed from Government service; or
- (b) who is convicted of an offence connected with any proceeding under this Act, the Central Excise Act , 1944 (1 of 1944), or the -Gold (Control) Act, 1968 (45 of 1968); or
- (c) who has become an insolvent,

for such time as the Commissioner of Customs or the competent authority under the Central Excise Act , 1944, or the Gold (Control) Act, 1968, as the case maybe, may, by order, determine in the case of a person referred to in clause (b), and for the period during which the insolvency continues in the case of a person referred to in clause (c). [Sub-section (4)]

4. If any person, -

- (a) who is a legal practitioner, is found guilty of misconduct in his professional capacity by any authority entitled to institute proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before an officer of customs or the Appellate Tribunal as it has in relation to his right to practise as a legal practitioner;
- (b) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by such authority as may be specified by rules made in this behalf, that authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (1).

5. Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely :-

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- (a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
- (b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and
- (c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.[Sub-section (5)]

It would be worthwhile to note that Chartered Accountants are also authorised to appear by virtue of being notified by the Government as persons who have acquired the necessary qualifications.

15.8 PROCEDURE FOR SALE OF GOODS AND APPLICATION OF SALE PROCEEDS [SECTION 150]

There are two situations when the customs authorities can sell the goods of the importer or the exporter.

- (1) When the goods are confiscated, in which case the goods become the absolute property of the Government. When such goods are sold, the entire sale proceeds accrue to the Government.
- (2) Second, when the goods are not confiscated being the following circumstances:
 - Imported goods, which are not cleared either for home consumption or for warehousing within the prescribed period of 30 days and such goods, are ordered to be sold under section 48 of the Act.
 - Goods belonging to any defaulter of sums due to the Government under the control of an officer of customs ordered to be attached and thereafter sold under section 142 (1)(b) of the Act for the satisfaction of the above dues.
 - Where a Commissioner of Customs order distraining any movable or immovable belonging to a defaulter of customs dues under the control of an officer of customs and if needed, authorising the sale of such property, if the dues are not paid within date of such distraintment for the satisfaction of the above dues.
[Refer Section 142(1)(c)(ii)]

Section 150 covers a situation where the goods are not confiscated.(ie., circumstances which are stated in (2) above).

Where any goods not being confiscated goods are to be sold under any provisions of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner [Sub-section(1)].

The following conditions are to be fulfilled for selling the goods under this section:

1. The goods should not have been confiscated.
2. The provisions of the Act should allow sale of such goods.
3. Notice should be given to the owner before such sale.
4. Goods can be sold in the following manner:
 - by public auction; or
 - by tender; or
 - in any other manner with the consent of the owner.

Sub-section (2) deals with application of sale proceeds. Such sale proceeds can be applied as below:

1. First, to the payment of the expenses of the sale;
2. Next, to the payment of the freight and other charges, if any, payable in respect of the goods sold, to the carrier, if notice of such charges has been given to the person having custody of the goods;
3. Next, to the payment of the duty, if any, on the goods sold;
4. Next, to the payment of the charges in respect of the goods sold due to the person having the custody of the goods;
5. Next, to the payment of any amount due from the owner of the goods to the Central Government under the provisions of this Act or any other law relating to customs.

The balance, if any, shall be paid to the owner of the goods.

An interesting feature of this section is that the legitimate dues of other persons such as auctioneer or carrier takes precedence over the duty payable under the Act.

The Board has issued instructions about the modalities of disposal of gold, which is seized or confiscated and ripe for disposal. The Board has nominated Branches of SBI at Mumbai, Delhi, Ahmedabad, Calcutta and Chennai. Under these instructions, the Customs department is responsible for delivery of gold of requisite purity along with assaying certificate, duly packed as per the trade practice. SBI is entitled to deduct its out of pocket expenses, sales tax and other taxes. But, no commission is to be paid to SBI for selling gold on behalf of Customs department. [CBEC Circular No. 16/2001-Cus, dated 9.3.2001]

15.9 CERTAIN OFFICERS REQUIRED TO ASSIST OFFICERS OF CUSTOMS [SECTION 151]

The following officers are empowered and required to assist officers of customs in the

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execution of the Act:

- (a) officers of the Central Excise department;
- (b) officers of the Navy;
- (c) officers of Police;
- (d) officers of the Central or State Governments employed at any port or airport;
- (e) such other officers of the Central or State Governments or a local authority as are specified by the Central Government in this behalf by notification in the Official Gazette.

In exercise of the powers conferred on the Central Government, the following notifications are issued:

SI No.	Notification Number	Notification date	Officers specified
01	77-Cus	23.05.1964	The following officers of Enforcement Directorate: - Deputy Directors; - Assistant Directors, - Chief Enforcement officers, - Enforcement officers, - Assistant Enforcement officers.
02	47-Cus	09.05.1970	Central Reserve Police Force
03	18-Cus	22.01.1972	Officers of Indian Railways and Railway Protection Force in the following places: - Within 50 KM width from the border separating India from Nepal; - at New Jalpaiguri, - Howrah R.S., - Barauni R.S., - Garhara Transhipment Yard; - Katihar R.S., - Lucknow R.S., and - Bareilly R.S.

15.10 INSTRUCTIONS TO OFFICERS OF CUSTOMS [SECTION 151A]

In the exercise of their quasi-judicial functions, the adjudicating authorities under the Customs Act are required to act independently without any bias. In *Orient Paper Mills Ltd vs. UOI 1978 (2) ELT J345 (SC): AIR 1969 SC 48.*, it was held that the adjudicating authorities were totally independent and could not be directed or guided by any instructions from administrative superiors. But, over time, particularly, in the context of section 37B of the CE Act, the Supreme Court itself has changed its view.

In practice it has been found necessary to issue some guidelines to all adjudicating and assessing authorities to ensure uniformity in decisions and practice. It has been found difficult to maintain such instruction legally, and therefore, as specific provision has been inserted by Customs(Amendment) Act 1985, whereby the CBEC has been empowered to issue such orders, instructions and directions to officers of custom in order to ensure

- uniformity in the classification of goods; or
- with respect to the levy of duty thereon.

Such orders, instructions and directions may be issued to officers of customs as the board may deem fit and such officers of customs and all other persons employed in the execution of the Act shall observe and follow such orders, instructions and directions of the Board.

No such orders, instructions or directions shall be issued

- (a) so as to require any such officer of customs to make a particular assessment or to dispose of a particular case in a particular manner; or
- (b) so as to interfere with the discretion of the Commissioner of Customs (Appeals) in the exercise of his appellate functions.

The relevant Case laws are given below:

- (a) When the board has issued instruction regarding classification of goods in a particular manner such instructions are binding on them, even though the circular may not recite that it has been issued in exercise of power under section 37B. This case is *pari material* with Sec. 151A. [*Ranadey Micronutrients vs. CCE, 1996 (66) ECR 638 SC: 1996 (87) ELT 19 (SC)*]
- (b) A public notice issued by one Custom House will bind all Customs authorities. If the department considers that a public notice is erroneous, it must be withdrawn.[*SAIL vs. CC,2000 (115) ELT 42 (SC)*]
- (c) Also refer a leading decision under the Income Tax Act, 1961, *K.P. Varghese vs. ITO AIR 1980 SC 1922 : 1981 (131) ITR 597 (SC)*. In this case, binding nature of the circulars has been discussed far more elaborately than under case laws under the Central Excise or Customs Laws.

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It is necessary to at least make an attempt to reconcile the apparent contradiction between the view expressed in *Orient Paper Mills* case and the view expressed in later decisions in the preceding paragraphs. It is submitted that the correct view would be to hold that the departmental instructions such as circulars and trade notices bind the departmental authorities under all circumstances. But, they do not bind them in such a manner that even if the departmental view is antithetical to the assessee's contentions, facts and evidence on record, the adjudicating authority has to blindly follow it. In such a situation, the adjudicating authority is entitled exercise his independent judgment as a quasi-judicial authority and arrive at an independent finding. However, if the adjudicating authority fails to do so, it is open to the assessee to challenge the correctness of the departmental instruction itself, or the mindless manner in which the adjudicating authority followed such instructions. This view finds support in *CCE vs. Usha Martin Industries*, 1997 (72) ECR 257 SC 1997 (94) ELT 460 (SC) case.

15.11 DELEGATION OF POWERS [SECTION 152]

It may not always be possible to have the particular level of officer who is empowered to exercise a particular function at a particular place. For example, the Commissioner of Customs are stationed at the head quarters of Commissionnerate. The other subordinate officers may be stationed at other points. When necessity arises to exercise the power of Commissioner at these other points, practical difficulties arise. Depending upon the volume of such problems, and the exigencies, it is desirable to empower the subordinate officer already available at the particular station to exercise the powers of his immediate superior officer. Section 152 envisages delegation of the powers to the next immediately subordinate authority.

The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification -

- (a) any power exercisable by the Board under this Act shall be exercisable also by a Chief Commissioner of Customs or a Commissioner of Customs empowered in this behalf by the Central Government;
- (b) any power exercisable by a Commissioner of Customs under this Act may be exercisable also by a Joint Commissioner of Customs or an Assistant Commissioner of Customs or Deputy Commissioner of Customs empowered in this behalf by the Central Government;
- (c) any power exercisable by a Joint Commissioner of Customs under this Act may be exercisable also by an Assistant Commissioner of Customs or Deputy Commissioner of Customs empowered in this behalf by the Central Government;
- (d) any power exercisable by an Assistant Commissioner of Customs or Deputy Commissioner of Customs under this Act may be exercisable also by a Gazetted

Officer of Customs empowered in this behalf by the Board.

Some of the major notifications are given below:

1. The power of CBEC u/s105(1) i.e. power to search premises, may be exercised by Commissioner of Central Excise who are Commissioners of Customs by virtue of Notification issued in this regard [*M.F. (D.R.) Notification No.22-Cus, dt 6-2-1965 as amended by Notification No.54-Cus., dt 24-5-1965*].
2. Board's powers under section 109 is delegated to certain Commissioners in respect of goods imported by land [*M.F. (D.R. & I.) Notification No.121-Cus., dt 18-6-1966*]
3. Every Commissioner of Customs authorised to exercise Board's powers under clause (ii) of the first proviso to section 61 subject to conditions laid out in the notification. [*M.F. (D.R. & I.) Notification No.100-Cus., dt 5-12-1975 as amended by Notification No.144-Cus., dt 24-7-1978*].

15.12 SERVICE OF ORDER, DECISION, ETC. [SECTION 153]

The date of service of an order or a communication containing a decision is of vital importance, in case the aggrieved party desires to file an appeal. The time limit allowed for appeal normally runs from the date of receipt of the communication containing the impugned decision by the aggrieved person. There are circumstances where it is not effectively possible to ensure that such communications are received by the concerned party. There are other circumstances where disputes arise about the actual date of the receipt of communication. These two problems have necessitated a uniform procedure for dispatch and service of orders, decisions, summons and other communications issued under the Customs Act. Section 153 provides the specific mode of service in this regard which is reproduced below.

Any order or decision passed or any summons or notice issued under this Act, shall be served –

- (a) by tendering the order, decision, summons or notice or sending it by registered post to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.

This provision is identical to section 37C of the Central Excise Act, but with an important difference. Clause (b) of that section provides for service of notice by affixture on the wall or door of the residence or office of the noticee. Affixture on the notice board of the custom house is the last method of service. It is neither clear nor does it stand to reason, why there is no provision similar to section 37C(b) of the Central Excise Act.

Section 153 indicates that in giving notice under the Act, receipt by the addressee is not

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relevant. What is relevant is issuing of notice in any one of the manners provided in this section. Therefore, it follows that the show cause notice issued within the period of six months as stipulated under section 110 has been properly served [*Ambali Karthikeyan vs. CC & CE 2000 (125) ELT 517 (Mad)*]

In terms of the General Clauses Act, 1897, when a letter is sent by registered post and is also correctly addressed, it is presumed that the letter has reached its destination in proper time and has been received by the party. But, this is a rebuttable presumption. The party should be afforded an opportunity to rebut the same. [*Imperial Malts Pvt. Ltd vs. CCE 1990 (48) ELT 104 (T-D)*]

In *Nayankumar P. Shah vs. CC 1993 (63) ELT 311 317 (T-WRB)*, it was held that when a notice is sent by registered post, the service is complete as the notice leaves the control of the department. The date of receipt is not relevant for the purpose of completing the service of notice under this section.

15.13 ROUNDING OFF OF DUTY, ETC. [SECTION 154A]

This section provides for the rounding off of the duty or any other sum payable under this Act. This provision is invariably found in all tax laws. The section is reproduced below:

The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund, drawback or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

15.14 INFORMATION IN RESPECT OF PERSONS IN CERTAIN CASES TO BE PUBLISHED [SECTION 154B]

- (1) The Central Government may publish name of any person and any other particulars relating to any proceedings in respect of such person if it is of the opinion that it is necessary or expedient in the public interest to do so. The Government can do the publication in such manner as it thinks fit.
- (2) The publication shall be made in relation to any penalty only after the time for presenting an appeal to the Commissioner (Appeals) or the Appellate Tribunal expires without an appeal being presented or the appeal, if presented, gets disposed of.
- (3) In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it.

15.15 GENERAL POWER TO MAKE RULES [SECTION 156]

The Central Government is empowered to make rules consistent with this Act generally to carry out the purposes of this Act. In particular, such rules may provide for all or any of the following matters, namely:

- (a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;
- (b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;
- (c) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;
- (d) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;
- (e) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;
- (f) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.
- (g) the amount to be paid for compounding *and the manner of compounding* under sub-section (3) of section 137.

15.16 GENERAL POWER TO MAKE REGULATIONS [SECTION 157]

This section empowers the Board to make regulations consistent with this Act and the rules, generally to carry out the purposes of this Act. In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (a) the form of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment boat note and bill of coastal goods;
- (ai) *the manner of export of goods, relinquishment of title to the goods and abandoning them to customs and destruction or rendering of goods commercially valueless in the presence of the proper officer under section 26A(1)(d);*

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- (aii) the form and manner of making application for refund of duty under sub-section (2) of section 26A.*
- (b) the form and manner in which an application for refund shall be made under section 27;
- (c) the conditions subject to which the transshipment of all or any goods under sub-section (3) of section 54, the transportation of all or any goods under section 56 and the removal of warehoused goods from one warehouse to another under section 67, may be allowed without payment of duty;
- (d) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65.

15.17 PROVISIONS WITH RESPECT TO RULES AND REGULATIONS [SECTION 158]

All rules and regulations made under this Act shall be published in the Official Gazette.

Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide –

- (i) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics, and for rendering of any services by officers of customs under this Act;
- (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 Rs.50,000.

Self-examination questions

1. State the provisions in the Customs Act, 1962, which govern the appearance by an authorised representative and the qualifications for such a person.
2. Discuss the provisions of section 143A of Customs Act, 1962 in respect of duty deferment.
3. Differentiate between rules and regulations.
4. Briefly explain the provisions in respect of recovery of any sums due to the Government under the Customs Act, 1962.
5. Can a custom officer take samples of imported goods? Discuss the provisions in detail.