

Set Com

32 → CG by notification can constitute set com which shall consist a chairman and as many vice chairmen & other member appointed by CG who have special knowledge of customs & excise law. (CBEC members can't be the member of set com.)

32A → Jurisdiction, powers & authority of set com may be exercised by Benches thereof.

32B → If chairman is ill or resign or death then vice chairman or ^{member} of set com shall discharge the function of the chairman until the chairman resume back.

32C → chairman can t/f the case to another bench if applied by assessee OR CCE or chief CCE or suo moto.

32D → If members differ in opinion, then majority will be decided. If majority exist but if members are equally divided, then they shall state the point on which they differ, then make a reference to the chairman who can hear himself or can refer the point to another member after that the majority will be consider.

32E → An assessee may apply before adjudication to the set com in

- Prescribed form (Form SCCE-1) and
- In prescribed manner.

Disclosures in application

- Full & true disclosure of his duty liability which was not disclosed before
- Manner in which such liab. has been derived
- additional amount of ED accepted by him.
- other particulars (including particular of goods due to which short levy on account of misclassification, under-valuation e.t.c)
- full & true disclosure doesn't mean that assessee should disclose the amount equal to or more than shown in SCN → Dharampal Satyapal - 2013 - Delhi HC
- If disclosed duty in set comm. will be increased then the case can't be settled because increase in amount can't be allowed and withdrawal of application is prohibited
Ajmera housing corporation - 2010 - SC

Conditions to be satisfied for apply

- Applicant has filed return (may be refused by set com.)
- SCN was issued to applicant (Case is pending)
- Duty (Additional) accepted should be more than 3 lacs.
- Applicant has paid such additional duty with Int.
- question involved was not on classification of goods.

(2) omitted

(3) Fees - 1000/-

(4) Application once made can't withdrawn.

Set com

Applicant $\xrightarrow[\text{Application can't withdraw}]{\text{Apply with 1000/- fees}}$ Set com. $\xrightarrow[\text{Issue notice why app. processed}]{\text{Within 7 days}}$ Applicant

Conditions

- Return already filed (may be relaxed by set com)
- SCN was issued
- Ad. Duty accepted > 3 lacs
- Duty with Int. has to pay
- No ques. on clas. of goods

Disclosures

- Full & true dis. of his duty liab.
- Manner of derived
- Ad. duty accepted
- Other particulars (like particulars of goods on which duty short long e.t.c.)

Disclosed amt can be $\leq$ SCN amt - Phareenpal Satyap 2013 Delhi HC
Amt. can't be further increased - Ajmera housing cor. 2012 SC

$\xrightarrow[\text{from the notice issue}]{\text{Within 14 days}}$ Reject X
no reply also treated as allowed
Allow

call Report & Records from CCE

$\xrightarrow[\text{days}]{\text{Within 30}}$

CCE shall furnish Report
(If not furnish then also proceed further)

$\xrightarrow[\text{CCE Report Received}]{\text{Within 15 days from}}$

Direct Commissioner (Investigation) to make further inquiry

Received CCE (Invest) Report
 $\xrightarrow[\text{days}]{\text{Within 90}}$
(If Report not furnish then also proceed further)

$\xrightarrow[\text{app. received.}]{\text{Within 9M + 3M from the last day of the month in which}}$

Pass Set Com ORDER
(with all details available to them.)

If no ORDER Received within prescribed time

- Settlement proceeding shall abate
- Ad. Auth. shall dispose of the case as not applied.

Conclusion of not appealable

However WRIT can be filed

$\rightarrow$ Must contain a warning that settlement void if obtained by fraud, misrepresentation

If void

Case is sent back to AA
CFO allowed 2 yrs to complete

$\rightarrow$ Order can't be at lesser point than declared by applicant itself in application

$\rightarrow$ Set. order shall contain

- Terms of settlement
- manner in which sum shall be paid
- other matters

If not paid within 30 days of order shall be recover as per sec 11

Powers of Set com

- May provisionally attach any property during proceedings
- There is no power to re-open
- All powers which are available with CFO
- until Set com order have exclusive jurisdiction.
- Set com can give the copy of Report of CFO to Set com. by applying through a person with prescribed fees.
- may withdraw prosecution and penalty if satisfied that
 - applicant co-operated
 - fully & true disclosed
- by can't withdraw if prosecute before application.
- May Rollback from giving withdrawal of prosecution e.t.c if
 - fail to pay such sum under order
 - 1) to comply with other condition
 - conceal any material fact
 - had given false evidence
- May send case back to CFO even (with other details) which fetch during proceedings.

Can't apply subsequent for any other manner if Set com order provides penalty for concealment from CEO OR convicted at any offence under this ACT OR Set com send back the case to CFO

Comparison
No diff. in Service Tax $\rightarrow$ Custom

- Order can be given in unlimited period there is no limit of 9M
- No settlement of
 - Goods in relation to which offence under NDPS Act has been omitted
 - Sec 123 goods (Gold e.t.c)

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