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THE CUSTOMS ACT, 1962*

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*** Subject to verification and confirmation by the administrative ministry.**

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THE CUSTOMS ACT, 1962*

ACT NO. 52 OF 1962[1]

[13*th December*, 1962]

An Act to consolidate and amend the law relating to Customs.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Customs Act, 1962.

(*2*) It extends to the whole of India [2][and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person].

(*3*) It shall come into force on such date[3] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

[4][(*1*) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Board, [5][Commissioner (Appeals)] or Appellate Tribunal;

(*1A*) "aircraft" has the same meaning as in the Aircraft Act, 1934 (22 of 1934);

(*1B*) "Appellate Tribunal" means the Customs, Excise and [6][Service Tax] Appellate Tribunal constituted under section 129;]

[7][(*2*) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to—

(*a*) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;

(*b*) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;

(*c*) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;

(*d*) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;

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1. The Act shall come into force in the State of Sikkim (w.e.f. 1-10-1979), vide Notification No. G.S.R. 527(E), dated 1-9-1979 Gazette of India, Extraordinary, Part II, sec. 3(*i*).
2. Ins. by Act 13 of 2018, s. 57 (w.e.f. 28-3-2018).
3. 1st February, 1963, *vide* notification No. G.S.R. 155, dated 23rd January, 1963, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).
4. Subs. by Act 44 of 1980, s. 50 and Fifth Schedule, Part I, for clause (*1*) (w.e.f. 11-10-1982).
5. Subs. by Act 22 of 1995, s. 51, for "Collector (Appeals)" (w.e.f. 26-5-1995).
6. Subs. by Act 32 of 2003, s. 104, for "Gold (Control)" (w.e.f. 14-5-2003).
7. Subs. by Act 13 of 2018, s. 58, for clause (*2*) (w.e.f. 28-3-2018).

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(*e*) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;

(*f*) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,

and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is *nil*;]

(*3*) "baggage" includes unaccompanied baggage but does not include motor vehicles;

[1][(*3A*) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;]

(*4*) "bill of entry" means a bill of entry referred to in section 46;

(*5*) "bill of export" means a bill of export referred to in section 50;

(*6*) "Board" means the [2][[3][Central Board of Indirect Taxes and Customs] constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)];

(*7*) "coastal goods" means goods, other than imported goods, transported in a vessel from one port in India to another;

[4][(*7A*) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Customs (Appeals) under sub-section (*1*) of section 4;

(*8*) [5][Principal Commissioner of Customs or Commissioner of Customs], except for the purposes of Chapter XV, includes an Additional Commissioner of Customs;]

(*9*) "conveyance" includes a vessel, an aircraft and a vehicle;

(*10*) "customs airport" means any airport appointed under clause (*a*) of section 7 to be a customs airport [6][and includes a place appointed under clause (*aa*) of that section to be an air freight station];

(*11*) "customs area" means the area of a customs station [7][or a warehouse] and includes any area in which imported goods or exported goods are ordinarily kept before clearance by Customs Authorities;

(*12*) "customs port" means any port appointed under clause (*a*) of section 7 to be a customs port [8][, and includes a place appointed under clause (*aa*) of that section to be an inland container depot];

1. Ins. by Act 7 of 2017, s. 89 (w.e.f. 31-3-2017).
2. Subs. by Act 54 of 1963, s. 5, for certain words and figures (w.e.f. 1-1-1964).
3. Subs. by Act 13 of 2018, s. 58, for "Central Board of Excise and Customs" (w.e.f. 28-3-2018).
4. Subs. by Act 22 of 1995, s. 51, for clauses (*7A*) and (*8*) (w.e.f. 26-5-1995).
5. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
6. Ins. by Act 23 of 2012, s. 120 (w.e.f. 28-5-2012).
7. Ins. by Act 18 of 2017, s. 2 (w.e.f 4-5-2017).
8. Ins. by Act 11 of 1983, s. 46 (w.e.f. 13-5-1983).

(*13*) "customs station" means any customs port, [1][customs airport, international courier terminal, foreign post office] or land customs station;

(*14*) "dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;

(*15*) "duty" means a duty of customs leviable under this Act;

(*16*) "entry" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes [2]*** the entry made under the regulations made under section 84;

(*17*) "examination", in relation to any goods, includes measurement and weighment thereof;

(*18*) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(*19*) "export goods" means any goods which are to be taken out of India to a place outside India;

(*20*) "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes [3][any owner, beneficial owner] or any person holding himself out to be the exporter;

[4][(*20A*) "foreign post office" means any post office appointed under clause (*e*) of sub-section (*1*) of section 7 to be a foreign post office;]

(*21*) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes—

(*i*) any naval vessel of a foreign Government taking part in any naval exercises;

(*ii*) any vessel engaged in fishing or any other operations outside the territorial waters of India;

(*iii*) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever;

[5][(*21A*) "Fund" means the Consumer Welfare Fund established under section 12C of the Central Excises and Salt Act, 1944 (1 of 1944);]

(*22*) "goods" includes—

(*a*) vessels, aircrafts and vehicles;

(*b*) stores;

(*c*) baggage;

(*d*) currency and negotiable instruments; and

1. Subs. by Act 7 of 2017, s. 89, for "customs airport" (w.e.f. 31-3-2017).
2. The words "in the case of goods imported or to be exported by post, the entry referred to in section 82 or" omitted by s. 89, *ibid*. (w.e.f. 31-3-2017).
3. Subs. by s. 89, *ibid*., for "any owner" (w.e.f. 31-3-2017).
4. Ins. by s. 89, *ibid*. (w.e.f. 31-3-2017).
5. Ins. by Act 40 of 1991, s. 9 (w.e.f. 20-9-1991).

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(*e*) any other kind of movable property;

(*23*) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(*24*) "[1][arrival manifest or import manifest]" or "import report" means the manifest or report required to be delivered under section 30;

(*25*) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;

(*26*) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [2][any owner, beneficial owner] or any person holding himself out to be the importer;

(*27*) "India" includes the territorial waters of India;

(*28*) "Indian Customs Waters" means the [3][waters extending into the sea up to the limit of [4][Exclusive Economic zone under section 7] of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976),] and includes any bay, gulf, harbour, creek or tidal river;

[5][(*28A*) "international courier terminal" means any place appointed under clause (*f*) of sub-section (*1*) of section 7 to be an international courier terminal;]

(*29*) "land customs station" means any place appointed under clause (*b*) of section 7 to be a land customs station;

(*30*) "market price", in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India;

[6][(*30A*) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005 (49 of 2005);]

[7][(*30AA*) "notification" means notification published in the Official Gazette and the expression "notify" with its cognate meaning and grammatical variation shall be construed accordingly;]

[5][(*30B*) "passenger name record information" means the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger;]

(*31*) "person-in-charge" means,—

(*a*) in relation to a vessel, the master of the vessel;

(*b*) in relation to an aircraft, the commander or pilot-in-charge of the aircraft;

(*c*) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;

(*d*) in relation to any other conveyance, the driver or other person-in-charge of the conveyance;

(*32*) "prescribed" means prescribed by regulations made under this Act;

(*33*) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;

(*34*) "proper officer", in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the [8][Principal Commissioner of Customs or Commissioner of Customs];

(*35*) "regulations" means the regulations made by the Board under any provision of this Act;

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1. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
2. Subs. by Act 7 of 2017, s. 89, for "any owner" (w.e.f. 31-3-2017).
3. Subs. by Act 25 of 1978, s. 2, for certain words (w.e.f. 1-7-1978).
4. Subs. by Act 13 of 2018, s. 58, for "contiguous zone of India under section 5" (w.e.f. 28-3-2018).
5. Ins. by Act 7 of 2017, s. 89 (w.e.f. 31-3-2017).
6. Ins. by Act 49 of 2005, s. 30 and the Schedule, Part VI (w.e.f. 28-12-2005).
7. Ins. by Act 13 of 2018, s. 58 (w.e.f. 28-3-2018).
8. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

(*36*) "rules" means the rules made by the Central Government under any provision of this Act;

(*37*) "shipping bill" means a shipping bill referred to in section 50;

(*38*) "stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

(*39*) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;

(*40*) "tariff value", in relation to any goods, means the tariff value fixed in respect thereof under sub-section (*2*) of section 14;

(*41*) "value", in relation to any goods, means the value thereof determined in accordance with the provisions of [1][sub-section (*1*) or sub-section (*2*) of section 14];

(*42*) "vehicle" means conveyance of any kind used on land and includes a railway vehicle;

[2][(*43*) "warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 or a special warehouse licensed under section 58A;]

(*44*) "warehoused goods" means goods deposited in a warehouse;

[3]* * * * *

CHAPTER II

OFFICERS OF CUSTOMS

[4]**[3. Classes of officers of customs.—**There shall be the following classes of officers of customs, namely:—

[5][(*a*) Principal Chief Commissioners of Customs;

(*b*) Chief Commissioners of Customs;

(*c*) Principal Commissioners of Customs;

(*d*) Commissioners of Customs;

(*e*) Commissioners of Customs (Appeals);

(*f*) Joint Commissioners of Customs;

(*g*) Deputy Commissioners of Customs;

(*h*) Assistant Commissioner of Customs;

(*i*) such other class of officers of customs as may be appointed for the purposes of this Act.]

4. Appointment of officers of customs.—(*1*) The [6][Board] may appoint such persons as it thinks fit to be officers of customs.

(*2*) Without prejudice to the provisions of sub-section (*1*), [7][Board may authorise a [8][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] or] a [9][Principal Commissioner of Customs or Commissioner of Customs] or a [10][Joint] or [11][Assistant Commissioner of Customs or Deputy Commissioner of Customs] to appoint officers of customs below the rank of [11][Assistant Commissioner of Customs or Deputy Commissioner of Customs.]

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1. Subs. by Act 22 of 2007, s. 94, for "sub-section (*1*) of section 14" (w.e.f. 1-7-1978).
2. Subs. by Act 28 of 2016, s. 116, for clause(*43*) (w.e.f. 14-5-2016).
3. Clause (*45*) omitted by s. 116, *ibid.* (w.e.f. 14-5-2016).
4. Subs. by Act 22 of 1995, s. 52, for sections 3 and 4 (w.e.f. 26-5-1995).
5. Subs. by Act 25 of 2014, s. 79, for clauses (*a*), (*b*), (*c*), (*cc*), (*d*), (*e*) and (*f*) (w.e.f. 6-8-2014).
6. Subs. by Act 20 of 2002, s. 117, for "Central Governement" (w.e.f. 11-5-2002).
7. Subs. by s. 117, *ibid*., for "Central Government may authorise the Board" (w.e.f. 11-5-2002).
8. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
9. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).
10. Subs. by Act 27 of 1999, s. 100, for "Deputy Commissioner of Customs" (w.e.f. 11-5-1999).
11. Subs. by s. 100, *ibid*., for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

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5. Powers of officers of customs.—(*1*) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(*2*) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.

(*3*) Notwithstanding anything contained in this section, [1][a [2][Commissioner (Appeals)]] shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108.

6. Entrustment of functions of Board and customs officers on certain other officers.—The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

CHAPTER III

[3][APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, ETC.]

7. Appointment of customs ports, airports, etc.—[4][(*1*)] The [5][Board] may, by notification in the Official Gazette, appoint—

(*a*) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods;

[6][(*aa*) the places which alone shall be inland [7][container depots or air freight stations] for the unloading of imported goods and the loading of export goods or any class of such goods;]

(*b*) the places which alone shall be land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods;

(*c*) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland water into or out of India, or to or from any land customs station from or to any land frontier;

(*d*) the ports which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India.

[8][(*e*) the post offices which alone shall be foreign post offices for the clearance of imported goods goods or export goods or any class of such goods;

(*f*) the places which alone shall be international courier terminals for the clearance of imported goods or export goods or any class of such goods.]

[9][(*2*) Every notification issued under this section and in force immediately before the commencement of the Finance Act, 2003 (32 of 2003) shall, on such commencement, be deemed to have been issued under the provisions of this section as amended by section 105 of the Finance Act, 2003 and shall continue to have the same force and effect after such commencement until it is amended, rescinded or superseded under the provisions of this section.]

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1. Subs. by Act 44 of 1980, s. 50 and the Fifth Schedule for, "an Appellate Collector of Customs" (w.e.f. 11-10-1982).
2. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
3. Subs. by Act 28 of 2016, s. 117, for the chapter heading (w.e.f. 14-5-2016).
4. Section 7 numbered as sub-section (*1*) thereof by Act 32 of 2003, s. 105 (w.e.f. 14-5-2003).
5. Subs. by s. 105, *ibid*., for "Central Government" (w.e.f. 14-5-2003).
6. Ins. by Act 11 of 1983, s. 47 (w.e.f.13-5-1983).
7. Subs. by Act 23 of 2012, s. 121, for "container depots" (w.e.f. 28-5-2012).
8. Ins. by Act 7 of 2017, s. 90 (w.e.f. 31-3-2017).
9. Ins. by Act 32 of 2003, s. 105 (w.e.f. 14-5-2003).

8. Power to approve landing places and specify limits of customs area.—The [1][Principal Commissioner of Customs or Commissioner of Customs] may,—

(*a*) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods;

(*b*) specify the limits of any customs area.

9. [*Powers to declare places to be warehousing stations*].*Omitted by The Finance Act*, 2016 *(28 of 2016), s. 118 (w.e.f. 14-5-2016).*

10. Appointment of boarding stations.—The [1][Principal Commissioner of Customs or Commissioner of Customs] may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of customs.

CHAPTER IV

PROHIBITIONS ON IMPORTATION AND EXPORTATION OF GOODS

11. Power to prohibit importation or exportation of goods.—(*1*) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (*2*), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(*2*) The purposes referred to in sub-section (*1*) are the following:—

(*a*) the maintenance of the security of India;

(*b*) the maintenance of public order and standards of decency or morality;

(*c*) the prevention of smuggling;

(*d*) the prevention of shortage of goods of any description;

(*e*) the conservation of foreign exchange and the safeguarding of balance of payments;

(*f*) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver;

(*g*) the prevention of surplus of any agricultural product or the product of fisheries;

(*h*) the maintenance of standards for the classification, grading or marketing of goods in international trade;

(*i*) the establishment of any industry;

(*j*) the prevention of serious injury to domestic production of goods of any description;

(*k*) the protection of human, animal or plant life or health;

(*l*) the protection of national treasures of artistic, historic or archaeological value;

(*m*) the conservation of exhaustible natural resources;

(*n*) the protection of patents, trademarks [2][, copyrights, designs and geographical indications];

(*o*) the prevention of deceptive practices;

(*p*) the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State to the exclusion, complete or partial, of citizens of India;

(*q*) the fulfilment of obligations under the Charter of the United Nations for the maintenance of international peace and security;

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1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs (w.e.f. 6-8-2014).
2. Subs. by Act 17 of 2013, s. 64, for "and copyrights" (w.e.f. 10-5-2013).

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(*r*) the implementation of any treaty, agreement or convention with any country;

(*s*) the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India;

(*t*) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign State or is derogatory to national prestige;

(*u*) the prevention of the contravention of any law for the time being in force; and

(*v*) any other purpose conducive to the interests of the general public.

[1][(*3*) Any prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification issued thereunder, shall be executed under the provisions of that Act only if such prohibition or restriction or obligation is notified under the provisions of this Act, subject to such exceptions, modifications or adaptations as the Central Government deems fit.]

[2][CHAPTER IVA

DETECTION OF ILLEGALLY IMPORTED GOODS AND PREVENTION OF THE DISPOSAL THEREOF

11A. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force;

(*b*) "intimated place" means a place intimated under sub-section (*1*), sub-section (*2*) or sub-section (*3*), as the case may be, of section 11C;

(*c*) "notified date", in relation to goods of any description, means the date on which the notification in relation to such goods is issued under section 11B;

(*d*) "notified goods" means goods specified in the notification issued under section 11B.

11B. Power of Central Government to notify goods.—If, having regard to the magnitude of the illegal import of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal import, circulation or disposal of such goods, or facilitating the detection of such goods, it may, by notification in the Official Gazette, specify goods of such class or description.

11C. Persons possessing notified goods to intimate the place of storage, etc.—(*1*) Every person who owns, possesses or controls, on the notified date, any notified goods, shall, within seven days from that date, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the notified goods owned, possessed or controlled by him and the place where such goods are kept or stored.

(*2*) Every person who acquires, after the notified date, any notified goods, shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be kept or stored after such acquisition and shall, immediately on such acquisition, deliver to the proper officer a statement (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) in relation to the notified goods acquired by him:

Provided that a person who has delivered a statement, whether under sub-section (*1*) or sub-section (*2*), in relation to any notified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further statement in relation to any notified goods acquired by him, after the date of delivery of the said statement, so long as the notified goods so acquired are kept or stored at the intimated place.

1. Sub-section (3) shall stand inserted (date to be notified) by Act 13 of 2018, s. 59.
2. Chapters IVA, IVB and IVC ins. by Act 12 of 1969, s. 2 (w.e.f. 3-1-1969).

(*3*) If any person intends to shift any notified goods to any place other than the intimated place, he shall, before taking out such goods from the intimated place, deliver to the proper officer an intimation containing the particulars of the place to which such goods are proposed to be shifted.

(*4*) No person shall, after the expiry of seven days from the notified date, keep or store any notified goods at any place other than the intimated place.

(*5*) Where any notified goods have been sold or transferred, such goods shall not be taken from one place to another unless they are accompanied by the voucher referred to in section 11F.

(*6*) No notified goods (other than those which have been sold or transferred) shall be taken from one place to another unless they are accompanied by a transport voucher (in such form and containing such particulars as may be specified by rules made in this behalf) prepared by the persons owning, possessing or controlling such goods.

11D. Precautions to be taken by persons acquiring notified goods.—No person shall acquire (except by gift or succession, from any other individual in India), after the notified date, any notified goods—

(*i*) unless such goods are accompanied by,—

(*a*) the voucher referred to in section 11F or the memorandum referred to in sub-section (*2*) of section 11G, as the case may be, or

(*b*) in the case of a person who has himself imported any goods, any evidence showing clearance of such goods by the Customs Authorities; and

(*ii*) unless he has taken, before acquiring such goods from a person other than a dealer having a fixed place of business, such reasonable steps as may be specified by rules made in this behalf, to ensure that the goods so acquired by him are not goods which have been illegally imported.

11E. Persons possessing notified goods to maintain accounts.—(*1*) Every person who, on or after the notified date, owns, possesses, controls or acquires any notified goods shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any notified goods, make an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the person from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the notified goods to which such accounts relate:

Provided that it shall not be necessary to maintain separately accounts in the form and manner specified by rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified by the said rules.

(*2*) Every person who owns, possesses or controls any notified goods and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the notified goods so used by him and shall keep such account at the intimated place.

11F. Sale, etc., of notified goods to be evidenced by vouchers.—On and from the notified date, no person shall sell or otherwise transfer any notified goods, unless every transaction in relation to the sale or transfer of such goods is evidenced by a voucher in such form and containing such particulars as may be specified by rules made in this behalf.

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11G. Sections 11C, 11E and 11F not to apply to goods in personal use.—(*1*) Nothing in sections 11C, 11E and 11F shall apply to any notified goods which are—

(*a*) in personal use of the person by whom they are owned, possessed or controlled, or

(*b*) kept in the residential premises of a person for his personal use.

(*2*) If any person, who is in possession of any notified goods referred to in sub-section (*1*), sells, or otherwise transfers for a valuable consideration, any such goods, he shall issue to the purchaser or transferee, as the case may be, a memorandum containing such particulars as may be specified by rules made in this behalf and no such goods shall be taken from one place to another unless they are accompanied by the said memorandum.

CHAPTER IVB

PREVENTION OR DETECTION OF ILLEGAL EXPORT OF GOODS

11-H. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "illegal export" means the export of any goods in contravention of the provisions of this Act or any other law for the time being in force;

(*b*) "intimated place" means a place intimated under sub-section (*1*), sub-section (*2*) or sub-section (*3*), as the case may be, of section 11J;

(*c*) "specified area" includes the Indian customs waters, and such inland area, not exceeding one hundred kilometres in width from any coast or other border of India, as the Central Government may, having regard to the vulnerability of that area to smuggling, by notification in the Official Gazette, specify in this behalf:

Provided that where a part of any village, town or city falls within a specified area, the whole of such village, town or city shall, notwithstanding that the whole of it is not within one hundred kilometres from any coast or other border of India, be deemed to be included in such specified area;

(*d*) "specified date", in relation to specified goods, means the date on which any notification is issued under section 11-I in relation to those goods in any specified area;

(*e*) "specified goods" means goods of any description specified in the notification issued under section 11-I in relation to a specified area.

11-I. Power of Central Government to specify goods.—If, having regard to the magnitude of the illegal export of goods of any class or description, the Central Government is satisfied that it is expedient in the public interest to take special measures for the purpose of checking the illegal export or facilitating the detection of goods which are likely to be illegally exported, it may, by notification in the Official Gazette, specify goods of such class or description.

11J. Persons possessing specified goods to intimate the place of storage, etc.—(*1*) Every person who owns, possesses or controls, on the specified date, any specified goods, the market price of which exceeds fifteen thousand rupees shall, within seven days from that date, deliver to the proper officer an intimation containing the particulars of the place where such goods are kept or stored within the specified area.

(*2*) Every person who acquires (within the specified area), after the specified date, any specified goods,—

(*i*) the market price of which, or

(*ii*) the market price of which together with the market price of any specified goods of the same class or description, if any, owned, possessed or controlled by him on the date of such acquisition,

exceeds fifteen thousand rupees shall, before making such acquisition, deliver to the proper officer an intimation containing the particulars of the place where such goods are proposed to be kept or stored after such acquisition:

Provided that a person who has delivered an intimation, whether under sub-section (*1*) or sub-section (*2*), in relation to any specified goods, owned, possessed, controlled or acquired by him, shall not be required to deliver any further intimation so long as the specified goods are kept or stored at the intimated place.

(*3*) If any person intends to shift any specified goods to which sub-section (*1*) or sub-section (*2*) applies, to any place other than the intimated place, he shall, before taking out such goods from the intimated place, deliver to the proper officer an intimation containing the particulars of the place to which such goods are proposed to be shifted.

(*4*) No person shall, after the expiry of seven days from the specified date, keep or store any specified goods to which sub-section (*1*) or sub-section (*2*) applies, at any place other than the intimated place.

11K. Transport of specified goods to be covered by vouchers.—(*1*) No specified goods shall be transported from, into or within any specified area or loaded on any animal or conveyance in such area, unless they are accompanied by a transport voucher (in such form and containing such particulars as may be specified by rules made in this behalf) prepared by the person owning, possessing, controlling or selling such goods:

Provided that no transport voucher shall be necessary for the transport, within a village, town or city, of any specified goods the market price of which, on the date of transport, does not exceed one thousand rupees.

(*2*) Notwithstanding anything contained in sub-section (*1*), where the Central Government, after considering the nature of any specified goods, the time, mode, route and the market price of the goods intended to be transported, the purpose of the transportation and the vulnerability of the specified area with regard to the illegal export of such goods, is satisfied that it is expedient in the public interest so to do, it may, —

(*i*) by notification in the Official Gazette, specify goods of such class or description and of a market price exceeding such sum as that Government may notify; and different sums in relation to the specified goods of the same class or description, or different classes or descriptions, may be notified for the same specified area or for different specified areas, and

(*ii*) direct that no person shall transport any goods so specified unless the transport voucher in relation to them has been countersigned by the proper officer.

11L. Persons possessing specified goods to maintain accounts.—(*1*) Every person who, on or after the specified date, owns, possesses or controls, within a specified area, any specified goods of a market price exceeding fifteen thousand rupees, shall maintain (in such form and in such manner as may be specified by rules made in this behalf) a true and complete account of such goods and shall, as often as he acquires or parts with any specified goods, make an entry in the said account in relation to such acquisition or parting with, and shall also state therein the particulars of the person from whom such goods have been acquired or in whose favour such goods have been parted with, as the case may be, and such account shall be kept, along with the goods, at the place of storage of the specified goods to which such accounts relate:

Provided that it shall not be necessary to maintain separately accounts in the form and manner specified by rules made in this behalf in the case of a person who is already maintaining accounts which contain the particulars specified by the said rules.

(*2*) Every person who owns, possesses or controls any specified goods to which the provisions of sub-section (*1*) apply, and who uses any such goods for the manufacture of any other goods, shall maintain (in such form, in such manner and containing such particulars as may be specified by rules made in this behalf) a true and complete account of the specified goods so used by him and shall keep such account at the intimated place.

(*3*) If at any time, on a verification made by a proper officer, it is found that any specified goods owned, possessed or controlled by a person are lesser in quantity than the stock of such goods as shown, at the time of such verification, in the accounts referred to in sub-section (*1*), read with the accounts referred to in sub-section (*2*), it shall be presumed, unless the contrary is proved, that such goods, to the

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extent that they are lesser than the stock shown in the said accounts, have been illegally exported and that the person owning, possessing or controlling such goods has been concerned with the illegal export thereof.

11M. Steps to be taken by persons selling or transferring any specified goods.—Except where he receives payment by cheque drawn by the purchaser, every person who sells or otherwise transfers within any specified area, any specified goods, shall obtain, on his copy of the sale or transfer voucher, the signature and full postal address of the person to whom such sale or transfer is made and shall also take such other reasonable steps as may be specified by rules made in this behalf to satisfy himself as to the identity of the purchaser or the transferee, as the case may be, and if after an inquiry made by a proper officer, it is found that the purchaser or the transferee, as the case may be, is not either readily traceable or is a fictitious person, it shall be presumed, unless the contrary is proved, that such goods have been illegally exported and the person who had sold or otherwise transferred such goods had been concerned in such illegal export:

Provided that nothing in this section shall apply to petty sales of any specified goods if the aggregate market price obtained by such petty sales, made in the course of a day, does not exceed two thousand and five hundred rupees.

Explanation.—In this section "petty sale" means a sale at a price which does not exceed one thousand rupees.

CHAPTER IVC

POWER TO EXEMPT FROM THE PROVISIONS OF CHAPTERS IVA AND IVB

11N. Power to exempt.—If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, goods of any class or description from all or any of the provisions of Chapter IVA or Chapter IVB.]

CHAPTER V

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

12. Dutiable goods.—(*1*) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the [1][Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.

[2] [(*2*) The provisions of sub-section (*1*) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.]

13. Duty on pilfered goods.—If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

[3]**[14. Valuation of goods**.—(*1*) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf:

Provided that such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and

1. Subs. by Act 51 of 1975, s. 13, for "Indian Tariff Act, 1934 (32 of 1934)" (w.e.f. 2-8-1976).
2. Subs. by Act 30 of 1963, s. 2, for sub-section (*2*) (w.e.f. 1-10-1963).
3. Subs. by Act 22 of 2007, s. 95, for section 14 (w.e.f. 10-10-2007).

brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to the extent and in the manner specified in the rules made in this behalf:

Provided further that the rules made in this behalf may provide for,—

(*i*) the circumstances in which the buyer and the seller shall be deemed to be related;

(*ii*) the manner of determination of value in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;

(*iii*) the manner of acceptance or rejection of value declared by the importer or exporter, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section:

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

Explanation.—For the purposes of this section—

(*a*) "rate of exchange" means the rate of exchange—

(*i*) determined by the Board, or

(*ii*) ascertained in such manner as the Board may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(*b*) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in clause (*m*) and clause (*q*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).]

15. Date for determination of rate of duty and tariff valuation of imported goods.—(*1*) [1][The rate of duty [2]***] and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,—

(*a*) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(*b*) in the case of goods cleared from a warehouse under section 68, on the date on which [3][a bill of entry for home consumption in respect of such goods is presented under that section];

(*c*) in the case of any other goods, on the date of payment of duty:

[4][Provided that if a bill of entry has been presented before the date of entry inwards of the vessel or the arrival of the aircraft [5][or the vehicle] by which the goods are imported, the bill of entry shall be deemed to have been presented on the date of such entry inwards or the arrival, as the case may be.]

(*2*) The provisions of this section shall not apply to baggage and goods imported by post.

1. Subs. by Act 20 of 1966, s. 3, for "The rate of duty" (w.e.f. 31-8-1966).
2. The words ", rate of exchange" omitted by Act 25 of 1978, s. 4 (w.e.f. 1-7-1978).
3. Subs. by Act 32 of 2003, s. 106, for "the goods are actually removed from the warehouse" (w.e.f. 14-5-2003).
4. Subs. by Act 33 of 1996, s. 59, for the proviso (w.e.f. 28-9-1996).
5. Ins. by Act 25 of 2014, s. 80 (w.e.f. 6-8-2014).

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[1]* * * * *

16. Date for determination of rate of duty and tariff valuation of export goods.—[2][(*1*) The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force,—

(*a*) in the case of goods entered for export under section 50, on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51;

(*b*) in the case of any other goods, on the date of payment of duty.]

(*2*) The provisions of this section shall not apply to baggage and goods exported by post.

[3]**[17. Assessment of duty**.—(*1*) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(*2*) The proper officer may verify [4][the entries made under section 46 or section 50 and the self-assessment of goods referred to in sub-section (*1*)] and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

[5][Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.]

[6][(*3*) For [7][the purposes of verification] under sub-section (*2*), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.]

(*4*) Where it is found on verification, examination or testing of the goods or otherwise that the self- assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(*5*) Where any re-assessment done under sub-section (*4*) is contrary to the self-assessment done by the importer or exporter [8]*** and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

[9]* * * * *

Explanation.—For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such assent is received.]

1. Sub-Section (*3*) omitted by Act 25 of 1978, s. 4 (w.e.f. 1-7-1978). Earlier sub-section (*3*) inserted by Act 20 of 1966, s. 3 (w.e.f. 31-8-1966).
2. Subs. by Act 23 of 1986, s. 50, for sub-section (*1*) (w.e.f. 13-5-1986).
3. Subs. by Act 8 of 2011, s. 38, for section 17 (w.e.f. 8-4-2011).
4. Subs. by Act 13 of 2018, s. 60, for "the self-assessment of such goods" (w.e.f. 28-3-2018).
5. Ins. by s. 60, *ibid*. (w.e.f. 28-3-2018).
6. Subs. by Act 7 of 2017, s. 91, for sub-section (*3*) (w.e.f. 31-3-2017).
7. Subs. by Act 13 of 2018, s. 60, for "verification of self-assessment" (w.e.f. 28-3-2018).
8. The words "regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act" omitted by s. 60, *ibid*. (w.e.f. 28-3-2018).
9. Sub-section (*6*) omitted by s. 60, *ibid*. (w.e.f. 28-3-2018).

18. Provisional assessment of duty—[1][(*1*) Notwithstanding anything contained in this Act but without prejudice to the provisions of section 46 [2][and section 50],—

(*a*) where the importer or exporter is unable to make self-assessment under sub-section (*1*) of section 17 and makes a request in writing to the proper officer for assessment; or

(*b*) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(*c*) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(*d*) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed as the case may be, and the duty provisionally assessed.]

[2][(*1A*) Where, pursuant to the provisional assessment under sub-section (*1*), if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.]

(*2*) When the duty leviable on such goods is assessed finally [3][or re-assessed by the proper officer] in accordance with the provisions of this Act, then—

(*a*) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty [4][finally assessed or re-assessed, as the case may be,] and if the amount so paid falls short of, or is in excess of [5][the duty [4][finally assessed or re-assessed, as the case may be,]], the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be;

(*b*) in the case of warehoused goods, the proper officer may, where the duty [4][finally assessed or re-assessed, as the case may be,] is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

[6][(*3*) The importer or exporter shall be liable to pay interest, on any amount payable to the Central Government, consequent to the final assessment order [3][or re-assessment order] under sub-section (*2*), at the rate fixed by the Central Government under section [7][28AA] from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.]

(*4*) Subject the sub-section (*5*), if any refundable amount referred to in clause (*a*) of sub-section (*2*) is not refunded under that sub-section within three months from the date of assessment, of duty finally [3][or re-assessment of duty, as the case may be,] there shall be paid an interest on such un-refunded amount at such rate fixed by the Central Government under section 27A till the date of refund of such amount.]

1. Subs. by Act 8 of 2011, s. 39, for sub-section (*1*) (w.e.f. 8-4-2011).
2. Ins. by Act 13 of 2018, s. 61 (w.e.f. 28-3-2018).
3. Ins. by Act 8 of 2011, s. 39 (w.e.f. 8-4-2011).
4. Subs. by s. 39, *ibid.*, for "finally assessed" (w.e.f. 8-4-2011).
5. Subs. by Act 56 of 1974, s. 3 and the Second Schedule, for "the finally assessed" (w.e.f. 20-12-1974).
6. Ins. by Act 29 of 2006, s. 21 (w.e.f. 13-7-2006).
7. Subs. by Act 13 of 2018, s. 61, for "28AB" (w.e.f. 8-4-2011).

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(*5*) The amount of duty refundable under sub-section (*2*) and the interest under sub-section (*4*), if any, shall, instead of being credited to the Fund, be paid to the importer or the exporter, as the case may be, if such amount is relatable to—

(*a*) the duty and interest, if any, paid on such duty paid by the importer, or the exporter, as the case may be, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(*b*) the duty and interest, if any, paid on such duty on imports made by an individual for his personal use;

(*c*) the duty and interest, if any, paid on such duty borne by the buyer, if he had not passed on the incidence of such duty and interest, if any, paid on such duty to any other person;

(*d*) the export duty as specified in section 26;

(*e*) drawback of duty payable under sections 74 and 75.]

19. Determination of duty where goods consist of articles liable to different rates of duty.— Except as otherwise provided in any law for the time being in force, where goods consist of a set of articles, duty shall be calculated as follows:—

(*a*) articles liable to duty with reference to quantity shall be chargeable to that duty;

(*b*) articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;

(*c*) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (*b*):

Provided that, —

(*a*) accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article;

(*b*) if the importer produces evidence to the satisfaction of the proper officer [1][or the evidence is available] regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

[2]**[20. Re-importation of goods**.—If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof:]

[3][* * * * *]

21. Goods derelict, wreck, etc.—All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

22. Abatement of duty on damaged or deteriorated goods.—(*1*) Where it is shown to the satisfaction of the [4][Assistant Commissioner of Customs or Deputy Commissioner of Customs]—

(*a*) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India; or

(*b*) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or

1. Ins. by Act 8 of 2011, s. 40 (w.e.f. 8-4-2011).
2. Subs. by Act 32 of 1994, s. 60, for section 20 (w.e.f. 13-5-1994).
3. The provisos and the *Explanations* omitted by Act 22 of 1995, s. 53 (w.e.f. 26-5-1995).
4. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

(*c*) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent,

such goods shall be chargeable to duty in accordance with the provisions of sub-section (*2*).

(*2*) The duty to be charged on the goods referred to in sub-section (*1*) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(*3*) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:—

(*a*) the value of such goods may be ascertained by the proper officer, or

(*b*) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods.

23. Remission of duty on lost, destroyed or abandoned goods.—(*1*) [1][Without prejudice to the provisions of section 13, where it is shown] to the satisfaction of the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] that any imported goods have been lost [3][(otherwise than as a result of pilferage)] or destroyed, at any time before clearance for home consumption, the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall remit the duty on such goods.

[4][(*2*) The owner of any imported goods may, at any time before an order for clearance of goods for home consumption under section 47 or an order for permitting the deposit of goods in a warehouse under section 60 has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon;]

[5][Provided that the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.]

24. Power to make rules for denaturing or mutilation of goods.—The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

25. Power to grant exemption from duty.—(*1*) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

[6][(*2*) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.]

[7] [(*2A*) The Central Government may, if it considers it necessary or expedient so to do for the purpose purpose of clarifying the scope or applicability of any notification issued under sub-section (*1*) or order issued under sub-section (*2*), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette, at any time within one year of issue of the notification under

1. Subs. by Act 11 of 1983, s. 48, for "Where it is shown" (w.e.f. 13-5-1983).
2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
3. Ins. by Act 11 of 1983, s. 48 (w.e.f. 13-5-1983).
4. Subs. by Act 32 of 1994, s. 60, for sub-section (*2*) (w.e.f. 13-5-1994).
5. The proviso ins. by Act 21 of 2006, s. 58 (w.e.f. 18-4-2006).
6. Subs. by Act 32 of 2003, s. 107, for sub-section (*2*) (w.e.f. 14-5-2003).
7. Ins. by Act 20 of 2002, s. 119 (w.e.f. 11-5-2002).

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sub-section (*1*) or order under sub-section (*2*), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.]

[1][(*3*) An exemption under sub-section (*1*) or sub-section (*2*) in respect of any goods from any part of the duty of customs leviable thereon (the duty of customs leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of customs chargeable on such goods shall in no case exceed the statutory duty.

Explanation.—"Form or method", in relation to a rate of duty of customs, means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.]

[2][(*4*) Every notification issued under sub-section (*1*) or sub-section (*2A*) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette.]

[3]* * * * *

[4][(*6*) Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees.]

[5][(*7*) The mineral oils (including petroleum and natural gas) extracted or produced in the continental continental shelf of India or exclusive economic zone of India as referred to in section 6 and section 7, respectively, of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones
Act, 1976 (80 of 1976), and imported prior to the 7th day of February, 2002 shall be deemed to be and shall always be deemed to have been exempted from the whole of the duties of customs leviable on such mineral oils and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, no suit or other proceedings in respect of such mineral oils shall be maintained or continued in any court, tribunal or other authority.

(*8*) Notwithstanding the exemption provided under sub-section (*7*), no refund of duties of customs paid in respect of the mineral oils specified therein shall be made.]

[6][**25A. Inward processing of goods.**—Where the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification, exempt such of the goods which are imported for the purposes of repair, further processing or manufacture, as may be specified therein, from the whole or any part of duty of customs leviable thereon, subject to the following conditions, namely:—

(*a*) the goods shall be re-exported after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order for clearance of the imported goods is made;

1. Ins. by Act 11 of 1983, s. 49 (w.e.f. 13-5-1983).
2. Subs. by Act 28 of 2016, s. 119, for sub-section (*4*) (w.e.f. 14-5-2016).
3. Sub-section (*5*) omitted by, s. 119, *ibid*. (w.e.f. 14-5-2016).
4. Ins. by Act 32 of 2003, s. 107, (w.e.f. 14-5-2003).
5. Ins. by Act 25 of 2014, s. 81, (w.e.f. 6-8-2014).
6. Ins. by Act 13 of 2018, s. 62 (w.e.f. 28-3-2018).

(*b*) the imported goods are identifiable in the export goods; and

(*c*) such other conditions as may be specified in that notification.

25B. Outward processing of goods.—Notwithstanding anything contained in section 20, where the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification, exempt such of the goods which are re-imported after being exported for the purposes of repair, further processing or manufacture, as may be specified therein, from the whole or any part of duty of customs leviable thereon, subject to the following conditions, namely:—

(*a*) the goods shall be re-imported into India after such repair, further processing or manufacture, as the case may be, within a period of one year from the date on which the order permitting clearance for export is made;

(*b*) the exported goods are identifiable in the re-imported goods; and

(*c*) such other conditions as may be specified in that notification.]

26. Refund of export duty in certain cases. —Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if —

(*a*) the goods are returned to such person otherwise than by way of re-sale;

(*b*) the goods are re-imported within one year from the date of exportation; and

(*c*) an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods.

[1][**26A. Refund of import duty in certain cases.**—(*1*) Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home consumption, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—

(*a*) the goods are found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods:

Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;

(*b*) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported;

(*c*) the importer does not claim drawback under any other provisions of this Act; and

(*d*) (*i*) the goods are exported; or

(*ii*) the importer relinquishes his title to the goods and abandons them to customs; or

(*iii*) such goods are destroyed or rendered commercially valueless in the presence of the proper officer,

1. Ins. by Act 33 of 2009, s. 85 (w.e.f. 19-8-2009).

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in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the [1][Principal Commissioner of Customs or Commissioner of Customs] for a period not exceeding three months:

Provided further that nothing contained in this section shall apply to the goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

(*2*) An application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, "relevant date" means, —

(*a*) in cases where the goods are exported out of India, the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under section 51;

(*b*) in cases where the title to the goods is relinquished, the date of such relinquishment;

(*c*) in cases where the goods are destroyed or rendered commercially valueless, the date of such destruction or rendering of goods commercially valueless.

(*3*) No refund under sub-section (*1*) shall be allowed in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period.

(*4*) The Board may, by notification in the Official Gazette, specify any other condition subject to which the refund under sub-section (*1*) may be allowed.]

[2][**27. Claim for refund of duty.**—[3][(*1*) Any person claiming refund of any duty or interest, —

(*a*) paid by him; or

(*b*) borne by him,

may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest:

Provided that where an application for refund has been made before the date on which the Finance Bill, 2011 receives the assent of the President, such application shall be deemed to have been made under sub-section (*1*), as it stood before the date on which the Finance Bill, 2011 receives the assent of the President and the same shall be dealt with in accordance with the provisions of sub-section (*2*):

1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

2. Subs. by Act 40 of 1991, s. 10, for section 27 (w.e.f. 20-9-1991).

3. Subs. by Act 8 of 2011, s. 41, for sub-section (*1*) (w.e.f. 8-4-2011).

Provided further that the limitation of one year shall not apply where any duty or interest has been paid under protest.

[1][Provided also that where the amount of refund claimed is less than rupees one hundred, the same shall not be refunded.]

Explanation.—For the purposes of this sub-section, "the date of payment of duty or interest" in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such person.

(*1A*) The application under sub-section (*1*) shall be accompanied by such documentary or other evidence (including the documents referred to in section 28C) as the applicant may furnish to establish that the amount of duty or interest, in relation to which such refund is claimed was collected from, or paid by him and the incidence of such duty or interest, has not been passed on by him to any other person.

(*1B*) Save as otherwise provided in this section, the period of limitation of one year shall be computed in the following manner, namely:—

(*a*) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (*2*) of section 25, the limitation of one year shall be computed from the date of issue of such order;

(*b*) where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be computed from the date of such judgment, decree, order or direction;

(*c*) where any duty is paid provisionally under section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof or in case of re-assessment, from the date of such re-assessment.]

(*2*) If, on receipt of any such application, the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that the whole or any part of the [3][duty and interest, if any, paid on such duty] paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund:

Provided that the amount of [3][duty and interest, if any, paid on such duty] as determined by the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] under the foregoing provisions of this sub-section shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to —

(*a*) the [3][duty and interest, if any, paid on such duty] paid by the importer, [4][or the exporter, as the case may be] if he had not passed on the incidence of such [3][duty and interest, if any, paid on such duty] to any other person;

(*b*) the [3][duty and interest, if any, paid on such duty] on imports made by an individual for his personal use;

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1. Ins. by Act 17 of 2013, s. 65 (w.e.f. 10-5-2013).

2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

3. Subs. by Act 55 of 1991, s. 2, for "duty" (w.e.f. 23-12-1991).

4. Ins. by Act 32 of 2003, s. 108, (w.e.f. 14-5-2003).

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(*c*) the [1][duty and interest, if any, paid on such duty] borne by the buyer, if he had not passed on the incidence of such [1][duty and interest, if any, paid on such duty] to any other person;

(*d*) the export duty as specified in section 26;

(*e*) drawback of duty payable under sections 74 and 75;

(*f*) the [1][duty and interest, if any, paid on such duty] borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette, specify;

[2][(*g*) the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where—

(*i*) such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or

(*ii*) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment:]

Provided further that no notification under clause (*f*) of the first proviso shall be issued unless in the opinion of the Central Government the incidence of [1][duty and interest, if any, paid on such duty] has not been passed on by the persons concerned to any other person.

(*3*) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal, [3][National Tax Tribunal] or any Court or in any other provision of this Act or the regulations made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (*2*).

(*4*) Every notification under clause (*f*) of the first proviso to sub-section (*2*) shall be laid before each House of Parliament, if it is sitting, as soon as may be after the issue of the notification, and, if it is not sitting, within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(*5*) For the removal of doubts, it is hereby declared that any notification issued under clause (*f*) of the first proviso to sub-section (*2*), including any such notification approved or modified under sub-section (*4*), may be rescinded by the Central Government at any time by notification in the Official Gazette.]

[4][**27A. Interest on delayed refunds.**—If any duty ordered to be refunded under sub-section (*2*) of section 27 to an applicant is not refunded within three months from the date of receipt of application under sub-section (*1*) of that section, there shall be paid to that applicant interest at such rate, [5][not below five per cent.] and not exceeding thirty per cent. per annum as is for the time being fixed [6][by the Central

1. Subs. by Act 55 of 1991, s. 2, for "duty" (w.e.f. 23-12-1991).
2. Ins. by Act 7 of 2017, s. 92 (w.e.f. 31-3-2017).
3. Ins. by Act 49 of 2005, s. 30 and the Schedule, Part VI (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
4. Ins. by Act 22 of 1995, s. 55 (w.e.f. 26-5-1995).
5. Subs. by Act 14 of 2001, s. 102, for "not below ten per cent." (w.e.f. 11-5-2001).
6. Subs. by Act 10 of 2000, s. 78, for "by the Board" (w.e.f. 12-5-2000).

Government by Notification in the Official Gazette], on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty:

Provided that where any duty, ordered to be refunded under sub-section (*2*) of section 27 in respect of an application under sub-section (*1*) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation.—Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal [1][, National Tax Tribunal] or any court against an order of the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] under sub-section (*2*) of section 27, the order passed by the Commissioner (Appeals), Appellate Tribunal [1][, National Tax Tribunal] Tribunal or as the case may be, by the court shall be deemed to be an order passed under that sub-section for the purposes of this section.]

[3]**[28. Recovery of [4][duties not levied or not paid or short-levied or short-paid] or erroneously refunded.**—(*1*) Where any [5][duty has not been levied or not paid or short-levied or short-paid] or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, —

(*a*) the proper officer shall, within [6][two years] from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied [7][or paid] or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

[8][Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the the person chargeable with duty or interest in such manner as may be prescribed;]

(*b*) the person chargeable with the duty or interest, may pay before service of notice under clause (*a*) on the basis of, —

(*i*) his own ascertainment of such duty; or

(*ii*) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

[9][Provided that the proper officer shall not serve such show cause notice, where the amount involved is less than rupees one hundred.]

1. Ins. by Act 49 of 2005, s. 30 and the Schedule, Part VI (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
3. Subs. by Act 8 of 2011, s. 42, for section 28 (w.e.f. 8-4-2011).
4. Subs. by Act 28 of 2016, s. 120, for "duties not levied or short- levied" (w.e.f. 14-5-2016).
5. Subs. by s. 120, *ibid*., for "duty has not been levied or has been short-levied" (w.e.f. 14-5-2016).
6. Subs. by s. 120, *ibid*., for "one year" (w.e.f. 14-5-2016).
7. Ins. by s. 120, *ibid*. (w.e.f. 14-5-2016).
8. Ins. by Act 13 of 2018, s. 63 (w.e.f. 28-3-2018).
9. The proviso ins. by Act 17 of 2013, s. 66 (w.e.f. 10-5-2013).

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(*2*) The person who has paid the duty along with interest or amount of interest under clause (*b*) of sub-section (*1*) shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (*a*) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

[1][Provided that where notice under clause (*a*) of sub-section (*1*) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (*a*) of sub-section (*1*) shall be deemed to be concluded.]

(*3*) Where the proper officer is of the opinion that the amount paid under clause (*b*) of sub-section (*1*) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (*a*) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [2][two years] shall be computed from the date of receipt of information under sub-section (*2*).

(*4*) Where any duty has not been [3][levied or not paid or has been short-levied or short-paid] or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,—

(*a*) collusion; or

(*b*) any wilful mis-statement; or

(*c*) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been [4][so levied or not paid] or which has been so short-levied or short-paid or to whom the the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(*5*) Where any [5][duty has not been levied or not paid or has been short-levied or short paid] or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (*4*) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to [6][fifteen per cent.] of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

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1. Ins. by Act 20 of 2015, s. 82 (w.e.f. 14-5-2015)
2. Subs. by Act 28 of 2016, s. 120, for "one year" (w.e.f. 14-5-2016).
3. Subs. by s. 120, *ibid*., for "levied or has been short levied" (w.e.f. 14-5-2016).
4. Subs. by s. 120, *ibid*., for "so levied" (w.e.f. 14-5-2016).
5. Subs by s. 120, *ibid*., for "duty has not been levied or has been short levied" (w.e.f. 14-5-2016).
6. Subs. by Act 20 of 2015, s. 82, for "twenty-five per cent." (w.e.f. 14-5-2015).

(*6*) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (*5*), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion —

(*i*) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (*1*) or sub- section (*4*), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(*ii*) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause (*a*) of sub-section (*1*) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of [1][two years] shall be computed from the date of receipt of information under sub-section (*5*).

(*7*) In computing the period of [1][two years] referred to in clause (*a*) of sub-section (*1*) or five years referred to in sub-section (*4*), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.

[2][(*7A*) Save as otherwise provided in clause (*a*) of sub-section (*1*) or in sub-section (*4*), the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed, and the provisions of this section shall apply to such supplementary notice as if it was issued under the said sub-section (*1*) or sub-section (*4*).]

(*8*) The proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(*9*) The proper officer shall determine the amount of duty or interest under sub-section (*8*),—

(*a*) within six months from the date of notice, [3]*** in respect of cases falling under clause (*a*) of sub- section (*1*);

(*b*) within one year from the date of notice, [3]*** in respect of cases falling under sub-section (*4*).

[2][Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (*8*), extend the period specified in clause (*a*) to a further period of six months and the period specified in clause (*b*) to a further period of one year:

Provided further that where the proper officer fails to determine within such extended period, such proceeding shall be deemed to have concluded as if no notice had been issued;]

[2][(*9A*) Notwithstanding anything contained in sub-section (*9*), where the proper officer is unable to determine the amount of duty or interest under sub-section (*8*) for the reason that—

(*a*) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or

1. Subs. by Act 28 of 2016, s. 120 for "one year" (w.e.f. 14-5-2016).
2. Ins. by Act 13 of 2018, s. 63 (w.e.f. 28-3-2018).
3. The words "where it is possible to do so" omitted by s. 63, *ibid*. (w.e.f. 28-3-2018).

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(*b*) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or

(*c*) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or

(*d*) the Settlement Commission has admitted an application made by the person concerned,

the proper officer shall inform the person concerned the reason for non-determination of the amount of duty or interest under sub-section (*8*) and in such case, the time specified in sub-section (*9*) shall apply not from the date of notice, but from the date when such reason ceases to exist.]

(*10*) Where an order determining the duty is passed by the proper officer under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

[1][(*10A*) Notwithstanding anything contained in this Act, where an order for refund under sub-section (*2*) of section 27 is modified in any appeal and the amount of refund so determined is less than the amount refunded under said sub-section, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government under section 28AA, from the date of refund up to the date of recovery, as a sum due to the Government.

(*10B*) A notice issued under sub-section (*4*) shall be deemed to have been issued under sub-section (*1*), if such notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.]

[2][(*11*) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court of law, tribunal or other authority, all persons appointed as officers of Customs under sub-section (*1*) of section 4 before the 6th day of July, 2011 shall be deemed to have and always had the power of assessment under section 17 and shall be deemed to have been and always had been the proper officers for the purposes of this section.]

Explanation 1.—For the purposes of this section, "relevant date" means, —

(*a*) in a case where duty is [3][not levied or not paid or short-levied or short-paid], or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

(*b*) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;

(*c*) in a case where duty or interest has been erroneously refunded, the date of refund;

(*d*) in any other case, the date of payment of duty or interest.

Explanation 2.—For the removal of doubts, it is hereby declared that any non-levy, short-levy or erroneous refund before the date on which the Finance Bill, 2011 receives the assent of the President, shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.]

1. Ins. by Act 13 of 2018, s. 63 (w.e.f. 28-3-2018).
2. Ins. by Act 14 of 2011, s. 2 (w.e.f. 16-9-2011).
3. Subs. by Act 28 of 2016, s. 120, for "not levied" (w.e.f. 14-5-2016).

[1][*Explanation* 3.—For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (*1*) or sub-section (*4*), as the case may be, but an order determining duty under sub-section (*8*) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (*2*) or under sub-section (*5*), as the case may be, is made in full within thirty days from the date on which such assent is received.]

[2][*Explanation* 4.—For the removal of doubts, it is hereby declared that in cases where notice has been issued for non-levy, not paid, short-levy or short-paid or erroneous refund after the 14th day of May, 2015, but before the date on which the Finance Bill, 2018 receives the assent of the President, they shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.]

[3][**28A. Power not to recover duties not levied or short-levied as a result of general practice.**—[4][(*1*)] Notwithstanding anything contained in this Act, if the Central Government is satisfied—

(*a*) that a practice was, or is, generally prevalent regarding levy of duty (including non-levy thereof) on any goods imported into, or exported from, India; and

(*b*) that such goods were, or are, liable —

(*i*) to duty, in cases where according to the said practice the duty was not, or is not being, levied, or

(*ii*) to a higher amount of duty than what was, or is being, levied, according to the said practice,

then, the Central Government may, by notification in the Official Gazette, direct that the whole of the duty payable on such goods, or, as the case may be, the duty in excess of that payable on such goods, but for the said practice, shall not be required to be paid in respect of the goods on which the duty was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.]

[5][(*2*) Where any notification under sub-section (*1*) in respect of any goods has been issued, the whole of the duty paid on such goods, or, as the case may be, the duty paid in excess of that payable on such goods, which would not have been paid if the said notification had been in force, shall be dealt with in accordance with the provisions of sub-section (*2*) of section 27:

Provided that the person claiming the refund of such duty or, as the case may be, excess duty, makes an application in this behalf to the [6][Assistant Commissioner of Customs or Deputy Commissioner of

1. Ins. by Act 20 of 2015, s. 82 (w.e.f. 14-5-2015).
2. Ins. by Act 13 of 2018, s. 63 (w.e.f. 28-3-2018).
3. Ins. by Act 25 of 1978 s. 7 (w.e.f. 1-7-1978).
4. Section 28A renumbered as sub-section (*1*) thereof, by Act 29 of 1988, s. 3 (w.e.f. 1-7-1988).
5. Subs. by Act 40 of 1991, s. 11, for sub-section (*2*) (w.e.f. 20-9-1991).
6. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

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Customs], in the form referred to in sub-section (*1*) of section 27, before the expiry of six months from the date of issue of the said notification.]

[1][**28AA. Interest on delayed payment of duty**—(*1*) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (*2*), whether such payment is made voluntarily or after determination of the duty under that section.

(*2*) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(*3*) Notwithstanding anything contained in sub-section (*1*), no interest shall be payable where,—

(*a*) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(*b*) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.]

[2][**28AAA. Recovery of duties in certain cases.**—(*1*) Where an instrument issued to a person has been obtained by him by means of —

(*a*) collusion; or

(*b*) wilful mis-statement; or

(*c*) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

Explanation 1.— For the purposes of this sub-section, "instrument" means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal

1. Subs. by Act 8 of 2011, s. 43, for section 28AA and section 28AB (w.e.f. 8-4-2011).

2. Ins. by Act 23 of 2012, s. 122 (w.e.f. 28-5-2018).

benefits, which may be utilised under the provisions of this Act or the rules made or notifications issued thereunder.

Explanation 2.—The provisions of this sub-section shall apply to any utilisation of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.

(*2*) Where the duty becomes recoverable in accordance with the provisions of sub-section (*1*), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.

(*3*) For the purposes of recovery under sub-section (*2*), the proper officer shall serve notice on the person to whom the instrument was issued requiring him to show cause, within a period of thirty days from the date of receipt of the notice, as to why the amount specified in the notice (excluding the interest) should not be recovered from him, and after giving that person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty or interest or both to be recovered from such person, not being in excess of the amount specified in the notice, and pass order to recover the amount of duty or interest or both and the person to whom the instrument was issued shall repay the amount so specified in the notice within a period of thirty days from the date of receipt of the said order, along with the interest due on such amount, whether or not the amount of interest is specified separately.

(*4*) Where an order determining the duty has been passed under section 28, no order to recover that duty shall be passed under this section.

(*5*) Where the person referred to in sub-section (*3*) fails to repay the amount within the period of thirty days specified therein, it shall be recovered in the manner laid down in sub-section (*1*) of section 142.]

[1][**28B. Duties collected from the buyer to be deposited with the Central Government.**—(*1*) Notwithstanding anything to the contrary contained in any order or direction of the Appellate Tribunal [2][, National Tax Tribunal] or any Court or in any other provision of this Act or the regulations made thereunder, [3][every person who is liable to pay duty under this Act and has collected any amount in excess of the duty assessed or determined or paid on any goods under this Act from the buyer of such goods] in any manner as representing duty of customs, shall forthwith pay the amount so collected to the credit of the Central Government.

[4][(*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.]

1. Ins. by Act 40 of 1991, s. 12 (w.e.f. 20-9-1991).
2. Ins. by Act 49 of 2005, s. 30 and the Schedule, Part VI (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
3. Subs. by Act 10 of 2000, s. 82 for "every person who has collected any amount from the buyer of any goods" (w.e.f. 20-9-1991).
4. Ins. by Act 18 of 2008, s. 68 (w.e.f. 10-5-2008).

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[1][(*2*) Where any amount is required to be paid to the credit of the Central Government under [2][sub-section (*1*) or sub-section (*1A*), as the case may be,] and which has not been so paid, the proper officer may serve on the person liable to pay such amount, a notice requiring him to show cause why he should not pay the amount, as specified in the notice to the credit of the Central Government.

(*3*) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (*2*), determine the amount due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(*4*) The amount paid to the credit of the Central Government under [3][sub-section (*1*) or sub-section (*1A*) or sub-section (*3*) as the case may be,] shall be adjusted against the duty payable by the person on finalisation of assessment or any other proceeding for determination of the duty relating to the goods referred to in [4][sub-section (*1*) and sub-section (*1A*).]

(*5*) Where any surplus is left after the adjustment made under sub-section (*4*), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 27 and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Assistant Commissioner of Customs for the refund of such surplus amount.]

[5][**28BA. Provisional attachment to protect revenue in certain cases.**—(*1*) Where, during the pendency of any proceeding under section 28 [6][or section 28AAA or section 28B], the proper officer is of of the opinion that for the purpose of protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the [7][Principal Commissioner of Customs or Commissioner of Customs], by by order in writing, attach provisionally any property belonging to the person on whom notice is served under [8][sub-section (*1*) or sub-section (*4*) of section 28] [9][or sub-section (*3*) of section 28AAA or sub-section (*2*) of section 28B], as the case may be, in accordance with the rules made in this behalf under section 142.

(*2*) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (*1*):

Provided that the [10][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that where an application for settlement of case under section 127B is made to the Settlement Commission, the period commencing from the date on which such application is made and

1. Subs. by Act 10 of 2000, s. 82, for sub-section (*2*) (w.e.f. 20-9-1991).
2. Subs. Act 18 of 2008, s. 68, for "sub-section (*1*)" (w.e.f. 10-5-2008).
3. Subs. by s. 68, *ibid*., for "sub-section (*1*) or sub-section (*3*)" (w.e.f. 10-5-2008)
4. Subs. by s. 68, *ibid*., for "sub-section (*1*)" (w.e.f. 10-5-2008).
5. Ins. by Act 29 of 2006, s. 23 (w.e.f. 13-7-2006).
6. Subs. by Act 23 of 2012, s. 123, for "or section 28B" (w.e.f. 28-5-2012).
7. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-08-2014).
8. Subs. by Act 17 of 2013, s. 67, for "sub-section (*1*) of section 28" (w.e.f. 10-5-2013).
9. Subs. by Act 23 of 2012, s. 123, for "or sub-section (*2*) of section 28B" (w.e.f. 28-5-2012).
10. Subs. by Act 25 of 2014, section 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).

ending with the date on which an order under sub-section (*1*) of section 127C is made shall be excluded from the period specified in the preceding proviso.]

[1][CHAPTER VA

INDICATING AMOUNT OF DUTY IN THE PRICE OF GOODS, ETC., FOR PURPOSE OF REFUND

28C. Price of goods to indicate the amount of duty paid thereon.—Notwithstanding anything contained in this Act or any other law for the time being in force, every person who is liable to pay duty on any goods shall, at the time of clearance of the goods, prominently indicate in all the documents relating to assessment, sales invoice, and other like documents, the amount of such duty which will form part of the price at which such goods are to be sold.

28D. Presumption that incidence of duty has been passed on to the buyer.—Every person who has paid the duty on any goods under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such duty to the buyer of such goods.]

[2][CHAPTER VB

ADVANCE RULINGS

28E. **Definitions**.—In this Chapter, unless the context otherwise requires,—

[3]* * * * *

[4][(*b*) "advance ruling" means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation;]

[5][(*ba*) "Appellate Authority" means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 (43 of 1961;]

[6][(*c*) "applicant" means any person,—

(*i*) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992); or

(*ii*) exporting any goods to India; or

(*iii*) with a justifiable cause to the satisfaction of the Authority,

who makes an application for advance ruling under section 28H;]

[7][*Explanation*.—For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint

1. Ins. by Act 40 of 1991, s. 13 (w.e.f. 20-9-1991).
2. Ins. by Act 27 of 1999, s. 103 (w.e.f. 11-5-1999).
3. Clause (*a*) omitted by Act 13 of 2018, s. 64 (w.e.f. 28-3-2018).
4. Subs. by s. 64, *ibid*., for clause (*b*) (w.e.f. 28-3-2018).
5. Ins. by s. 64, *ibid*. (w.e.f. 28-3-2018).
6. Subs. by s. 64, *ibid*., for clause (*c*) (w.e.f. 28-3-2018).
7. Ins. by Act 22 of 2007, s. 97 (w.e.f. 11-5-2007).

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control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement.]

(*d*) ”application” means an application made to the Authority under sub-section (*1*) of section 28H;

[1][(*e*) ”Authority” means the Customs Authority for Advance Rulings appointed under section 28EA;]

(*f*) ”Chairperson” means the Chairperson of the [2][Appellate Authority];

(*g*) “Member” means a Member of the [2][Appellate Authority] and includes the Chairperson; and

[3][(*h*) non-resident”, “Indian company” and “foreign company” have the meanings respectively assigned to them in clauses (*30*), (*26*) and (*23A*) of section 2 of the Income-tax Act, 1961 (43 of 1961).]

[4][**28EA**. **Customs Authority for Advance Rulings.—**(*1*) The Board may, for the purposes of giving advance rulings under this Act, by notification, appoint an officer of the rank of Principal Commissioner of Customs or Commissioner of Customs to function as a Customs Authority for Advance Rulings:

Provided that till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 (43 of 1961) shall continue to be the Authority for giving advance rulings for the purposes of this Act.

(*2*) The offices of the Authority may be established in New Delhi and at such other places, as the Board may deem fit.

(*3*) Subject to the provisions of this Act, the Authority shall exercise the powers and authority conferred on it by or under this Act.]

[5][**28F**. **Authority for advance rulings.**—(*1*) Subject to the provisions of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 (43 of 1961) shall be [6][the [6][the Appellate Authority for deciding appeal under this Chapter and the said Appellate Authority] shall exercise the jurisdiction, powers and authority conferred on it by or under this Act:

Provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the [7][Appellate Authority] for the purposes of this Act.

(*2*) On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.]

[8][(*3*) On and from the date of appointment of the Customs Authority for Advance Rulings, every application and proceeding pending before the erstwhile Authority for Advance Rulings shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such appointment.]

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1. Subs. by Act 13 of 2018, s. 64, for clause (*e*) (w.e.f. 28-3-2018).
2. Subs. by s. 64, *ibid*., for “Authority” (w.e.f. 28-3-2018).
3. Subs. by Act 32 of 2003, s. 110, for clause (*h*) (w.e.f. 14-5-2003).
4. Ins. by Act 13 of 2018, s. 65 (w.e.f. 28-3-2018).
5. Subs. by Act 7 of 2017, s. 94, for section 28F (w.e.f. 31-3-2017).
6. Subs. by Act 13 of 2018, s. 66, for “the Authority for giving advance rulings for the purposes of this Act and the said Authority” (w.e.f. 28-3-2018).
7. Subs. by s. 66, *ibid*., for “Authority” (w.e.f. 28-3-2018).
8. Ins. by s. 66, *ibid* (w.e.f. 28-3-2018).

28G. *[Vacancies, etc., not to invalidate proceedings.]Omitted by the Finance Act,* (7 *of* 2017), *s.* 95 (*w.e.f.* 31-3-2017).

28H. Application for advance ruling.—(*1*) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(*2*) The question on which the advance ruling is sought shall be in respect of, —

(*a*) classification of goods under the Customs Tariff Act, 1975 (51 of 1975);

(*b*) applicability of a notification issued under sub-section (*1*) of section 25, having a bearing on the rate of duty;

(*c*) the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act.

[1][(*d*) applicability of notifications issued in respect of tax or duties under this Act or the Customs Tariff Act, 1975 (51 of 1975) or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act or the Customs Tariff Act;]

[2][(*e*) determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975 (51 of 1975) and matters relating thereto.]

[3][(*f*) any other matter as the Central Government may, by notification, specify.]

(*3*) The application shall be made in quadruplicate and be accompanied by a fee of [4][ten thousand rupees].

(*4*) An applicant may withdraw his application within thirty days from the date of the application.

[5][(*5*) The applicant may be represented by any person resident in India who is authorised in this behalf.

Explanation.—For the purposes of this sub-section "resident" shall have the same meaning as assigned to it in clause (*42*) of section 2 of the Income-tax Act, 1961 (43 of 1961).]

28-I. Procedure on receipt of application.—(*1*) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the [6][Principal Commissioner of Customs or Commissioner of Customs] and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the [6][Principal Commissioner of Customs or Commissioner of Customs].

(*2*) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application [7]*** where the question raised in the application is —

(*a*) already pending in the applicant's case before any officer of customs, the Appellate Tribunal or any Court;

1. Subs. by Act 13 of 2018, s. 67, for clause (*d*) (w.e.f. 28-3-2018).
2. Ins. by Act 18 of 2005, s. 67 (w.e.f. 13-5-2005).
3. Ins. by Act 13 of 2018, s. 67 (w.e.f. 28-3-2018).
4. Subs. by Act 7 of 2017, s. 96 for "two thousand five hundred rupees" (w.e.f. 31-3-2017).
5. Ins. by Act 13 of 2018, s. 67 (w.e.f. 28-3-2018).
6. Subs. by Act 25 of 2014, s. 78 for "Commissioner of Customs" (w.e.f. 6-8-2014).
7. The words "except in the case of a resident applicant" omitted by Act 20 of 2002, s. 122 (w.e.f. 11-5-2002).

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(*b*) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(*3*) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the [1][Principal Commissioner of Customs or Commissioner of Customs].

(*4*) Where an application is allowed under sub-section (*2*), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(*5*) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (*2*) of section 146A.

(*6*) The Authority shall pronounce its advance ruling in writing within [2][three months] of the receipt of application.

(*7*) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the [1][Principal Commissioner of Customs or Commissioner of Customs], as soon as may be, after such pronouncement.

28J. **Applicability of advance ruling**.—(*1*) The advance ruling pronounced by the Authority under section 28-I shall be binding only—

(*a*) on the applicant who had sought it;

(*b*) in respect of any matter referred to in sub-section (*2*) of section 28H;

(*c*) on the [1][Principal Commissioner of Customs or Commissioner of Customs], and the customs authorities subordinate to him, in respect of the applicant.

(*2*) The advance ruling referred to in sub-section (*1*) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

28K. **Advance ruling to be void in certain circumstances.**—(*1*) Where the Authority finds, on a representation made to it by the [1][Principal Commissioner of Customs or Commissioner of Customs] or otherwise, that an advance ruling pronounced by it under sub-section (*6*) of section 28-I has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply [3]*** to the applicant as if such advance ruling had never been made.

1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
2. Subs. by Act 13 of 2018, s. 68, for "six months" (w.e.f. 28-3-2018).
3. The brackets and words "(after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section)" omitted by Act 13 of 2018, s. 69 (w.e.f. 28-3-2018).

[1][Provided that in computing the period of two years referred to in clause (*a*) of sub-section (*1*) of section 28, or five years referred to in sub-section (*4*) thereof, for service of notice for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order under this sub-section shall be excluded.]

(*2*) A copy of the order made under sub-section (*1*) shall be sent to the applicant and the [2][Principal Commissioner of Customs or Commissioner of Customs].

[3]**[28KA. Appeal.**—(*1*) Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Authority, within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed:

Provided that where the Appellate Authority is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period so specified, it may allow a further period of thirty days for filing such appeal.

(*2*) The provisions of sections 28-I and 28J shall, *mutatis mutandis*, apply to the appeal under this section.]

28L. Powers of [4][Authority or Appellate Authority].—(*1*) The [4][Authority or Appellate Authority] shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(*2*) The [4][Authority or Appellate Authority] shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the [4][Authority or Appellate Authority] shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

[5]**[28M. Procedure for Authority and Appellate Authority**.—(*1*) The Authority shall follow such procedure as may be prescribed.

(*2*) The Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers and authority under this Act.]

CHAPTER VI

PROVISIONS RELATING TO CONVEYANCES CARRYING IMPORTED OR EXPORTED GOODS

29. **Arrival of vessels and aircrafts in India.**—(*1*) The person-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land—

(*a*) for the first time after arrival in India; or

(*b*) at any time while it is carrying passengers or cargo brought in that vessel or aircraft;

at any place other than a customs port or a customs airport, as the case may be [6][unless permitted by the Board].

1. The proviso ins. by Act 13 of 2018, s. 69 (w.e.f. 28-3-2018).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Section 28KA shall stand inserted (date to be notified) by Act 13 of 2018, s. 70.
4. Subs. by s. 71, *ibid*., for "Authority" (w.e.f. 28-3-2018).
5. Subs. by s. 72, *ibid*., for section 28M (w.e.f. 28-3-2018).
6. Ins. by Act 17 of 2013, s. 69 (w.e.f. 10-5-2013).

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(*2*) The provisions of sub-section (*1*) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-in-charge of any such vessel or aircraft—

(*a*) shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft;

(*b*) shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft; and

(*c*) shall comply with any directions given by any such officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft:

Provided that nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property.

30. Delivery of [1][arrival manifest or import manifest] or import report.—[2][(*1*) The person-in-charge of —

(*i*) a vessel; or

(*ii*) an aircraft; or

(*iii*) a vehicle,

carrying imported goods [3][or export goods] or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer [4][an [1][arrival manifest or import manifest] by presenting electronically prior to the arrival] of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in [5][such form and manner as may be prescribed] and if the [1][arrival manifest or import manifest**]** or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who caused such delay, shall be liable to a penalty not exceeding fifty thousand rupees:]

[6][Provided that the [7][Principal Commissioner of Customs or Commissioner of Customs] may, in cases cases where it is not feasible to deliver [1][arrival manifest or import manifest] by presenting electronically, allow the same to be delivered in any other manner.]

1. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
2. Subs. by Act 32 of 2003, s. 112, for sub-section (*1*) (w.e.f 14-5-2003).
3. Ins. by Act 13 of 2018, s. 73 (w.e.f. 28-3-2018).
4. Subs. by Act 17 of 2013, s. 70, for "an import manifest prior to the arrival" (w.e.f. 10-5-2013).
5. Subs. by Act 13 of 2018, s. 73, for "the prescribed form" (w.e.f. 28-3-2018).
6. Ins. by Act 17 of 2013, s. 70 (w.e.f. 10-5-2013).
7. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

(*2*) The person delivering the [1][arrival manifest or import manifest] or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(*3*) If the proper officer is satisfied that the [1][arrival manifest or import manifest**]** or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented.

[2][30A. Passenger and crew arrival manifest and passenger name record information.—(*1*) The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and

(*ii*) the passenger name record information of arriving passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(*2*) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.]

31. **Imported goods not to be unloaded from vessel until entry inwards granted**.—(*1*) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel.

(*2*) No order under sub-section (*1*) shall be given until an [1][arrival manifest or import manifest] has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it.

(*3*) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods.

32. Imported goods not to be unloaded unless mentioned in [1][arrival manifest or import manifest] or import report.—No imported goods required to be mentioned under the regulations in an [1][arrival manifest or import manifest] or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station.

33. **Unloading and loading of goods at approved places only.**—Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (*a*) of section 8 for the unloading or loading of such goods.

34. Goods not to be unloaded or loaded except under supervision of customs officer.—Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer:

1. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
2. Ins. by Act 7 of 2017, s. 98 (w.e.f. 31-3-2017).

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Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer.

35. Restrictions on goods being water-borne.—No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form:

Provided that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water-borne without being accompanied by a boat-note.

36. Restrictions on unloading and loading of goods on holidays, etc.—No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any Sunday or on any holiday observed by the Customs Department or on any other day after the working hours, except after giving the prescribed notice and on payment of the prescribed fees, if any:

Provided that no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags.

37. Power to board conveyances.—The proper officer may, at any time, board any conveyance carrying imported goods or export goods and may remain on such conveyance for such period as he considers necessary.

38. Power to require production of documents and ask questions.—For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or animal carrying imported goods or export goods to produce any document and to answer any questions and thereupon such person shall produce such documents and answer such questions.

39. Export goods not to be loaded on vessel until entry-outwards granted.—The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.

40. Export goods not to be loaded unless duly passed by proper officer.—The person-in-charge of a conveyance shall not permit the loading at a customs station—

(*a*) of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transhipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter;

(*b*) of baggage and mail bags, unless their export has been duly permitted by the proper officer.

41. Delivery of [1][departure manifest or export manifest] or export report.—(*1*) The person-in-charge of a conveyance carrying export goods [2][or imported goods] shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an [3][[1][departure manifest or export manifest] by presenting electronically], and in the case of a vehicle, an export report, in the [4][such form and manner as may be prescribed and in case, the person-in-charge fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge shall be liable to pay penalty not exceeding fifty thousand rupees]:

1. Subs. by Act 13 of 2018, s. 56, for "export manifest" (w.e.f. 28-3-2018).
2. Ins. by s. 74, *ibid* (w.e.f. 28-3-2018).
3. Subs. by Act 17 of 2013, s. 71 (w.e.f. 10-5-2013).
4. Subs. by Act 13 of 2018, s. 74, for "the prescribed form" (w.e.f. 28-3-2018).

[1]* * * *

[2][Provided that the [3][Principal Commissioner of Customs or Commissioner of Customs] may, in cases where it is not feasible to deliver the [4][departure manifest or export manifest**]** by presenting electronically, allow the same to be delivered in any other manner.]

(*2*) The person delivering the [4][departure manifest or export manifest**]** or export report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(*3*) If the proper officer is satisfied that the [4][departure manifest or export manifest] or export report is in any way incorrect or incomplete and that there was no fraudulent intention, he may permit such manifest or report to be amended or supplemented.

[5]**[41A. Passenger and crew departure manifest and passenger name record information.**—(*1*) The person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew departure manifest; and

(*ii*) the passenger name record information of departing passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(*2*) Where the passenger and crew departure manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.]

42. **No conveyance to leave without written order.**—(*1*) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer.

(*2*) No such order shall be given until**,**—

(*a*) the person-in-charge of the conveyance has answered the questions put to him under section 38;

(*b*) the provisions of section 41 have been complied with;

(*c*) the shipping bills or bills of export, the bills of transhipment, if any, and such other documents as the proper officer may require have been delivered to him;

1. Proviso omitted by Act of 23 of 2004, s. 66 (w.e.f. 10-9-2004).
2. Ins. by Act 17 of 2013, s. 71 (w.e.f. 10-5-2013).
3. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Subs. by Act 13 of 2018, s. 56, for "export manifest" (w.e.f. 28-3-2018).
5. Ins. by Act 7 of 2017, s. 99 (w.e.f. 31-3-2017).

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(*d*) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person-in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(*e*) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(*f*) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods,—

(*i*) such goods have been unloaded, or

(*ii*) where the [1][Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that it is not practicable to unload such goods, the person-in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India.

43. Exemption of certain classes of conveyances from certain provisions of this Chapter.—(*1*) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants.

(*2*) The Central Government may, by notification in the Official Gazette, exempt the following classes of conveyances from all or any of the provisions of this Chapter—

(*a*) conveyances belonging to the Government or any foreign Government;

(*b*) vessels and aircraft which temporarily enter India by reason of any emergency.

CHAPTER VII

CLEARANCE OF IMPORTED GOODS AND EXPORT GOODS

44. Chapter not to apply to baggage and postal articles.—The provisions of this Chapter shall not apply to (*a*) baggage, and (*b*) goods imported or to be exported by post.

Clearance of Imported goods

45. Restrictions on custody and removal of imported goods.—(*1*) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the [2][Principal Commissioner of Customs or Commissioner of Customs] until they are cleared for home consumption or are warehoused or are transhipped in accordance with the provisions of Chapter VIII.

1. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

(*2*) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (*1*) or under any law for the time being in force,—

(*a*) shall keep a record of such goods and send a copy thereof to the proper officer;

(*b*) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer [1][or in such manner as may be prescribed].

[2][(*3*) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilferred after unloading thereof in a customs area while in the custody of a person referred to in sub-section (*1*), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an [3][arrival manifest or import manifest] or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.]

46. **Entry of goods on importation.**—(*1*) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting [4][electronically] [5][on the customs automated system] to the proper officer a bill of entry for home consumption or warehousing [6][in such form and manner as may be prescribed]:

[7][Provided that the [8][Principal Commissioner of Customs or Commissioner of Customs] may, in cases cases where it is not feasible to make entry by presenting electronically [5][on the customs automated system], allow an entry to be presented in any other manner:

Provided further that] if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (*a*) to examine the goods in the presence of an officer of customs, or (*b*) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same.

(*2*) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

[9][(*3*) The importer shall present the bill of entry under sub-section (*1*) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing:

Provided that a bill of entry may be presented [10][at any time not exceeding thirty days prior to] the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.]

(*4*) The importer while presenting a bill of entry shall [11]*** make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the

1. Ins. by Act 13 of 2018, s. 75 (w.e.f. 28-3-2018).
2. Ins. by Act 22 of 1995, s. 58 (w.e.f. 26-5-1995).
3. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
4. Ins. by Act 8 of 2011, s. 44 (w.e.f. 8-4-2011).
5. Ins. by Act 13 of 2018, s. 76 (w.e.f. 28-3-2018).
6. Subs. by s. 76, *ibid*., for "in the prescribed form" (w.e.f. 28-3-2018).
7. Subs. by Act 8 of 2011, s. 44, for "Provided that" (w.e.f. 8-4-2011).
8. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
9. Subs. by Act 7 of 2017, s. 100 for sub-section (*3*) (w.e.f. 31-3-2017).
10. Subs. by Act 13 of 2018, s. 76, for "within thirty days of" (w.e.f. 28-3-2018).
11. The words "at the foot thereof" omitted by Act 8 of 2011, s. 44 (w.e.f. 8-4-2011)

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proper officer the invoice, if any, [1][and such other documents relating to the imported goods as may be prescribed].

[2][(*4A*) The importer who presents a bill of entry shall ensure the following, namely:—

(*a*) the accuracy and completeness of the information given therein;

(*b*) the authenticity and validity of any document supporting it; and

(*c*) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

(*5*) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or *vice versa*.

47. Clearance of goods for home consumption.—[3][(*1*)] Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption:

[4][[5][Provided that such order may also be made electronically through the customs automated system system on the basis or risk evaluation through appropriate selection criteria:

Provided further that] the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.]

[6][(*2*) [7][The importer shall pay the import duty—

(*a*) on the date of presentation of the bill of entry in the case of self assessment; or

(*b*) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or

(*c*) in the case of deferred payment under the proviso to sub-section (*1*), from such due date as may be specified by rules made in this behalf,

and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

[8][Provided that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically:

1. Subs. by Act 13 of 2018, s. 76, for "relating to the imported goods" (w.e.f. 28-3-2018).
2. Ins. by s. 76, *ibid*. (w.e.f. 28-3-2018).
3. Section 47 renumbered as sub-section (*1*) thereof by Act 55 of 1991, s. 3, (w.e.f. 23-12-1991).
4. Ins. by Act 28 of 2016, s. 121 (w.e.f. 14-5-2016).
5. Subs. by Act 13 of 2018, s. 77, for "Provided that" (w.e.f. 28-3-2018).
6. Ins. by Act 55 of 1991, s. 3 (w.e.f. 23-12-1991).
7. Subs. by Act 7 of 2017, s. 101, for certain words, brackets, letters and figure (w.e.f. 31-3-2017). Earlier certain words, brackets, letters and figure were substituted by Act 28 of 2016, s. 121 (w.e.f. 14-5-2016).
8. Subs. by Act 23 of 2012, s. 124, for "Provided that" (w.e.f. 28-5-2012).

Provided further that] where the bill of entry is returned for payment of duty before the commencement of the Customs (Amendment) Act, 1991 (55 of 1991) and the importer has not paid such duty before such commencement, the date of return of such bill of entry to him shall be deemed to be the date of such commencement for the purpose of this section:]

[1][[2][Provided also that] if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.]

48. Procedure in case of goods not cleared, warehoused, or transhipped within [3][thirty days] after unloading.—If any goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped [4][within [5][thirty days]] from the date of the unloading thereof thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof:

Provided that —

(*a*) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time;

(*b*) arms and ammunition may be sold at such time and place and in such manner as the Central Government may direct.

Explanation.— In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959).

[6]**[49. Storage of imported goods in warehouse pending clearance or removal.**—Where**,—**

(*a*) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time;

(*b*) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:

Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:

1. Ins. by Act 22 of 1995, s. 59 (w.e.f. 26-5-1995).
2. Subs. by Act 23 of 2012, s. 124, for "Provided further that" (w.e.f. 28-5-2012).
3. Subs. by Act 55 of 1991, s. 4, for "two months" (w.e.f. 21-12-1991).
4. Subs. by Act 80 of 1985 s. 4, for "within two months" (w.e.f. 27-12-1985).
5. Subs. by Act 55 of 1991, s. 4, for "forty-five days" (w.e.f. 21-12-1991).
6. Subs. by Act 7 of 2017, s. 102, for section 49 (w.e.f. 31-3-2017).

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Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time.]

Clearance of export goods

50. **Entry of goods for exportation**.—(*1*) The exporter of any goods shall make entry thereof by presenting [1][electronically] [2][on the customs automated system] to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export [3][in such form and manner as may be prescribed].

[1][Provided that the [4][Principal Commissioner of Customs or Commissioner of Customs] may, in cases cases where it is not feasible to make entry by presenting electronically [2][on the customs automated system] , allow an entry to be presented in any other manner.]

(*2*) The exporter of any goods, while presenting a shipping bill or bill of export, shall [5]*** make and subscribe to a declaration as to the truth of its contents.

[2][(*3*) The exporter who presents a shipping bill or bill of export under this section shall ensure the following, namely:—

(*a*) the accuracy and completeness of the information given therein;

(*b*) the authenticity and validity of any document supporting it; and

(*c*) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]

51. **Clearance of goods for exportation.**—[6][(*1*)] Where the proper officer is satisfied that any goods goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation:

[7][[8][Provided that such order may also be made electronically through the customs automated system system on the basis of risk evaluation through appropriate selection criteria:

Provided further that] the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manner as may be provided by rules.]

[7][(*2*) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (*1*) by such due date as may be specified by rules, he shall pay interest on said duty not paid

1. Ins. by Act 8 of 2011, s. 45 (w.e.f 8-4-2011).
2. Ins. by Act 13 of 2018, s. 78 (w.e.f. 28-3-2018).
3. Subs. by s. 78, *ibid*., for "in the prescribed form" (w.e.f. 28-3-2018).
4. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
5. The words "at the foot thereof" omitted by Act 8 of 2011, s. 45 (w.e.f. 8-4-2011).
6. Section 51 renumbered as sub-section (*1*) thereof by Act 28 of 2016, s. 122, (w.e.f. 14-5-2016).
7. Ins. by s. 122, *ibid*, (w.e.f. 14-5-2016).
8. Subs. by Act 13 of 2018, s. 79, for "Provided that" (w.e.f. 28-3-2018).

or short-paid till the date of its payment at such rate, not below five per cent and not exceeding thirty-six per cent per annum, as may be fixed by the Central Government, by notification in the Official Gazette.]

[1][CHAPTER VIIA

PAYMENTS THROUGH ELECTRONIC CASH LEDGER

51A. Payment of duty, interest, penalty, etc.—(*1*) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act or under the Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force or the rules and regulations made thereunder, using authorised mode of payment shall, subject to such conditions and restrictions, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed.

(*2*) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act or under the Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force or the rules and regulations made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(*3*) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded in such manner as may be prescribed.

(*4*) Notwithstanding anything contained in this section, if the Board is satisfied that it is necessary or expedient so to do, it may, by notification, exempt the deposits made by such class of persons or with respect to such categories of goods, as may be specified in the notification, from all or any of the provisions of this section.]

CHAPTER VIII

GOODS IN TRANSIT

52. **Chapter not to apply to baggage, postal articles and stores.**—The provisions of this Chapter shall not apply to (*a*) baggage, (*b*) goods imported by post, and (*c*) stores.

[2][[3][**53**. **Transit of certain goods without payment of duty**.—Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the [4][arrival manifest or import manifest] or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.]

54. **Transhipment of certain goods without payment of duty.**—(*1*) Where any goods imported into a customs station are intended for transhipment, a bill of transhipment shall be presented to the proper officer in [5][such form and manner as may be prescribed]:

[6][Provided that where the goods are being transhipped under an international treaty or bilateral agreement between the Government of India and Government of a foreign country, a declaration for transhipment instead of a bill of transhipment shall be presented to the proper officer in [5][such form and manner as may be prescribed].]

1. Ins. by Act 13 of 2018, s. 80 (w.e.f. 28-3-2018).
2. Subs. by Act 21 of 1998, s. 101, for section 53 to 55 (w.e.f. 1-8-1998).
3. Subs. by Act 28 of 2016, s. 123, for section 53 (w.e.f. 14-5-2016).
4. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
5. Subs. by s. 81, *ibid*., for "the prescribed form" (w.e.f. 28-3-2018).
6. Ins. by Act 27 of 1999, s. 106 (w.e.f. 11-5-1999).

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(*2*) Subject to the provisions of section 11, where any goods imported into a customs station are mentioned in the [1][arrival manifest or import manifest] or the import report, as the case may be, as for transhipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.

(*3*) Where any goods imported into a customs station are mentioned in the [1][arrival manifest or import manifest] or the import report, as the case may be, as for transhipment—

(*a*) to any major port as defined in the Indian Ports Act, 1908 (15 of 1908), or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(*b*) to any other customs station and the proper officer is satisfied that the goods are *bona fide* intended for transhipment to such customs station,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transhipment is allowed.

55. Liability of duty on goods transited under section 53 or transhipped under section 54.—Where any goods are allowed to be transited under section 53 or transhipped under sub-section (*3*) of section 54 to any customs station, they shall, on their arrival at such station, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods.]

56. Transport of certain classes of goods subject to prescribed conditions.—Imported goods may be transported without payment of duty from one land customs station to another, and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

CHAPTER IX

WAREHOUSING

[2]**[57. Licensing of public warehouses.**—The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a public warehouse wherein dutiable goods may be deposited.]

[3]**[58. Licensing of private warehouses.**—The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.

58A. Licensing of Special warehouses.—(*1*) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, licence a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.

(*2*) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (*1*).

1. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
2. Subs. by Act 28 of 2016, s. 124, for section 57 (w.e.f. 14-5-2016).
3. Subs. by s. 125, *ibid*., for section 58 (w.e.f. 14-5-2016).

58B. Cancellation of licence.—(*1*) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:

Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.

(*2*) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (*1*).

(*3*) Where the operation of a warehouse is suspended under sub-section (*2*), no goods shall be deposited in such warehouse during the period of suspension:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.

(*4*) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow, be removed from such warehouse to another warehouse or be cleared for home consumption or export:

Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period.]

[1]**[59. Warehousing bond**.—The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself—

(*a*) to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods;

(*b*) to pay, on or before the date specified in the notice of demand, all duties and interest payable under sub-section (*2*) of section 61; and

(*c*) to pay all penalties and fines incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods.

(*2*) For the purposes of sub-section (*1*), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.

1. Subs. by Act 28 of 2016, s. 126, for section 59 (w.e.f. 14-5-2016).

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(*3*) The importer shall, in addition to the execution of a bond under sub-section (*1*) or sub-section (*2*), furnish such security as may be prescribed.

(*4*) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.

(*5*) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (*1*) or sub-section (*2*) and furnish security as specified under sub-section (*3*).]

59A. *[Conditions for warehousing of certain goods.] Omitted by The Finance Act,* 1994 *(*32 *of* 1994*), s.* 60 *(w.e.f.* 13-5-1994*).*

[1]**[60. Permission for removal of goods for deposit in warehouse.**—(*1*) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.

[2][Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.]

(*2*) Where an order is made under sub-section (*1*), the goods shall be deposited in a warehouse in such manner as may be prescribed.]

[3]**[61. Period for which goods may remain warehoused.**—(*1*) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed,—

(*a*) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking, till the in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse;

(*b*) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and

(*c*) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (*1*) of section 60:

Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time:

Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.

(*2*) Where any warehoused goods specified in clause (*c*) of sub-section (*1*) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (*1*) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:

Provided that if the Board considers it necessary so to do, in the public interest, it may,—

(*a*) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;

1. Subs. by Act 28 of 2016, s. 127, for section 60 (w.e.f. 14-5-2016).
2. The proviso ins. by Act 13 of 2018, s. 82 (w.e.f. 28-3-2018).
3. Subs. by Act 28 of 2016, s. 128, for section 61 (w.e.f. 14-5-2016).

(*b*) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;

(*c*) by notification in the Official Gazette, specify the class of goods in respect of which the interest shall be chargeable from the date on which the proper officer has made an order under sub-section (*1*) of section 60.

Explanation.—For the purposes of this section,—

(*i*) "electronic hardware technology park unit" means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India;

(*ii*) **"**hundred per cent. export oriented undertaking" has the same meaning as in clause (*ii*) of *Explanation* 2 to sub-section (*1*) of section 3 of the Central Excise Act, 1944 (1 of 1944); and

(*iii*) "software technology park unit" means a unit established under the Software Technology Park Scheme notified by the Government of India.]

62. [*Control over warehoused goods.*] *Omitted by The Finance Act,* 2016 *(*28 *of* 2016*), s.* 129 *(w.e.f.* 14-5-2016*).*

63. [*Payment of rent and warehouse charges.*] *Omitted by s.* 129*, ibid. (w.e.f.* 14-5-2016*).*

[1]**[64. Owner's right to deal with warehoused goods.**—The owner of any warehoused goods may, after warehousing the same,—

(*a*) inspect the goods;

(*b*) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;

(*c*) sort the goods; or

(*d*) show the goods for sale.]

65. Manufacture and other operations in relation to goods in a warehouse.—(*1*) [2][With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions] as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(*2*) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (*1*), there is any waste or refuse, the following provisions shall apply:—

(*a*) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form;

(*b*) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

66. Power to exempt imported materials used in the manufacture of goods in warehouse.—If any imported materials are used in accordance with the provisions of section 65 for the manufacture of any goods and the rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interests of the establishment or development of

1. Subs. by Act 28 of 2016, s. 130, for section 64 (w.e.f. 14-5-2016).
2. Subs. by s. 131, *ibid*., for certain words (w.e.f. 14-5-2016).

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any domestic industry it is necessary so to do, may, by notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty.

67. Removal of goods from one warehouse to another.—The owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, [1]*** subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted.

68. Clearance of warehoused goods for home consumption.—[2][Any warehoused goods may be cleared from the warehouse] for home consumption, if—

(*a*) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;

[3][(*b*) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and]

(*c*) an order for clearance of such goods for home consumption has been made by the proper officer.

[4][[5][Provided that the order referred to in clause (*c*) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:

Provided further that] the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of [6]*** penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon:]

[7][[8][Provided also that] the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.]

69. Clearance of warehoused goods for [9][export].—(*1*) Any warehoused goods may be exported to a place outside India without payment of import duty if—

[10][(*a*) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods;]

[11][(*b*) the export duty, fine and penalties payable in respect of such goods have been paid; and]

(*c*) an order for clearance of such goods for [9][export] has been made by the proper officer.

[12][Provided that the order referred to in clause (*c*) may also be made electronically through the customs automated system on the basis or risk evaluation through appropriate selection criteria.]

(*2*) Notwithstanding anything contained in sub-section (*1*), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.

70. Allowance in case of volatile goods.—(*1*) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the [13][Assistant Commissioner of Customs or Deputy Commissioner of Customs] may remit the duty on such deficiency.

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1. The words "without payment of duty" omitted by Act 55 of 1991, s. 5 (we.f. 23-12-1991).
2. Subs. by Act 28 of 2016, s. 132, for "The importer of any warehoused goods may clear them" (w.e.f. 14-5-2016).
3. Subs. by s. 132, *ibid*., for clause (*b*) (w.e.f. 14-5-2016).
4. Ins. by Act 32 of 2003, s. 114 (w.e.f. 14-5-2003).
5. Subs. by Act 13 of 2018, s. 83, for "Provided that" (w.e.f. 28-3-2018).
6. The words "rent, interest, other charges and" omitted by Act 28 of 2016, s. 132 (w.e.f. 14-5-2016).
7. Ins. by Act 21 of 2006, s. 59 (w.e.f. 18-4-2006).
8. Subs. by Act 13 of 2018, s. 83, for "Provided further that" (w.e.f. 28-3-2018).
9. Subs. by Act 28 of 2016, s. 133, for "exportation" (w.e.f. 14-5-2016).
10. Subs. by Act 7 of 2017, s. 103, for clause (*a*) (w.e.f. 31-3-2017).
11. Subs. by Act 28 of 2016, s. 133, for clause (*b*) (w.e.f. 14-5-2016).
12. The proviso ins. by Act 13 of 2018, s. 84 (w.e.f. 28-3-2018).
13. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

(*2*) This section applies to such warehoused goods as the Central Government, having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify.

71. Goods not to be taken out of warehouse except as provided by this Act.—No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or [1][export], or for removal to another warehouse, or as otherwise provided by this Act.

72. Goods improperly removed from warehouse, etc.—(*1*) In any of the following cases, that is to say,—

(*a*) where any warehoused goods are removed from a warehouse in contravention of section 71;

(*b*) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;

[2]* * * * *

(*d*) where any goods in respect of which a bond has been executed under [3][section 59 [4]***] and which have not been cleared for home consumption or [5][export or] are not duly accounted for to the satisfaction of the proper officer,

the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with [6][interest, fine and penalties] payable in respect of such goods

(*2*) If any owner fails to pay any amount demanded under sub-section (*1*), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may [7][deem fit].

73. Cancellation and return of warehousing bond.—When the whole of the goods covered by any bond executed under [3][section 59 [4]***] have been cleared for home consumption or exported or [8][transferred or] are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

[9]**[73A. Custody and removal of warehoused goods.**—(*1*) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.

(*2*) The responsibilities of the person referred to in sub-section (*1*) who has custody of the warehoused goods shall be such as may be prescribed.

(*3*) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.]

1. Subs. by Act 28 of 2016, s. 134, for "re-exportation" (w.e.f. 14-5-2016).
2. Clause (*c*) omitted by s. 135, *ibid*. (w.e.f. 14-5-2016).
3. Subs. by Act 55 of 1991, s. 9, for "section 59" (w.e.f. 23-12-1991).
4. The words, figures and letter "or section 59A" omitted by Act 32 of 1994, s. 60 (w.e.f. 13-5-1994).
5. Subs. by Act 28 of 2016, s. 135, for "exportation" (w.e.f. 14-5-2016).
6. Subs. by s. 135, *ibid.*, for "all penalties, rent, interest and other charges" (w.e.f. 14-5-2016).
7. Subs. by s. 135, *ibid*., for "select" (w.e.f. 14-5-2016).
8. Ins. by s. 136, *ibid*. (w.e.f. 14-5-2016).
9. Ins. by s. 137, *ibid*. (w.e.f. 14-5-2016).

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CHAPTER X

DRAWBACK

74. Drawback allowable on re-export of duty-paid goods.—(*1*) When any goods capable of being easily identified which have been imported into India and upon which [1][any duty has been paid on importation,—

(*i*) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or

(*ii*) are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation; or

(*iii*) are entered for export by post under [2][clause (*a*) of section 84] and the proper officer makes an order permitting clearance of the goods for exportation,

ninety-eight per cent. of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if—]

(*a*) the goods are identified to the satisfaction of the [3][Assistant Commissioner of Customs or Deputy Commissioner of Customs] as the goods which were imported; and

(*b*) the goods are entered for export within two years from the date of payment of duty on the importation thereof:

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(*2*) Notwithstanding anything contained in sub-section (*1*), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

[4][(*3*) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may—

(*a*) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;

(*b*) specify the goods which shall be deemed to be not capable of being easily identified; and

(*c*) provide for the manner and the time within which a claim for payment of drawback is to be filed.]

(*4*) For the purposes of this section—

(*a*) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16;

(*b*) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

75. Drawback on imported materials used in the manufacture of goods which are exported.—(*1*) Where it appears to the Central Government that in respect of goods of any class or description [5][manufactured, processed or on which any operation has been carried out in India] [6][, being goods which have been entered for export and in respect of which an order permitting the clearance and

1. Subs. by Act 80 of 1985, s. 6, for certain words (w.e.f. 27-12-1985).
2. Subs. by Act 13 of 2018, s. 85, for "section 82" (w.e.f. 28-3-2018).
3. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
4. Subs. by Act 22 of 1995, s. 60, for sub-section (*3*) (w.e.f. 26-5-1995).
5. Subs. by s. 61, *ibid*., for "manufactured in India" (w.e.f. 26-5-1995).
6. Subs. by Act 11 of 1983, s. 52, for "and exported to any place outside India," (w.e.f. 13-5-1983).

loading thereof for exportation has been made under section 51 by the proper officer], [1][or being goods entered for export by post under [2][clause (*a*) of section 84] and in respect of which an order permitting clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the [3][manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (*2*):

[4][Provided that no drawback shall be allowed under this sub-section in respect of any of the aforesaid goods which the Central Government may, by rules made under sub-section (*2*), specify, if the export value of such goods or class of goods is less than the value of the imported materials used in the [3][manufacture or processing of such goods or carrying out any operation on such goods] or class of goods, or is not more than such percentage of the value of the imported materials used in the [3][manufacture or processing of such goods or carrying out any operation on such goods] or class of goods as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided further that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the [5][Foreign Exchange Management Act, 1999 (42 of 1999)], such drawback shall [6][except under such circumstances or such conditions as the Central Government may, by rule, specify,] be deemed never to have been allowed and the Central Government may, by rules made under sub-section (*2*), specify the procedure for the recovery or adjustment of the amount of such drawback.]

[7][(*1A*) Where it appears to the Central Government that the quantity of a particular material imported into India is more than the total quantity of like material that has been used in the goods [8][manufactured, processed or on which any operation has been carried out in India] and exported outside India, then, the Central Government may, by notification in the Official Gazette, declare that so much of the material as is contained in the goods exported shall, for the purpose of sub-section (*1*), be deemed to be imported material.]

(*2*) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (*1*) and, in particular, such rules may provide—

[9][(*a*) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by manufacturers generally or by persons processing or carrying on any operation generally or by any particular manufacturer or particular person carrying on any process or other operation, and interest if any payable thereon;]

[4][(*aa*) for specifying the goods in respect of which no drawback shall be allowed;

(*ab*) for specifying the procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (*1*) [10][or interest chargeable thereon];]

(*b*) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

1. Ins. by Act 80 of 1985, s. 7 (w.e.f. 13-5-1983).
2. Subs. by Act 13 of 2018, s. 86, for "section 82" (w.e.f. 28-3-2018).
3. Subs. by Act 22 of 1995, s. 61, for "manufacture of such goods" (w.e.f. 26-5-1995).
4. Ins. by Act 49 of 1991, s. 120 (w.e.f. 27-9-1991).
5. Subs. by Act 20 of 2002, s. 125, for "Foreign Exchange Regulation Act, 1973 (46 of 1973)" (w.e.f. 11-5-2002).
6. Ins. by Act 8 of 2011, s. 46 (w.e.f. 8-4-2011).
7. Ins. by Act 25 of 1978, s. 10 (w.e.f. 1-7-1978).
8. Subs. by Act 22 of 1995, s. 61, for "manufactured in India" (w.e.f. 26-5-1995).
9. Subs. by s. 61, *ibid*., for clause (*a*) (w.e.f. 26-5-1995).
10. Ins. by Act 22 of 1995, s. 61 (w.e.f. 26-5-1995).

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(*c*) for requiring the [1][manufacturer or the person carrying out any process or other operation] to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] to enable such authorised officer to inspect the processes of [3][manufacture, process or any other operation carried out] and to verify by actual check or otherwise the statements made in support of the claim for drawback.

[4][(*d*) for the manner and the time within which the claim for payment of drawback may be filed;]

[4][(*3*) The power to make rules conferred by sub-section (*2*) shall include the power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the export goods.]

[5]**[75A. Interest on drawback**.—(*1*) Where any drawback payable to a claimant under section 74 or section 75 is not paid within a [6][period of [7][one month]] from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said [6][period of [7][one month]] till the date of payment of such drawback:

[8]* * * * *

[9][(*2*) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under [10][section 28AA] and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.]

76. Prohibition and regulation of drawback in certain cases.—(*1*) Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

[11]* * * * *

(*b*) in respect of any goods the market-price of which is less than the amount of drawback due thereon;

(*c*) where the drawback due in respect of any goods is less than [12][fifty rupees].

(*2*) Without prejudice to the provisions of sub-section (*1*), if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

[13]*****

1. Subs. by Act 22 of 1995, s. 61, for "manufacturer" (w.e.f. 26-5-1995).
2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
3. Subs. by Act 22 of 1995, s. 61, for "manufacture" (w.e.f. 26-5-1995).
4. Ins. by s. 61, *ibid*. (w.e.f. 26-5-1995).
5. Ins. by s. 62, *ibid.* (w.e.f. 26-5-1995).
6. Subs. by Act 8 of 1999, s. 2, for "period of three months" (w.e.f. 8-1-1999).
7. Subs. by Act 32 of 2003, s. 115, for "two months" (w.e.f. 14-5-2003).
8. The proviso omitted by s. 115, *ibid*. (w.e.f. 14-5-2003).
9. Subs. by Act 22 of 2007, s. 98, for sub-section (*2*) (w.e.f. 11-5-2007).
10. Subs. by Act 23 of 2012, s. 125, for "section 28AB" (w.e.f. 8-4-2011).
11. Clause (*a*) omitted by Act 11 of 1983, s. 53 (w.e.f. 13-5-1983).
12. Subs. by s. 53, *ibid*., for "five rupees" (w.e.f. 13-5-1983).
13. Chapter XA (containing sections 76A to 76N) omitted by Act 22 of 2007, s. 99 (w.e.f. 11-5-2007). Earlier Chapter XA inserted by vide Notification No. 43/2003-Cus. (N.T.) (w.e.f. 11-5-2004) dated 22-7-2003 read with notification No. 62/2003-Cus (N.T.), dated 14-8-2003; No. 84/2003-Cus. (N.T.), dated 14-10-2003; No. 105/2003-Cus. (N.T.), dated 29-11-2003 and No. 116/2003-Cus. (N.T.), dated 31-12-2003; No. 25/2004-Cus. (N.T.), dated 28-2-2004; No. 46/2004-Cus. (N.T.), dated 31-3-2004 and No. 57/2004-Cus. (N.T.), dated 30-4-2004) by s. 126 of the Finance Act, 2002 (20 of 2002).

76A. [*Notification of special economic zone.*] *Omitted by the Finance Act,* 2007 (22 *of* 2007), *s.* 99 (*w.e.f.* 11-5-2007).

76B. [*Application of provisions.*] *Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76C. *[Establishment and control.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76D. *[Admission of goods.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76E. *[Exemption from duties of customs.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76F. *[Levy of duties of customs.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76G. *[Authorised operations.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76H. *[Goods utilised with a special economic zone.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76-I. *[Drawback on goods admitted to a special economic zone.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76J. *[Duration of stay.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76K. *[Security.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76L. *[Transfer of ownership.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76M. *[Removal of goods.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

76N. *[Closure of a special economic zone.] Omitted by s. 99, ibid. (w.e.f.* 11-5-2007*).*

CHAPTER XI

SPECIAL PROVISIONS REGARDING BAGGAGE, GOODS IMPORTED OR EXPORTED BY [1][POST, COURIER] AND STORES

Baggage

77. Declaration by owner of baggage.—The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

78. Determination of rate of duty and tariff valuation in respect of baggage.—The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77.

79. *Bona fide* baggage exempted from duty.—(*1*) The proper officer may, subject to any rules made under sub-section (*2*), pass free of duty—

(*a*) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules;

(*b*) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a *bona fide* gift or souvenir; provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules.

(*2*) the Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify—

(*a*) the minimum period for which any article has been used by a passenger or a member of the crew for the purpose of clause (*a*) of sub-section (*1*);

(*b*) the maximum value of any individual article and the maximum total value of all the articles which may be passed free of duty under clause (*b*) of sub-section (*1*);

(*c*) the conditions (to be fulfilled before or after clearance) subject to which any baggage may be passed free of duty.

1. Subs. by Act 13 of 2018, s. 87, for "POST" (w.e.f. 28-3-2018).

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(*3*) Different rules may be made under sub-section (*2*) for different classes of persons.

80. Temporary detention of baggage.—Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India [1][and if for any reason, the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name].

81. Regulations in respect of baggage.—The Board may make regulations,—

(*a*) providing for the manner of declaring the contents of any baggage;

(*b*) providing for the custody, examination, assessment to duty and clearance of baggage;

(*c*) providing for the transit or transhipment of baggage from one customs station to another or to a place outside India.

Goods imported or exported by post

82. [*Label or declaration accompanying goods to be treated as entry*.] *Omitted by the Finance Act*, 2017 (7 of 2017), s. 104 (*w.e.f.* 31-3-2017).

83. Rate of duty and tariff valuation in respect of goods imported or exported by [2][post or courier].—(*1*) The rate of duty and tariff value, if any, applicable to any goods imported by [2][post or courier] shall be the rate and valuation in force on the date on which the [3][postal authorities or the authorised courier] present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon:

Provided that if such goods are imported by a vessel and the list of the goods containing the particulars was presented before the date of the arrival of the vessel, it shall be deemed to have been presented on the date of such arrival.

(*2*) The rate of duty and tariff value, if any, applicable to any goods exported by [2][post or courier] shall be the rate and valuation in force on the date on which the exporter delivers such goods to the [3][postal authorities or the authorised courier] for exportation.

84. Regulations regarding goods imported or to be exported by [4][post or courier].—The Board may make regulations providing for—

[5][(*a*) the form and manner in which an entry may be made in respect of goods imported or to be exported by [4][post or courier];]

(*b*) the examination, assessment to duty, and clearance of goods imported or to be exported by [4][post or courier];

(*c*) the transit or transhipment of goods imported by [4][post or courier], from one customs station to another or to a place outside India.

Stores

85. Stores may be allowed to be warehoused without assessment to duty.—Where any imported goods are entered for warehousing and the importer makes and subscribes to a declaration that the goods are to be supplied as stores to vessels or aircrafts without payment of import duty under this Chapter, the proper officer may permit the goods to be warehoused without the goods being assessed to duty.

86. Transit and transhipment of stores.—(*1*) Any stores imported in a vessel or aircraft may, without payment of duty, remain on board such vessel or aircraft while it is in India.

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1. Ins. by Act 22 of 1995, s. 63 (w.e.f. 26-5-1995).
2. Subs. by Act 13 of 2018, s. 88, for "post" (w.e.f. 28-3-2018).
3. Subs. by s. 88, *ibid*., for "postal authorities" (w.e.f. 28-3-2018).
4. Subs. by s. 89, *ibid*., for "post" (w.e.f. 28-3-2018).
5. Subs. by Act 7 of 2017, s. 105, for clause (*a*) (w.e.f. 31-3-2017).

(*2*) Any stores imported in a vessel or aircraft may, with the permission of the proper officer, be transferred to any vessel or aircraft as stores for consumption therein as provided in section 87 or section 90.

87. Imported stores may be consumed on board a foreign-going vessel or aircraft.—Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft.

88. Application of section 69 and Chapter X to stores.—The provisions of section 69 and Chapter X shall apply to stores (other than those to which section 90 applies) as they apply to other goods, subject to the modifications that—

(*a*) for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on board any foreign-going vessel or aircraft as stores" shall be substituted;

(*b*) in the case of drawback on fuel and lubricating oil taken on board any foreign-going aircraft as stores, sub-section (*1*) of section 74 shall have effect as if for the words "ninety-eight per cent", the words "the whole" were substituted.

89. Stores to be free of export duty.—Goods produced or manufactured in India and required as stores on any foreign-going vessel or aircraft may be exported free of duty in such quantities as the proper officer may determine, having regard to the size of the vessel or aircraft, the number of passengers and crew and the length of the voyage or journey on which the vessel or aircraft is about to depart.

90. Concessions in respect of imported stores for the Navy.—(*1*) Imported stores specified in sub-section (*3*) may without payment of duty be consumed on board a ship of the Indian Navy.

(*2*) The provisions of section 69 and Chapter X shall apply to stores specified in sub-section (*3*) as they apply to other goods, subject to the modifications that—

(*a*) for the words "exported to any place outside India" or the word "exported" wherever they occur, the words "taken on board a ship of the Indian Navy" shall be substituted;

(*b*) for the words "ninety-eight per cent." in sub-section (*1*) of section 74, the words "the whole" shall be substituted.

(*3*) The stores referred to in sub-sections (*1*) and (*2*) are the following:—

(*a*) stores for the use of a ship of the Indian Navy;

(*b*) stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service.

CHAPTER XII

PROVISIONS RELATING TO COASTAL GOODS AND VESSELS CARRYING COASTAL GOODS

91. Chapter not to apply to baggage and stores.—The provisions of this Chapter shall not apply to baggage and stores.

92. Entry of coastal goods.—(*1*) The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form.

(*2*) Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill.

93. Coastal goods not to be loaded until bill relating thereto is passed, etc.—The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor.

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94. Clearance of coastal goods at destination.—(*1*) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills relating to such goods delivered to him under section 93 and shall, immediately on arrival of the vessel at any customs or coastal port, deliver to the proper officer of that port all bills relating to the goods which are to be unloaded at that port.

(*2*) Where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him under sub-section (*1*).

95. Master of a coasting vessel to carry an advice book.—(*1*) The master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book to be called the "advice book".

(*2*) The proper officer at each port of call by such vessel shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel at that port.

(*3*) The master of every such vessel shall carry the advice book on board the vessel and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection.

96. Loading and unloading of coastal goods at customs port or coastal port only.—No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs port or a coastal port appointed under section 7 for the loading or unloading of such goods.

97. No coasting vessel to leave without written order.—(*1*) The master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer.

(*2*) No such order shall be given until—

(*a*) the master of the vessel has answered the questions put to him under section 38;

(*b*) all charges and penalties due in respect of that vessel or from the master thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct;

(*c*) the master of the vessel has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct;

(*d*) the provisions of this Chapter and any rules and regulations relating to coastal goods and vessels carrying coastal goods have been complied with.

98. Application of certain provisions of this Act to coastal goods, etc.—(*1*) Sections 33, 34 and 36 shall, so far as may be, apply to coastal goods as they apply to imported goods or export goods.

(*2*) Sections 37 and 38 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or export goods.

(*3*) The Central Government may, by notification in the Official Gazette, direct that all or any of the other provisions of Chapter VI and the provisions of section 45 shall apply to coastal goods or vessels carrying coastal goods subject to such exceptions and modifications as may be specified in the notification.

[1][**98A. Power to relax**.—If the Central Government is satisfied that it is necessary in the public interest so to do it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, coastal goods or vessels carrying coastal goods from all or any of the provisions of this Chapter.]

1. Ins. by Act 22 of 1995, s. 64 (w.e.f. 26-5-1995).

99. Power to make rules in respect of coastal goods and coasting vessels.—The Central Government may make rules for—

(*a*) preventing the taking out of India of any coastal goods the export of which is dutiable or prohibited under this Act or any other law for the time being in force;

(*b*) preventing, in the case of a vessel carrying coastal goods as well as imported or export goods, the substitution of imported or export goods by coastal goods.

[1][CHAPTER XIIA

AUDIT

99A. Audit.—The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Explanation.—For the purposes of this section, "auditee" means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.]

CHAPTER XIII

SEARCHES, SEIZURE AND ARREST

100. Power to search suspected persons entering or leaving India, etc.—(*1*) If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person.

(*2*) This section applies to the following persons, namely:—

(*a*) any person who has landed from or is about to board, or is on board any vessel within the Indian customs waters;

(*b*) any person who has landed from or is about to board, or is on board a foreign-going aircraft;

(*c*) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India;

(*d*) any person not included in clauses (*a*), (*b*) or (*c*) who has entered or is about to leave India;

(*e*) any person in a customs area.

101. Power to search suspected persons in certain other cases.—(*1*) Without prejudice to the provisions of section 100, if an officer of customs empowered in this behalf by general or special order of the [2][Principal Commissioner of Customs or Commissioner of Customs], has reason to believe that any person has secreted about his person any goods of the description specified in sub-section (*2*) which are liable to confiscation, or documents relating thereto, he may search that person.

(*2*) The goods referred to in sub-section (*1*) are the following:—

(*a*) gold;

(*b*) diamonds;

(*c*) manufactures of gold or diamonds;

(*d*) watches;

(*e*) any other class of goods which the Central Government may, by notification in the Official Gazette, specify.

102. Persons to be searched may require to be taken before gazetted officer of customs or magistrate.—(*1*) When any officer of customs is about to search any person under the provisions of section 100 or section 101, the officer of customs shall, if such person so requires, take him without unnecessary delay to the nearest gazetted officer of customs or magistrate.

1. Ins. by Act 13 of 2018, s. 90 (w.e.f. 28-3-2018).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

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(*2*) If such requisition is made, the officer of customs may detain the person making it until he can bring him before the gazetted officer of customs or the magistrate.

(*3*) The gazetted officer of customs or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(*4*) Before making a search under the provisions of section 100 or section 101, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do; and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witness.

(*5*) No female shall be searched by any one excepting a female.

103. Power to screen or X-ray bodies of suspected persons for detecting secreted goods.—(*1*) Where the proper officer has reason to believe that any person referred to in sub-section (*2*) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before the nearest magistrate.

(*2*) A magistrate before whom any person is brought under sub-section (*1*) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(*3*) Where any such magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect.

(*4*) Where a magistrate has made any order under sub-section (*3*), in relation to any person, the proper officer shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(*5*) A radiologist before whom any person is brought under sub-section (*4*) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the magistrate without unnecessary delay.

(*6*) Where on receipt of a report from a radiologist under sub-section (*5*) or otherwise, the magistrate is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(*7*) Where any person is brought before a magistrate under this section, such magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such period as he may direct.

(*8*) Nothing in this section shall apply to any person referred to in sub-section (*1*), who admits that goods liable to confiscation are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods.

Explanation.—For the purposes of this section, the expression "registered medical practitioner" means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (7 of 1916), or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1956 (102 of 1956).

104. Power to arrest.—[1][(*1*) If an officer of customs empowered in this behalf by general or special order of the [2][Principal Commissioner of Customs or Commissioner of Customs] has reason to believe that any person in India or within the Indian customs waters has committed an offence punishable under section 132 or section 133 or section 135 or section 135A or section 136, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.]

1. Subs. by Act 29 of 2006, s. 24, for sub-section (*1*) (w.e.f. 13-7-2006).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

(*2*) Every person arrested under sub-section (*1*) shall, without unnecessary delay, be taken to a magistrate.

(*3*) Where an officer of customs has arrested any person under sub-section (*1*), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police-station has and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898).

[1][(*4*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence relating to—

(*a*) prohibited goods; or

(*b*) evasion or attempted evasion of duty exceeding fifty lakh rupees,

shall be cognizable.

(*5*) Save as otherwise provided in sub-section (*4*), all other offences under the Act shall be non-cognizable.

[2][(*6*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) an offence punishable under section 135 relating to—

(*a*) evasion or attempted evasion of duty exceeding fifty lakh rupees; or

(*b*) prohibited goods notified under section 11 which are also notified under sub-clause (*c*) of clause (*i*) of sub-section (*1*) of section 135; or

(*c*) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds one crore rupees; or

(*d*) fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees,

shall be non-bailable.

(*7*) Save as otherwise provided in sub-section (*6*), all other offences under this Act shall be bailable.]

105. Power to search premises.—(*1*) If the [3][Assistant Commissioner of Customs or Deputy Commissioner of Customs], or in any area adjoining the land frontier or the coast of India an officer of customs specially empowered by name in this behalf by the Board, has reason to believe that any goods liable to confiscation, or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act, are secreted in any place, he may authorise any officer of customs to search or may himself search for such goods, documents or things.

(*2*) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (*5*) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words [4][Principal Commissioner of Customs or Commissioner of Customs] were substituted.

106. Power to stop and search conveyances.—(*1*) Where the proper officer has reason to believe that any aircraft, vehicle or animal in India or any vessel in India or within the Indian customs waters has been, is being, or is about to be, used in the smuggling of any goods or in the carriage of any goods which have been smuggled, he may at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and—

(*a*) rummage and search any part of the aircraft, vehicle or vessel;

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1. Subs. by Act 23 of 2012, s. 126, for sub-section (*4*) (w.e.f. 28-5-2012).
2. Subs. by Act 17 of 2013, s. 75, for sub-section (*6*) (w.e.f. 10-5-2013).
3. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
4. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

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(*b*) examine and search any goods in the aircraft, vehicle or vessel or on the animal;

(*c*) break open the lock of any door or package for exercising the powers conferred by clauses (*a*) and (*b*), if the keys are withheld.

(*2*) Where for the purposes of sub-section (*1*)—

(*a*) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag and any authority authorised in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon, such vessel shall forthwith stop or such aircraft shall forthwith land; and if it fails to do so, chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon;

(*b*) it becomes necessary to stop any vehicle or animal, the proper officer may use all lawful means for stopping it, and where such means fail, the vehicle or animal may be fired upon.

[1]**[106A. Power to inspect.**—Any proper officer authorised in this behalf by the [2][Principal Commissioner of Customs or Commissioner of Customs] may, for the purpose of ascertaining whether or not the requirements of this Act have been complied with, at any reasonable time, enter any place intimated under Chapter IVA or Chapter IVB, as the case may be, and inspect the goods kept or stored therein and require any person found therein, who is for the time being in charge thereof, to produce to him for his inspection the accounts maintained under the said Chapter IVA or Chapter IVB, as the case may be, and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether or not such goods have been illegally imported, exported or are likely to be illegally exported.]

107. Power to examine persons.—Any officer of customs empowered in this behalf by general or special order of the [2][Principal Commissioner of Customs or Commissioner of Customs] may, during the course of any enquiry in connection with the smuggling of any goods,—

(*a*) require any person to produce or deliver any document or thing relevant to the enquiry;

(*b*) examine any person acquainted with the facts and circumstances of the case.

108. Power to summon persons to give evidence and produce documents.—[3][(*1*) Any Gazetted Officer of customs [4]*** shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making under this Act.]

(*2*) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(*3*) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (5 of 1908), shall be applicable to any requisition for attendance under this section.

(*4*) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

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1. Ins. by Act 12 of 1969, s. 3 (w.e.f. 3-1-1969).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by Act 29 of 2006, s. 25, for sub-section (*1*) (w.e.f. 13-7-2006).
4. The words "duly empowered by the Central Government in this behalf," omitted by Act 18 of 2008, s. 69 (w.e.f. 13-7-2006).

[1][**108A**. **Obligation to furnish information**.—(*1*) Any person, being—

(*a*) a local authority or other public body or association; or

(*b*) any authority of the State Government responsible for the collection of value added tax or sales tax or any other tax relating to the goods or services; or

(*c*) an income-tax authority appointed under the provisions of the Income tax Act, 1961 (43 of 1961); or

(*d*) a Banking company within the meaning of clause (*a*) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or

(*e*) a co-operative bank within the meaning of clause (*dd*) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act,1961 (45 of 1961); or

(*f*) a financial institution within the meaning of clause (*c*), or a non-banking financial company within the meaning of clause (*f*), of section 45-I of the Reserve Bank of India Act,1934 (2 of 1934); or

(*g*) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or

(*h*) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or

(*i*) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or

(*j*) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or

(*k*) the Collector referred to in clause (*c*) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or

(*l*) the recognised stock exchange referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(*m*) a depository referred to in clause (*e*) of sub-section (*1*) of section 2 of the Depositories Act, 1996 (22 of 1996); or

(*n*) the Post Master General within the meaning of clause (*j*) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); or

(*o*) the Director General of Foreign Trade within the meaning of clause (*d*) of section 2 of the Foreign Trade (Development and Regulation) Act,1992 (22 of 1992); or

(*p*) the General Manager of a Zonal Railway within the meaning of clause (*18*) of section 2 of the Railways Act,1989 (24 of 1989); or

(*q*) an officer of the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934),

who is responsible for maintaining record of registration or statement of accounts or holding any other information under any of the Acts specified above or under any other law for the time being in force, which is considered relevant for the purposes of this Act, shall furnish such information to the proper officer in such manner as may be prescribed by rules made under this Act.

(*2*) Where the proper officer considers that the information furnished under sub-section (*1*) is defective, he may intimate the defect to the person who has furnished such information and give him an opportunity of rectifying the defect within a period of seven days from the date of such intimation or within such further period which, on an application made in this behalf, the proper officer may allow and if the defect is not rectified within the said period of seven days or, further period, as the case may be, so

1. Ins. by Act 18 of 2017, s. 3 (w.e.f. 4-5-2017).

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allowed, then, notwithstanding anything contained in any other provision of this Act, such information shall be deemed as not furnished and the provisions of this Act shall apply.

(*3*) Where a person who is required to furnish information has not furnished the same within the time specified in sub-section (*1*) or sub-section (*2*), the proper officer may serve upon him a notice requiring him to furnish such information within a period not exceeding thirty days from the date of service of the notice and such person shall furnish such information.

108B. Penalty for failure to furnish information return.—Where the person who is required to furnish information under section 108A fails to do so within the period specified in the notice issued under sub-section (*3*) thereof, the proper officer may direct such person to pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such information continue.]

109. Power to require production of order permitting clearance of goods imported by land.—Any officer of customs appointed for any area adjoining the land frontier of India and empowered in this behalf by general or special order of the Board, may require any person in possession of any goods which such officer has reason to believe to have been imported into India by land, to produce the order made under section 47 permitting clearance of the goods:

Provided that nothing in this section shall apply to any imported goods passing from a land frontier to a land customs station by a route appointed under clause (*c*) of section 7.

[1]**[109A. Power to undertake controlled delivery**.—Notwithstanding anything contained in this Act, the proper officer or any other officer authorised by him in this behalf, may undertake controlled delivery of any consignment of such goods and in such manner as may be prescribed, to—

(*a*) any destination in India; or

(*b*) a foreign country, in consultation with the competent authority of such country to which such consignment is destined.

Explanation.—For the purposes of this section "controlled delivery" means the procedure of allowing consignment of such goods to pass out of, or into, the territory of India with the knowledge and under the supervision of proper officer for identifying the persons involved in the commission of an offence or contravention under this Act.]

110. Seizure of goods, documents and things.—(*1*) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods:

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

[2][(*1A*) The Central Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (*1*), be disposed of by the proper officer in such manner as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

(*1B*) Where any goods, being goods specified under sub-section (*1A*), have been seized by a proper officer under sub-section (*1*), he shall prepare an inventory of such goods containing such details relating to their description, quality, quantity, mark, numbers, country of origin and other particulars as the proper officer may consider relevant to the identity of the goods in any proceedings under this Act and shall make an application to a Magistrate for the purpose of—

(*a*) certifying the correctness of the inventory so prepared; or

1. Ins. by Act 13 of 2018, s. 91 (w.e.f. 28-3-2018).
2. Ins. by Act 80 of 1985, s. 8 (w.e.f. 27-12-1985).

(*b*) taking, in the presence of the Magistrate, photographs of such goods, and certifying such photographs as true; or

(*c*) allowing to draw representative samples of such goods, in the presence of the Magistrate, and certifying the correctness of any list of samples so drawn.

(*1C*) Where an application is made under sub-section (*1B*), the Magistrate shall, as soon as may be, allow the application.]

(*2*) Where any goods are seized under sub-section (*1*) and no notice in respect thereof is given under clause (*a*) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

[1][Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply.]

(*3*) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(*4*) The person from whose custody any documents are seized under sub-section (*3*) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

[2]**[110A. Provisional release of goods, documents and things seized pending adjudication.**—Any goods, documents or things seized under section 110, may, pending the order of the [3][adjudicating authority], be released to the owner on taking a bond from him in the proper form with such security and conditions as the [4][adjudicating authority] may require.]

CHAPTER XIV

CONFISCATION OF GOODS AND CONVEYANCES AND IMPOSITION OF PENALTIES

111. Confiscation of improperly imported goods, etc.—The following goods brought from a place outside India shall be liable to confiscation:—

(*a*) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (*a*) of section 7 for the unloading of such goods;

(*b*) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (*c*) of section 7 for the import of such goods;

(*c*) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;

(*d*) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(*e*) any dutiable or prohibited goods found concealed in any manner in any conveyance;

1. Subs. by Act 13 of 2018, s. 92, for the proviso (w.e.f. 28-3-2018).
2. Ins. by Act 29 of 2006, s. 26 (w.e.f. 13-7-2006).
3. Subs. by Act 8 of 2011, s. 47, for "adjudicating officer" (w.e.f. 8-4-2011).
4. Subs. by s. 47, *ibid*., for "Commissioner of Customs" (w.e.f. 8-4-2011).

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(*f*) any dutiable or prohibited goods required to be mentioned under the regulations in an [1][arrival manifest or import manifest] or import report which are not so mentioned;

(*g*) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (*2*) of section 45;

(*h*) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;

(*i*) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;

(*j*) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

(*k*) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;

(*l*) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

(*m*) [2][any goods which do not correspond in respect of value or in any other particular] with the entry made under this Act or in the case of baggage with the declaration made under section 77 [3][in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (*1*) of section 54];

(*n*) any dutiable or prohibited goods transited with or without transhipment or attempted to be so transited in contravention of the provisions of Chapter VIII;

(*o*) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer;

[4][(*p*) any notified goods in relation to which any provisions of Chapter IVA or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.]

112. Penalty for improper importation of goods, etc.—Any person,—

(*a*) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or

(*b*) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable,—

(*i*) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [5][not exceeding the value of the goods or five thousand rupees], whichever is the greater;

1. Subs. by Act 13 of 2018, s. 56, for "import manifest" (w.e.f. 28-3-2018).
2. Subs. by Act 36 of 1973, s. 2, for "any dutiable or prohibited goods which do not correspond in any material particular" (w.e.f. 1-9-1973).
3. Subs. by Act 27 of 1999, s. 108, for "in respect thereof," (w.e.f. 11-5-1999).
4. Ins. by Act 12 of 1969, s. 4 (w.e.f. 3-1-1969).
5. Subs. by Act 14 of 2001, s. 107, for "not exceeding five times the value of the goods or one thousand rupees" (w.e.f. 11-5-2001).

[1][(*ii*) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (*8*) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

[2][(*iii*) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty [3][not exceeding the difference between the declared value and the value thereof or five thousand rupees], whichever is the greater;

(*iv*) in the case of goods falling both under clauses (*i*) and (*iii*), to a penalty [4][not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest;

(*v*) in the case of goods falling both under clauses (*ii*) and (*iii*), to a penalty [5][not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees], whichever is the highest.]

113. Confiscation of goods attempted to be improperly exported, etc.—The following export goods shall be liable to confiscation:—

(*a*) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;

(*b*) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (*c*) of section 7 for the export of such goods;

(*c*) any [6]*** goods brought near the land frontier or the coast of India or near any bay, gulf, creek creek or tidal river for the purpose of being exported from a place other than a land customs station or a customs port appointed for the loading of such goods;

(*d*) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;

(*e*) any [6]*** goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;

(*f*) any [6]*** goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;

(*g*) any [6]*** goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;

(*h*) any [6]*** goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;

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1. Subs. by Act 20 of 2015, s. 83, for sub-clause (*ii*) (w.e.f. 14-5-2015).
2. Ins. by Act 36 of 1973, s. 3 (w.e.f. 1-9-1973).
3. Subs. by Act 14 of 2001, s. 107, for "not exceeding five times the difference between the declared value and the value thereof or one thousand rupees" (w.e.f. 11-5-2001).
4. Subs. by s. 107, *ibid*., for "not exceeding five times the value of the goods or five times the difference between the declared value and the value thereof or one thousand rupees" (w.e.f. 11-5-2001).
5. Subs. by s. 107, *ibid*., for "not exceeding five times the duty sought to be evaded on such goods or five times the difference between the declared value and the value thereof or one thousand rupees" (w.e.f. 11-5-2001).
6. The words "dutiable or prohibited" omitted by Act 32 of 2003, s. 116 (w.e.f. 14-5-2003).

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[1][(*i*) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;]

[2][(*ii*) any goods entered for exportation under claim for drawback which do not correspond in any material particular with any information furnished by the exporter or manufacturer under this Act in relation to the fixation of rate of drawback under section 75;]

(*j*) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74;

(*k*) any goods cleared for exportation [3]*** which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer;

[4][(*l*) any specified goods in relation to which any provisions of Chapter IVB or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.]

114. Penalty for attempt to export goods improperly, etc.—Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,—

(*i*) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty [5][not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act], whichever is the greater;

[6][(*ii*) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (*8*) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;]

[7][(*iii*) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.]

[8]**[114A. Penalty for short-levy or non-levy of duty in certain cases**.—Where the duty has not been been levied or has been short-levied or the interest has not been charged or paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, the person who is liable to pay the duty or interest, as the case may be, as determined under [9][sub-section (*8*) of section 28] shall, also be liable to pay a penalty equal to the duty or interest so determined:]

[10][Provided that where such duty or interest, as the case may be, as determined under [9][sub-section (*8*) of section 28], and the interest payable thereon under section [11][28AA], is paid within thirty days from the date of the communication of the order of the proper officer determining such duty, the amount of penalty

1. Subs. by Act 32 of 2003, s. 116, for clause (*i*) (w.e.f. 14-5-2003).
2. Ins. by Act 49 of 1991, s. 120 (w.e.f. 27-9-1991).
3. The words "under a claim for drawback" omitted by Act 32 of 2003, s. 116 (w.e.f. 14-5-2003).
4. Ins. by Act 12 of 1969, s. 5 (w.e.f. 3-1-1969).
5. Subs. by Act 32 of 2003, s. 117, for "not exceeding the value of the goods or five thousand rupees" (w.e.f. 14-5-2003).
6. Subs. by Act 20 of 2015, s. 84, for clause (*ii*) (w.e.f. 14-5-2015).
7. Subs. by Act 32 of 2003, s. 117, for clause (*iii*) (w.e.f. 14-5-2003).
8. Ins. by Act 33 of 1996, s. 64 (w.e.f. 28-9-1996).
9. Subs. by Act 8 of 2011, s. 48, for "sub-section (*2*) of section 28" (w.e.f. 8-4-2011).
10. Subs. by Act 10 of 2000, s. 85, for the first and second provisos (w.e.f. 12-5-2000).
11. Subs. by Act 8 of 2011, s. 48, for "28AB" (w.e.f. 8-4-2011).

liable to be paid by such person under this section shall be twenty-five per cent. of the duty or interest, as the case may be, so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the duty or interest determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the duty or interest as reduced or increased, as the case may be, shall be taken into account:

Provided also that in a case where the duty or interest determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available if the amount of the duty or the interest so increased, along with the interest payable thereon under section [1][28AA], and twenty-five per cent. of the consequential increase in penalty have also been paid within thirty days of the communication of the order by which such increase in the duty or interest takes effect:

Provided also that where any penalty has been levied under this section, no penalty shall be levied under section 112 or section 114.]

Explanation.—For the removal of doubts, it is hereby declared that—

(*i*) the provisions of this section shall also apply to cases in which the order determining the duty or interest under [2][sub-section (*8*) of section 28] relates to notices issued prior to the date on which the Finance Act, 2000 (10 of 2000) receives the assent of the President;

(*ii*) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.]

[3]**[114AA. Penalty for use of false and incorrect material**.—If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.]

115. Confiscation of conveyances.—(*1*) The following conveyances shall be liable to confiscation:—

(*a*) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area, while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;

(*b*) any conveyance from which the whole or any part of the goods is thrown overboard, staved or destroyed so as to prevent seizure by an officer of customs;

(*c*) any conveyance which having been required to stop or land under section 106 fails to do so, except for good and sufficient cause;

(*d*) any conveyance from which any warehoused goods cleared for exportation, or any other goods cleared for exportation under a claim for drawback, are unloaded, without the permission of the proper officer;

(*e*) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.

1. Subs. by Act 8 of 2011, s. 48, for "28AB" (w.e.f. 8-4-2011).
2. Subs. by s. 48, *ibid.*, for "sub-section (*2*) of section 28" (w.e.f. 8-4-2011).
3. Ins. by Act 29 of 2006, s. 27 (w.e.f. 13-7-2006).

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(*2*) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal [1]***:

Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

Explanation.—In this section, "market price" means market price at the date when the goods are seized.

116. Penalty for not accounting for goods.—If any goods loaded in a conveyance for importation into India, or any goods transhipped under the provisions of this Act or coastal goods carried in a conveyance, are not unloaded at their place of destination in India, or if the quantity unloaded is short of the quantity to be unloaded at that destination, and if the failure to unload or the deficiency is not accounted for to the satisfaction of the [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs], the person-in-charge of the conveyance shall be liable,—

(*a*) in the case of goods loaded in a conveyance for importation into India or goods transhipped under the provisions of this Act, to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been imported;

(*b*) in the case of coastal goods, to a penalty not exceeding twice the amount of export duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been exported.

117. Penalties for contravention, etc., not expressly mentioned.—Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [3][one lakh rupees].

118. Confiscation of packages and their contents.—(*a*) Where any goods imported in a package are liable to confiscation, the package and any other goods imported in that package shall also be liable to confiscation.

(*b*) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation.

119. Confiscation of goods used for concealing smuggled goods.—Any goods used for concealing smuggled goods shall also be liable to confiscation.

Explanation.—In this section, "goods" does not include a conveyance used as a means of transport.

120. Confiscation of smuggled goods notwithstanding any change in form, etc.—(*1*) Smuggled goods may be confiscated notwithstanding any change in their form.

(*2*) Where smuggled goods are mixed with other goods in such manner that the smuggled goods cannot be separated from such other goods, the whole of the goods shall be liable to confiscation:

Provided that where the owner of such goods proves that he had no knowledge or reason to believe that they included any smuggled goods, only such part of the goods the value of which is equal to the value of the smuggled goods shall be liable to confiscation.

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1. The words "and that each of them had taken all such precautions against such use as are for the time being specified in the rules" omitted by Act 26 of 1988, s. 79 (w.e.f. 13-5-1988).
2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
3. Subs. by Act 18 of 2008, s. 70, for "ten thousand rupees" (w.e.f. 10-5-2008).

121. Confiscation of sale-proceeds of smuggled goods.—Where any smuggled goods are sold by a person having knowledge or reason to believe that the goods are smuggled goods, the sale-proceeds thereof shall be liable to confiscation.

122. Adjudication of confiscations and penalties.—In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,—

(*a*) without limit, by a [1][Principal Commissioner of Customs or Commissioner of Customs] or a [2][Joint Commissioner of Customs];

[3][(*b*) up to such limit, by such officers, as the Board may, by notification, specify;]

[4]**[122A. Adjudication Procedure**.—(*1*) The adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.

(*2*) The adjudicating authority may, if sufficient cause is shown at any stage of proceeding referred to in sub-section (*1*), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during the proceeding.]

123. Burden of proof in certain cases.—[5][(*1*) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be—

(*a*) in a case where such seizure is made from the possession of any person,—

(*i*) on the person from whose possession the goods were seized; and

(*ii*) if any person, other than the person from whose possession the goods were seized, claims to be the owner thereof, also on such other person;

(*b*) in any other case, on the person, if any, who claims to be the owner of the goods so seized.]

(*2*) This section shall apply to gold, [6][and manufactures thereof], watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify.

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1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
2. Subs. by Act 27 of 1999, s. 100, for "Deputy Commissioner of Customs" (w.e.f. 11-5-1999).
3. Subs. by Act 13 of 2018, s. 93, for clauses (*b*) and (*c*) (w.e.f. 28-3-2018).
4. Ins. by Act 23 of 2004, s. 67 (w.e.f. 10-9-2004).
5. Subs. by Act 36 of 1973, s. 4, for sub-section (*1*) (w.e.f. 1-9-1973).
6. Subs. by Act 40 of 1989, s. 2, for ", diamonds, manufactures of gold or diamonds" (w.e.f. 26-10-1989).

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124. Issue of show cause notice before confiscation of goods, etc.—No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

(*a*) is given a notice in [1][writing with the prior approval of the officer of Customs not below the rank of [2][an Assistant Commissioner of Customs], informing] him of the grounds on which it is proposed to confiscate the goods or to impose a penalty;

(*b*) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein; and

(*c*) is given a reasonable opportunity of being heard in the matter:

Provided that the notice referred to in clause (*a*) and the representation referred to in clause (*b*) may, at the request of the person concerned be oral.

[3][Provided further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed.]

125. Option to pay fine in lieu of confiscation.—(*1*) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [4][or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

[5][Provided that where the proceedings are deemed to be concluded under the proviso to sub-section (*2*) of section 28 or under clause (*i*) of sub-section (*6*) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply:

Provided further that], without prejudice to the provisions of the proviso to sub-section (*2*) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

[6][(*2*) Where any fine in lieu of confiscation of goods is imposed under sub-section (*1*), the owner of such goods or the person referred to in sub-section (*1*), shall, in addition, be liable to any duty and charges payable in respect of such goods.]

[7][(*3*) Where the fine imposed under sub-section (*1*) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

Explanation.—For removal of doubts, it is hereby declared that in cases where an order under sub-section (*1*) has been passed before the date on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.]

126. On confiscation, property to vest in Central Government.—(*1*) When any goods are confiscated under this Act, such goods shall thereupon vest in the Central Government.

(*2*) The officer adjudging confiscation shall take and hold possession of the confiscated goods.

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1. Subs. by Act 29 of 2006, s. 28, for "writing informing" (w.e.f. 13-7-2006).
2. Subs. by Act 8 of 2011, s. 49, for "a Deputy Commissioner of Customs" (w.e.f. 8-4-2011).
3. The proviso ins. by Act 13 of 2018, s. 94 (w.e.f. 28-3-2018).
4. Ins. by Act 80 of 1985, s. 9 (w.e.f. 27-12-1985).
5. Subs. by Act 13 of 2018, s. 95, for "Provided that" (w.e.f. 28-3-2018).
6. Subs. by Act 80 of 1985, s. 9, for sub-section (*2*) (w.e.f. 27-12-1985).
7. Ins. by Act 13 of 2018, s. 95 (w.e.f. 28-3-2018).

127. Award of confiscation or penalty by customs officers not to interfere with other punishments.—The award of any confiscation or penalty under this Act by an officer of customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of Chapter XVI of this Act or under any other law.

[1][CHAPTER XIVA

SETTLEMENT OF CASES

127A. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "Bench" means a Bench of the Settlement Commissioner;

[2][(*b*) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of customs duty, pending before an adjudicating authority on the date on which an application under sub-section (*1*) of section 127B is made:

Provided that when any proceeding is referred back [3]*** by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;]

(*c*) "Chairman" means the Chairman of the Settlement Commission;

(*d*) "Commissioner (Investigation)" means an officer of the customs or a Central Excise Officer appointed as such Commissioner to conduct inquiry or investigation for the purposes of this Chapter;

(*e*) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice Chairman;

(*f*) "Settlement Commission" means the [4][Customs, Central Excise and Service Tax Settlement Commission] constituted under section 32 of the Central Excise Act, 1944 (1 of 1944); and

(*g*) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.

127B. Application for settlement of cases.—[5][(*1*) Any importer, exporter or any other person (hereinafter referred to as the applicant in this Chapter) may, in respect of a case, relating to him make an application, before adjudication to the Settlement Commission to have the case settled, in such form and in such manner as may be specified by rules, and containing a full and true disclosure of his duty liability which has not been disclosed before the proper officer, the manner in which such liability has been incurred, the additional amount of customs duty accepted to be payable by him and such other particulars as may be specified by rules including the particulars of such dutiable goods in respect of which he admits short levy on account of misclassification, under-valuation or inapplicability of exemption notification [6][or otherwise] and such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

[7][(*a*) the applicant has filed a bill of entry, or a shipping bill, or a bill of export, or made a baggage declaration, or a label or declaration accompanying the goods imported or exported through post or courier, as the case may be, and in relation to such document or documents, a show cause notice has been issued to him by the proper officer;]

(*b*) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and

1. Ins. by Act 21 of 1998, s. 102 (w.e.f. 1-8-1998).
2. Subs. by Act 22 of 2007, s. 100, for clause (*b*) (w.e.f. 1-6-2007).
3. The words "in any appeal or revision, as the case may be," omitted by Act 20 of 2015, s. 85 (w.e.f. 14-5-2015).
4. Subs. by Act 25 of 2014, s. 83, for "Customs and Central Excise Settlement Commission" (w.e.f. 6-8-2014).
5. Subs. by Act 22 of 2007, s. 101, for sub-section (*1*) (w.e.f. 1-6-2007).
6. Subs. by Act 14 of 2010, s. 57, for "but excluding the goods not included in the entry made under this Act" (w.e.f. 8-5-2010).
7. Subs. by Act 25 of 2014, s. 84, for clause (*a*) (w.e.f. 6-8-2014).

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(*c*) the applicant has paid the additional amount of customs duty accepted by him along with interest due under [1][section 28AA]:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending in the Appellate Tribunal or any court:

Provided also that no application under this sub-section shall be made in relation to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) has been committed:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of the goods under the Customs Tariff Act, 1975 (51 of 1975).

[2]* * * * *]

[3]* * * * *

(*3*) Every application made under sub-section (*1*) shall be accompanied by such fees as may be specified by rules.

(*4*) An application made under sub-section (*1*) shall not be allowed to be withdrawn by the applicant.

[4][(*5*) Any person, other than an applicant referred to in sub-section (*1*), may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be specified by rules.]

[5]**[127C. Procedure on receipt of an application under section 127B**.—(*1*) On receipt of an application under section 127B, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with or reject the application, as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(*2*) A copy of every order under sub-section (*1*) shall be sent to the applicant and to the [6][Principal Commissioner of Customs or Commissioner of Customs] having jurisdiction.

(*3*) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (*1*), the Settlement Commission shall, within seven days from the date of order under sub-section (*1*), call for a report along with the relevant records from the [6][Principal Commissioner of Customs or Commissioner of Customs] having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

1. Subs. by Act 25 of 2014, s. 84, for "section 28AB" (w.e.f. 6-8-2014).
2. Sub-section (*1A*) omitted by Act 20 of 2015, s. 86 (w.e.f. 14-5-2015).
3. Sub-section (*2*) omitted by Act 25 of 2014, s. 84 (w.e.f. 6-8-2014).
4. Ins. by Act 7 of 2017, s. 106 (w.e.f. 31-3-2017).
5. Subs. by Act 22 of 2007, s. 102, for section 127C (w.e.f. 1-6-2007).
6. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

(*4*) Where a report of the Commissioner called for under sub-section (*3*) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (*5*) without such report.

(*5*) After examination of the records and the report of the [1][Principal Commissioner of Customs or Commissioner of Customs] received under sub-section (*3*), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (*4*), and after giving an opportunity to the applicant and to the [1][Principal Commissioner of Customs or Commissioner of Customs] having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the [1][Principal Commissioner of Customs or Commissioner of Customs] and Commissioner (Investigation) under sub-section (*3*) or sub-section (*4*).

[2][(*5A*) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (*5*), amend such order to rectify any error apparent on the face of record, either *suo motu* or when such error is brought to its notice by the jurisdictional Principal Commissioner of Customs or Commissioner of Customs or the applicant:

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Customs or Commissioner of Customs as the case may be, and has given them a reasonable opportunity of being heard.]

[3]* * * * *

(*7*) Subject to the provisions of section 32A of the Central Excise Act, 1944 (1 of 1944), the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (*5*) and, in relation to the passing of such order, the provisions of section 32D of the Central Excise Act, 1944 shall apply.

(*8*) The order passed under sub-section (*5*) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefore and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts:

Provided that the amount of settlement ordered by the Settlement Commission, shall not be less than the duty liability admitted by the applicant under section 127B.

(*9*) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (*5*) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
2. Ins. by Act 7 of 2017, s. 107 (w.e.f. 31-3-2017).
3. Sub-section (*6*) omitted by Act 20 of 2015, s. 87 (w.e.f. 14-5-2015).

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(*10*) Where a settlement becomes void as provided under sub-section (*8*), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the proper officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.]

127D. Power of Settlement Commission to order provisional attachment to protect revenue.—(*1*) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in such manner as may be specified by rules.

(*2*) Every provisional attachment made by the Settlement Commission under sub-section (*1*) shall cease to have effect from the date the sums due to the Central Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

127E. *[Power of Settlement Commission to reopen completed proceedings.] Omitted by the Finance Act,* 2015 *(*20 *of* 2015*), s.* 88 *(w.e.f.* 14-5-2015*).*

127F. Power and procedure of Settlement Commission.—(*1*) In addition to the powers conferred on the Settlement Commission under Chapter V of the Central Excise Act, 1944 (1 of 1944), it shall have all the powers which are vested in an officer of the customs under this Act or the rules made thereunder.

(*2*) Where an application made under section 127B has been allowed to be proceeded with under section 127C, the Settlement Commission shall, until an order is passed under sub-section [1][(*5*)] of section 127C, have, subject to the provisions of sub-section [2][(*4*)] of that section, exclusive jurisdiction to exercise the powers and perform the functions of any officer of customs or Central Excise Officer as the case may be, under this Act or in the Central Excise Act, 1944 (1 of 1944), as the case may be, in relation to the case.

(*3*) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matter other than those before the Settlement Commission.

(*4*) The Settlement Commission shall, subject to the provisions of Chapter V of the Central Excise Act, 1944 (1 of 1944) and this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

127G. Inspection, etc., of reports.—No person shall be entitled to inspect, or obtain copies of, any report made by any officer of the Customs to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of such fee as may be specified by rules:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment by such person of such fee as may be specified by rules, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

127 H. Power of Settlement Commission to grant immunity from prosecution and penalty.—(*1*) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 127B has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it

1. Subs. by Act 22 of 2007, s. 104, for "(*7*)" (w.e.f. 1-6-2007).
2. Subs. by s. 104, *ibid*., for "(*6*)" (w.e.f. 1-6-2007).

may think fit to impose, immunity from prosecution for any offence under this Act [1][and also either wholly or in part from the imposition of any penalty and fine] under this Act, with respect to the case covered by the settlement:

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 127B.

[2]* * * * *

(*2*) An immunity granted to a person under sub-section (*1*) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under [3][sub-section (*5*) of section 127C within the time specified in such order] or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(*3*) An immunity granted to a person under sub-section (*1*) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars, material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

127-I. Power of Settlement Commission to send a case back to the proper officer.—(*1*) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 127B has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the proper officer who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

(*2*) For the purpose of sub-section (*1*), the proper officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such proper officer or held or recorded by him in the course of the proceedings before him.

(*3*) For the purposes of the time limit under section 28 and for the purposes of interest under section 28AA, in a case referred to in sub-section (*1*), the period commencing on and from the date of the application to the Settlement Commission under section 127B and ending with the date of receipt by the officer of customs of the order of the Settlement Commission sending the case back to the officer of customs shall be excluded.

127J. Order of settlement to be conclusive.—Every order of settlement passed under sub-section [4][(*5*)] of section 127C shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

1. Subs. by Act 22 of 2007, s. 105, for "or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest" (w.e.f. 1-6-2007).
2. The *Explanation* omitted by Act 20 of 2015, s. 89 (w.e.f. 14-5-2015).
3. Subs. by Act 22 of 2007, s. 105, for "sub-section (*7*) of section 127C within the time specified in such order or within such further time as may be allowed by the Settlement Commission" (w.e.f. 1-6-2007).
4. Subs. by s. 106, *ibid*., for "(*7*)" (w.e.f. 1-6-2007).

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127K. Recovery of sums due under order of settlement.—Any sum specified in an order of settlement passed under sub-section [1][(*5*)] of section 127C may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions of section 142, by the proper officer having jurisdiction over the applicant.

127L. Bar on subsequent application for settlement in certain cases.—[2][(*1*)] [3][Where [4]***]

(*i*) an order of settlement [5]*** provides for the imposition of a penalty on the applicant under section 127B for settlement, on the ground of concealment of particulars of his duty liability; or

[6]*[Explanation*.—In this clause, the concealment of particulars of duty liability relates to any such concealment made from the officer of customs.]

(*ii*) after the passing of an order of settlement [5]*** in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(*iii*) the case of such person is sent back to the proper officer by the Settlement Commission under section 127-I,

then such person shall not be entitled to apply for settlement under section 127B in relation to any other matter.

[7]* * * * *

127M. Proceedings before Settlement Commission to be judicial proceedings.—Any proceedings under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860).

127MA. *[Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.]Omitted by the Finance Act,* 2007 *(*22 *of* 2007*), s.* 109 *(w.e.f.* 1-6-2007*).*

127N. Applications of certain provisions of Central Excise Act.—The provisions of Chapter V of the Central Excise Act, 1944 (1 of 1944) in so far as it is not inconsistent with the provisions of this Chapter shall apply in relation to proceedings before the Settlement Commission under this Chapter.]

[8][CHAPTER XV

APPEALS

128. Appeals to [9][Commissioner (Appeals)].—(*1*) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [10][Principal Commissioner of Customs or Commissioner of Customs] may appeal to the [9][Commissioner (Appeals)] [11][within sixty days] from the date of the communication to him of such decision or order:

[12][Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

1. Subs. by Act 22 of 2007, s. 107, for "(*7*)" (w.e.f. 1-6-2007).
2. Section 127L renumbered as sub-section (*1*) thereof by s. 108, *ibid*. (w.e.f. 11-5-2007).
3. Subs. by s. 108, *ibid*., for "where" (w.e.f. 11-5-2007).
4. The words, figures and letters "before the 1st day of June, 2007" omitted by Act 14 of 2010, s. 59 (w.e.f. 8-5-2010).
5. The certain words, brackets, figures and letters omitted by Act 20 of 2015, s. 90 (w.e.f. 14-5-2015).
6. Ins. by Act 25 of 2014, s. 85 (w.e.f. 6-8-2014).
7. Sub-section (*2*) omitted by 14 of 2010, s. 59 (w.e.f. 8-5-2010).
8. Subs. by Act 44 of 1980, s. 50 and The Fifth Schedule, for Chapter XV (w.e.f. 11-10-1982).
9. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
10. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
11. Subs. by Act 14 of 2001, s. 109, for "within three months" (w.e.f. 11-5-2001).
12. Subs. by s. 109, *ibid*., for the proviso (w.e.f. 11-5-2001).

[1][(*1A*) The Commissioner (Appeals) may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]

(*2*) Every appeal under this section shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf.

128A. Procedure in appeal.—(*1*) The [2][Commissioner (Appeals)] shall give an opportunity to the appellant to be heard if he so desires.

(*2*) The [2][Commissioner (Appeals)] may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the [2][Commissioner (Appeals)] is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*3*) [3][The Commissioner (Appeals)] shall, after making such further inquiry as may be necessary, pass pass such order, as he thinks [4][just and proper,—

(*a*) confirming, modifying or annulling the decision or order appealed against; or

(*b*) referring the matter back to the adjudicating authority with directions for fresh adjudication or decision, as the case may be, in the following cases, namely:—

(*i*) where an order or decision has been passed without following the principles of natural justice; or

(*ii*) where no order or decision has been passed after re-assessment under section 17; or

(*iii*) where an order of refund under section 27 has been issued by crediting the amount to Fund without recording any finding on the evidence produced by the applicant]:]

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the [2][Commissioner (Appeals)] is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

(*4*) The order of the [2][Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

[5][(*4A*) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.]

(*5*) On the disposal of the appeal, the [2][Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the adjudicating authority [6][, the [7][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] and the [8][Principal Commissioner of Customs or Commissioner of Customs]].

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1. Ins. by Act 23 of 2004, s. 68 (w.e.f. 10-9-2004).
2. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
3. Subs. by Act 14 of 2001, s. 110, for certain words and brackets (w.e.f. 11-5-2001).
4. Subs. by Act 13 of 2018, s. 96, for "just and proper, confirming, modifying or annulling the decision or order appealed against" (w.e.f. 28-3-2018).
5. Ins. by Act 14 of 2001, s. 110 (w.e.f. 11-5-2001).
6. Subs. by Act 18 of 2005, s. 69, for "and the Commissioner of Customs" (w.e.f. 13-5-2005).
7. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
8. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).

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129. Appellate Tribunal.—(*1*) The Central Government shall constitute an Appellate Tribunal to be called the Customs, Excise and [1][Service Tax] Appellate Tribunal consisting of as many judicial and technical members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

[2][(*2*) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the [3][Indian Legal Service] and has held a post in Grade I of that service or any equivalent or higher post for at least three years, or who has been an advocate for at least ten years.

Explanation.—For the purposes of this sub-section,—

(*i*) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(*ii*) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held a judicial office, or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.]

(*2A*) A technical member shall be a person who has been a member of the Indian Customs and Central Excise Service, Group A, and has held the post of [4][Principal Commissioner of Customs or Commissioner of Customs] or Central Excise or any equivalent or higher post for at least three years.]

[5][(*3*) The Central Government shall appoint—

(*a*) a person who is or has been a Judge of a High Court; or

(*b*) one of the members of the Appellate Tribunal,

to be the President thereof.]

(*4*) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President, or, as the case may be, Vice-Presidents, thereof.

[6]* * * * *

(*5*) [7][A Vice-President] shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

[8][(*6*) On ceasing to hold office, the President, Vice-President or other Member shall not be entitled to appear, act or plead before the Appellate Tribunal.]

[9][(*7*) Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President or other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall be governed by the provisions of section 184 of that Act:

Provided that the President. Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

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1. Subs. by Act 32 of 2003, s. 119, for "Gold (Control)" (w.e.f. 14-5-2003).
2. Subs. by Act 21 of 1984, s. 39, for sub-section (*2*) (w.e.f. 11-5-1984).
3. Subs. by Act 32 of 2003, s. 119, for "Central Legal Service" (w.e.f. 14-5-2003).
4. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
5. Subs. by Act 33 of 1996, s. 65, for sub-section (*3*) (w.e.f. 28-9-1996).
6. Sub-section (*4A*) omitted by Act 32 of 2003, s. 119 (w.e.f. 14-5-2003).
7. Subs. by s. 119, *ibid*., for "The Senior Vice-President or a Vice-President" (w.e.f. 14-5--2003).
8. Ins. by Act 22 of 2007, s. 110 (w.e.f. 11-5-2007).
9. Ins. by Act 7 of 2017, s. 175 (w.e.f. 26-5-2017) *vide* Notification S. O. No. 1696(E), dated (26-5-2017).

129A. Appeals to the Appellate Tribunal.—(*1*) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(*a*) a decision or order passed by the [1][Principal Commissioner of Customs or Commissioner of Customs] as an adjudicating authority;

(*b*) an order passed by the [2][Commissioner (Appeals)] under section 128A;

(*c*) an order passed by the Board or the Appellate [3][Commissioner of Customs] under Section 128, as it stood immediately before the appointed day;

(*d*) an order passed by the Board or the [1][Principal Commissioner of Customs or Commissioner of Customs], either before or after the appointed day, under section 130, as it stood immediately before that day:

[4][Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have have jurisdiction to decide any appeal in respect of any order referred to in clause (*b*) if such order relates to,—

(*a*) any goods imported or exported as baggage;

(*b*) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;

(*c*) payment of drawback as provided in Chapter X, and the rules made thereunder:

Provided further that] the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (*b*) or clause (*c*) or clause (*d*) where—

(*i*) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(*ii*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*iii*) the amount of fine or penalty determined by such order,

does not exceed [5][two lakh rupees].

[6][(*1A*) Every appeal against any order of the nature referred to in the first proviso to sub-section (*1*), which is pending immediately before the commencement of section 40 of the Finance Act, 1984 (21 of 1984), before the Appellate Tribunal and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on such commencement to the Central Government and the Central Government shall deal with such appeal or matter under section 129DD as if such appeal or matter were an application or a matter arising out of an application made to it under that section.]

[7][(*1B*) (*i*) The Board may, [8][by order], constitute such Committees as may be necessary for the purposes of this Act.

1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
2. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
3. Subs. by s. 50, *ibid*., for "Collector of Customs" (w.e.f. 26-5-1995).
4. Subs. by Act 21 of 1984, s. 40, for "Provided that" (w.e.f. 11-5-1984).
5. Subs. by Act 25 of 2014, s. 86, for "fifty thousand rupees" (w.e.f. 6-8-2014).
6. Ins. by Act 21 of 1984, s. 40 (w.e.f. 11-5-1984).
7. Ins. by Act 18 of 2005, s. 70 (w.e.f. 13-5-2005).
8. Subs. by Act 25 of 2014, s. 86, for "by notification in the Official Gazette" (w.e.f. 6-8-2014).

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(*ii*) Every Committee constituted under clause (*i*) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be.]

(*2*) [1][The Committee of Commissioners of Customs may, if it is] of opinion that an order passed by the Appellate [2][Principal Commissioner of Customs or Commissioner of Customs] under section 128, as it stood immediately before the appointed day, or by the [3][Commissioner (Appeals)] under section 128A, is not legal or proper, direct the proper officer to appeal [4][on its behalf] to the Appellate Tribunal against such order:

[5][Provided that where the Committee of [2][Principal Commissioners of Customs or 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 [6][Principal Chief Commissioner of Customs or 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 [6][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] having jurisdiction over the adjudicating authority in the matter.]

(*3*) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the [2][Principal Commissioner of Customs or Commissioner of Customs], or as the case may be, the other party preferring the appeal.

(*4*) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or sub-section (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

[7][(*6*) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,—

(*a*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(*b*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(*c*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*).

1. Subs. by Act 18 of 2005, s. 70, for "The Commissioner of Customs may, if he is" (w.e.f. 13-5-2005).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
4. Subs. by Act 18 of 2005, s. 70, for "on his behalf" (w.e.f. 13-5-2005).
5. The proviso ins. by Act 18 of 2008, s. 71 (w.e.f. 10-5-2008).
6. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
7. Subs. by Act 23 of 2004, s. 69 for sub section (6) (w.e.f. 1-11-2004) *vide* Notification No. 120/2004-Cus. (N. T.), dated 25-10-2004.

(*7*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal [1]*** for rectification of mistake or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees:

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the [2][Principal Commissioner of Customs or Commissioner of Customs] under this sub-section.]

129B. Orders of Appellate Tribunal.—(*1*) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

[3][(*1A*) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]

(*2*) The Appellate Tribunal may, at any time within [4][six months] from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (*1*) and shall make such amendments if the mistake is brought to its notice by the [2][Principal Commissioner of Customs or Commissioner of Customs] or the other party to the appeal:

Provided that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

[5][(*2A*) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within within a period of three years from the date on which such appeal is filed:

[6]* * * * *]

(*3*) The Appellate Tribunal shall send a copy of every order passed under this section to the [2][Principal Commissioner of Customs or Commissioner of Customs] and the other party to the appeal.

(*4*) Save as otherwise provided in section 130 or section 130E, orders passed by the Appellate Tribunal on appeal shall be final.

129C. Procedure of Appellate Tribunal.—(*1*) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.

(*2*) Subject to the provisions contained in [7][sub-section (*4*)], a Bench shall consist of one judicial member and one technical member.

[8]* * * * *

1. The words "for grant of stay or" omitted by Act 25 of 2014, s. 86 (w.e.f. 6-8-2014).
2. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Ins. by Act 23 of 2004, s. 70 (w.e.f. 10-9-2004).
4. Subs. by Act 20 of 2002, s, 127, for "four years" (w.e.f. 11-5-2002).
5. Ins. by s. 127, *ibid*. (w.e.f. 11-5-2002).
6. The first, second and third provisos omitted by Act 25 of 2014, s. 87 (w.e.f. 6-8-2014).
7. Subs. by Act 22 of 1995, s. 65, for "sub-sections (*3*) and (*4*)" (w.e.f. 26-5-1995).
8. Sub-section (*3*) omitted by s. 65, *ibid*. (w.e.f. 26-5-1995).

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(*4*) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where—

(*a*) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(*b*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*c*) the amount of fine or penalty involved,

does not exceed [1][fifty lakh rupees].

[2][(*5*) If the members of a Bench differ in opinion on any point, the point shall be decided according to to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.]

(*6*) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(*7*) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:—

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

(*8*) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

129D. Powers of [3][Committee of [4][Principal Chief Commissioner of Customs or Chief Commissioner of Customs]] or [5][Principal Commissioner of Customs or Commissioner of Customs] Customs] to pass certain orders.—(*1*) The [3][Committee of [4][Principal Chief Commissioner of Customs or Chief Commissioner of Customs]] may, of its own motion, call for and examine the record of any proceeding in which a [5][Principal Commissioner of Customs or Commissioner of Customs] as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct such [6][Commissioner] [7][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 by the [3][Committee of [4][Principal Chief Commissioners of Customs or Chief Commissioners of Customs]] in its order:

1. Subs. by Act 17 of 2013, s. 77, for "ten lakh rupees" (w.e.f. 10-5-2013).
2. Subs. by Act 12 of 1990, s. 62, for sub-section (*5*) (w.e.f. 31-5-1990).
3. Subs. by Act 18 of 2005, s. 71, for "Board" (w.e.f. 13-5-2005).
4. Subs. by 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
5. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).
6. Subs. by Act 22 of 1995, s. 50, for "Collector" (w.e.f. 26-5-1995).
7. Ins. by Act 14 of 2001, s. 111 (w.e.f. 11-5-2001).

[1][Provided that where the Committee of [2][Principal Chief Commissioners of Customs or Chief Commissioner of Customs] differs in its opinion as to the legality or propriety of the decision or order of the [3][Principal Commissioner of Customs or 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 [3][Principal Commissioner of Customs or Commissioner of Customs], if is of the opinion that the decision or order passed by the [3][Principal Commissioner of Customs or 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.]

(*2*) The [3][Principal Commissioner of Customs or Commissioner of Customs] may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct [4][such authority or any officer of Customs subordinate to him] to apply to the [5][Commissioner (Appeals)] for the determination of such points arising out of the decision or order as may be specified by the [3][Principal Commissioner of Customs or Commissioner of Customs] in his order.

[6][(*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.]

[7][Provided that the Board may, on sufficient cause being shown, extend the said period by another thirty days.]

(*4*) Where in pursuance of an order under sub-section (*1*) or sub-section (*2*), the adjudicating authority or any officer of customs authorised in this behalf by the [3][Principal Commissioner of Customs or Commissioner of Customs], makes an application to the Appellate Tribunal or the [5][Commissioner (Appeals)] within a period of [8][one month] from the date of communication of the order under sub-section (*1*) or sub-section (*2*) to the adjudicating authority, such application shall be heard by the Appellate Tribunal or the [5][Commissioner (Appeals)], as the case may be, as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act regarding appeals, including the provisions of sub-section (*4*) of section 129A shall, so far as may be, apply to such application.

[9][(*5*) The provisions of this section shall not apply to any decision or order in which the determination determination of any question having a relation to the rate of duty or to the value of goods for the purposes of assessment of any duty is in issue or is one of the points in issue.

Explanation.—For the purposes of this sub-section, the determination of a rate or duty in relation to any goods or valuation of any goods for the purposes of assessment of duty includes the determination of a question—

(*a*) relating to the rate of duty for the time being in force, whether under the Customs Tariff Act, 1975 (51 of 1975) or under any other Central Act providing for the levy and collection of any duty of customs in relation to any goods on or after the 28th day of February, 1986; or

(*b*) relating to the value of goods for the purposes of assessment of any duty in cases where the assessment is made on or after the 28th day of February, 1986; or

1. Ins. by Act 18 of 2008, s. 72 (w.e.f. 10-5-2008).
2. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Subs. by Act 29 of 2006, s. 29, for "such authority" (w.e.f. 13-7-2006).
5. Subs. by Act 22 of 1995, s. 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
6. Subs. by Act 18 of 2008, s. 72, for sub-section (*3*) (w.e.f. 10-5-2008).
7. Ins. by Act 25 of 2014, s. 88 (w.e.f. 6-8-2014).
8. Subs. by Act 22 of 2007, s. 111, for "three month" (w.e.f. 11-5-2007).
9. Ins. by Act 29 of 1988, s. 4 (w.e.f. 18-5-1988).

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(*c*) whether any goods fall under a particular heading or sub-heading of the First Schedule or the Second Schedule to the Customs Tariff Act, 1975 (51 of 1975), or that any goods are or not covered by a particular notification or order issued by the Central Government granting total or partial exemption from duty; or

(*d*) whether the value of any goods for the purposes of assessment of duty shall be enhanced or reduced by the addition or reduction of the amounts in respect of such matters as are specifically provided in this Act.]

[1][**129DA. Powers of revision of Board or Collector of Customs in certain cases**.—(*1*) The Board may, of its own motion or on the application of any aggrieved person or otherwise, call for and examine the record of any proceeding in which a Collector of Customs has passed any decision or order [not being a decision or order passed under sub-section (*2*) of this section] of the nature referred to in sub-section (*5*) of section 129D for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit.

(*2*) The Collector of Customs may, of his own motion or on the application of any aggrieved person or otherwise, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order of the nature referred to in sub-section (*5*) of section 129D for the purpose of satisfying himself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as he thinks fit.

(*3*) (*a*) No decision or order under this section shall be made so as to prejudicially affect any person unless such person is given a reasonable opportunity of making representation and if, he so desires, of being heard in his defence.

(*b*) Where the Board or, as the case may be, the Collector of Customs is of the opinion that any duty has not been levied or has been short-levied or short-paid or erroneously refunded, no order requiring the affected person to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed under this section unless such person is given notice within the time limit specified in section 28 to show cause against the proposed order.

(*4*) No proceeding shall be initiated under sub-section (*1*) or sub-section (*2*) in respect of any decision or order after the expiry of a period of six months from the date of communication of such decision or order:

Provided that in respect of any decision or order passed before the commencement of the Customs and Central Excises Laws (Amendment) Act, 1988 (29 of 1988), the provisions of this sub-section shall have effect as if for the words "six months", the words "one year" were substituted.

(*5*) Any person aggrieved by any decision or order passed under sub-section (*1*) or sub-section (*2*) may appeal to the Customs and Excise Revenues Appellate Tribunal established under section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986 (62 of 1986), against such decision or order.]

[2][**129DD. Revision by Central Government**.—(*1*) The Central Government may, on the application of any person aggrieved by any order passed under section 128A, where the order is of the nature referred to in the first proviso to sub-section (*1*) of section 129A, annul or modify such order.

[3][Provided that the Central Government may in its discretion, refuse to admit an application in respect respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees.]

Explanation.—For the purposes of this sub-section, "order passed under section 128A" includes an order passed under that section before the commencement of section 40 of the Finance Act, 1984 (21 of 1984), against which an appeal has not been preferred before such commencement and could have been, if the said section had not come into force, preferred after such commencement, to the Appellate Tribunal.

1. Ins. by Act 29 of 1988, s. 5 (w.e.f. 18-5-1988).
2. Ins. by Act 21 of 1984, s. 43 (w.e.f. 11-5-1984).
3. The proviso ins. by Act 27 of 1999, s. 110 (w.e.f. 11-5-1999).

[1][(*1A*) The [2][Principal Commissioner of Customs or Commissioner of Customs] may, if he is of the opinion that an order passed by the Commissioner (Appeals) under section 128A is not legal or proper, direct the proper officer to make an application on his behalf to the Central Government for revision of such order.]

(*2*) An application under sub-section (*1*) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made:

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months.

[3][(*3*) An application under sub-section (*1*) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of,—

(*a*) two hundred rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is one lakh rupees or less;

(*b*) one thousand rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees:

Provided that no such fee shall be payable in the case of an application referred to in sub-section (*1A*).]

(*4*) The Central Government may, of its own motion, annul or modify any order referred to in sub-section (*1*).

(*5*) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section,—

(*a*) in any case in which an order passed under section 128A has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value, and

(*b*) in any other case, unless the person affected by the proposed order has been given notice to show cause against it within one year from the date of the order sought to be annulled or modified.

(*6*) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in section 28.]

[4][**129E. Deposit of certain percentage of duty demanded or penalty imposed before filing appeal**.—The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal,—

(*i*) under sub-section (*1*) of section 128, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of customs lower in rank than the [2][Principal Commissioner of Customs or Commissioner of Customs];

(*ii*) against the decision or order referred to in clause (*a*) of sub-section (*1*) of section 129A, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;

(*iii*) against the decision or order referred to in clause (*b*) of sub-section (*1*) of section 129A, unless the appellant has deposited ten per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against:

1. Ins. by Act 27 of 1999, s. 110 (w.e.f. 11-5-1999).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by Act 27 of 1999, s. 110, for sub-section (*3*) (w.e.f. 11-5-1999).
4. Subs. by Act 25 of 2014, s. 89, for section 129E (w.e.f. 6-8-2014).

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Provided that the amount required to be deposited under this section shall not exceed rupees ten rores:

Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No. 2) Act, 2014 (25 of 2014).]

[1][**129EE. Interest on delayed refund of amount deposited under section 129E**.—Where an amount deposited by the appellant under section 129E is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till, the date of refund of such amount:

Provided that the amount deposited under section 129E, prior to the commencement of the Finance (No. 2) Act, 2014 (25 of 2014), shall continue to be governed by the provisions of section 129EE as it stood before the commencement of the said Act.]

[2]**[130. Appeal to High Court**.—(*1*) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The [3][Principal Commissioner of Customs or Commissioner of Customs] or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within one hundred and eighty days from the date on which the order appealed against is received by the [3][Principal Commissioner of Customs or Commissioner of Customs] or the other party;

(*b*) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(*c*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

[4][(*2A*) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (*a*) of sub-section (*2*), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(*3*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*4*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*5*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*6*) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal; or

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (*1*).

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1. Subs. by Act 25 of 2014, s. 90, for section 129EE (w.e.f. 6-8-2014).
2. Subs. by Act 32 of 2003, s. 120, for section 130 (w.e.f. 14-5-2003).
3. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Ins. by Act 33 of 2009, s. 87 (w.e.f. 1-7-2003).

(*7*) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(*8*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(*9*) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.]

[1]**[130A. Application to High Court**.—(*1*) The [2][Principal Commissioner of Customs or Commissioner of Customs] or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under section 129B passed [3][before the 1st day of July, 2003] (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

(*2*) The [2][Principal Commissioner of Customs or Commissioner of Customs] or the other party applying to the High Court under sub-section (*1*) shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Appellate Tribunal relevant to the question sought to be referred.

(*3*) On receipt of notice that an application has been made under sub-section (*1*), the person against whom such application has been made, may, notwithstanding that he may not have filed such application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the High Court as if it were an application presented within the time specified in sub-section (*1*).

[4][(*3A*) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*1*) or sub-section (*3*), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(*4*) If, on an application made under sub-section (*1*), the High Court directs the Appellate Tribunal to refer the question of law raised in the application, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such direction, draw up a statement of the case and refer it to the High Court.]

[5]**130B. Power of High Court or Supreme Court to require statement to be amended**.—If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

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1. Subs. by Act 27 of 1999, s. 112, for section 130A (w.e.f. 11-5-1999).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by Act 32 of 2003, s. 121, for "on or after the 1st day of July, 1999" (w.e.f. 14-5-2003).
4. Ins. by Act 33 of 2009, s. 88 (w.e.f. 1-7-1999).
5. Section 130B to be omitted by Act 49 of 2005, s. 30 (28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.

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[1]**130C. Case before High Court to be heard by not less than two judges**.—(*1*) When any case has been referred to the High Court [2][under section 130 or section 130A] it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(*2*) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

[3]**130D. Decision of High Court or Supreme Court on the case stated**.—(*1*) The High Court or the Supreme Court hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

[4][(*1A*) Where the High Court delivers a judgment in an appeal filed before it under section 130, effect shall be given to the order passed on the appeal by the proper officer on the basis of a certified copy of the judgment.]

(*2*) The costs of any [5][reference to the High Court or an appeal to the High Court or the Supreme Court as the case may be] which shall not include the fee for making the reference shall be in the discretion of the Court.

130E. Appeal to Supreme Court.—An appeal shall lie to the Supreme Court from—

[6][(*a*) any judgment of the High Court delivered—

(*i*) in an appeal made under section 130; or

(*ii*) on a reference made under section 130 by the Appellate Tribunal before the 1st day of July, 2003;

(*iii*) on a reference made under section 130A,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or]

(*b*) any order passed [7][before the establishment of the National Tax Tribunal] by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment.

130F. Hearing before Supreme Court.—(*1*) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 130E as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (*1*) of section 130D or section 131.

(*2*) The costs of the appeal shall be in the discretion of the Supreme Court.

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1. Section 130C to be omitted by Act 49 of 2005, s. 30 and the Schedule (28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
2. Subs. by Act 27 of 1999, s. 113, for "under section 130" (w.e.f. 11-5-1999).
3. Section 130D to be omitted by Act 49 of 2005, s. 30 and the Schedule (28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 the Madras Bar in Association *Vs* Union of India.
4. Ins. by Act 32 of 2003, s. 122 (w.e.f. 1-7-2003).
5. Subs. by s. 122, *ibid*., for "reference to the High Court or the Supreme Court" (w.e.f. 14-5-2003).
6. Subs. by s. 123, *ibid*., for clause (*a*) (w.e.f. 14-5-2003).
7. Ins. by Act 49 of 2005, s. 30 and the Schedule (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.

(*3*) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 130D in the case of a judgment of the High Court.

131. Sums due to be paid notwithstanding reference, etc.—Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, [1][under this Act before the commencement of the National Tax Tribunal Act, 2005] sums due to the Government as a result of an order passed under sub-section (*1*) of section 129B shall be payable in accordance with the order so passed.

131A. Exclusion of time taken for copy.—In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

131B. Transfer of certain pending proceedings and transitional provisions.—(*1*) Every appeal which is pending immediately before the appointed day before the Board under section 128, as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(*2*) Every proceeding which is pending immediately before the appointed day before the Central Government under section 131, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it:

Provided that if any such proceeding or matter relates to an order where—

(*a*) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(*b*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*c*) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Central Government as if the said section 131 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that before proceeding further with that proceeding or matter, he may be re-heard.

(*3*) Every proceeding which is pending immediately before the appointed day before the Board or the [2][Principal Commissioner of Customs or Commissioner of Customs] under section 130, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Board or the [2][Principal Commissioner of Customs or Commissioner of Customs], as the case may be, as if the said section had not been substituted.

(*4*) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (*1*) or sub-section (*2*) shall, notwithstanding anything contained in section 146A, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

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1. Ins. by Act 49 of 2005, s. 30 and the Schedule (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).

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[1][**131BA. Appeal not to be filed in certain cases**.—(*1*) The Board may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the [2][Principal Commissioner of Customs or Commissioner of Customs] under the provisions of this Chapter.

(*2*) Where, in pursuance of the orders or instructions or directions, issued under sub-section (*1*), the [2][Principal Commissioner of Customs or Commissioner of Customs] has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such [2][Principal Commissioner of Customs or Commissioner of Customs] from filing any appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(*3*) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the [2][Principal Commissioner of Customs or Commissioner of Customs] pursuant to the orders or instructions or directions issued under sub- section (*1*), no person, being a party in appeal, application, revision or reference shall contend that the [2][Principal Commissioner of Customs or Commissioner of Customs] has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(*4*) [3][The Commissioner (Appeals) or the Appellate Tribunal or the court] hearing an appeal, application, revision or reference shall have regard to the circumstances under which the appeal, application, revision or reference was not filed by the [2][Principal Commissioner of Customs or Commissioner of Customs] in pursuance of orders or instructions or directions issued under sub-section (*1*).

(*5*) Every order or instruction or direction issued by the Board on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing appeal, application, revision or reference shall be deemed to have been issued under sub-section (*1*), and the provisions of sub-sections (*2*), (*3*) and (*4*) shall apply accordingly.]

131C. Definitions.—In this Chapter—

(*a*) "appointed day" means the date of coming into force of the amendments to this Act specified in Part I of the Fifth Schedule to the Finance (No. 2) Act, 1980 (44 of 1980);

[4][(*b*) High Court" means,—

(*i*) in relation to any State, the High Court for that State;

(*ii*) in relation to a Union territory to which the jurisdiction of the High Court of a State has been extended by law, that High Court;

(*iii*) in relation to the Union territories of Dadra and Nagar Haveli and [5][Daman and Diu], the High Court at Bombay;

(*iv*) in relation to any other Union territory, the highest court of civil appeal for that territory other than the Supreme Court of India;]

(*c*) "President" means the President of the Appellate Tribunal.

1. Ins. by Act 8 of 2011, s. 50 (w.e.f. 20-10-2008).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by s. 91, *ibid*., for "The Appellate Tribunal or court" (w.e.f. 6-8-2014).
4. Clause (*b*) shall be omitted by Act 49 of 2005, s. 30 and the Schedule (28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association *Vs* Union of India.
5. Subs. by Act 18 of 1987, s. 5, for "Goa, Daman and Diu" (w.e.f. 30-5-1987).

CHAPTER XVI

OFFENCES AND PROSECUTIONS

132. False declaration, false documents, etc.—Whoever makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, shall be punishable with imprisonment for a term which may extend to [1][two years], or with fine, or with both.

133. Obstruction of officer of customs.—If any person intentionally obstructs any officer of customs in the exercise of any powers conferred under this Act, such person shall be punishable with imprisonment for a term which may extend to [2][two years], or with fine, or with both.

134. Refusal to be X-rayed.—If any person—

(*a*) resists or refuses to allow a radiologist to screen or to take X-ray picture of his body in accordance with an order made by a Magistrate under section 103, or

(*b*) resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out goods liable to confiscation secreted inside his body, as provided in section 103,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

135. Evasion of duty or prohibitions.—[3][(*1*) Without prejudice to any action that may be taken under this Act, if any person—

(*a*) is in relation to any goods in any way knowingly concerned in misdeclaration of value or in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods; or

(*b*) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under Section 111 or Section 113, as the case may be; or

(*c*) attempts to export any goods which he knows or has reason to believe are liable to confiscation under Section 113; or

(*d*) fraudulently avails of or attempts to avail of drawback or any exemption from duty provided under this Act in connection with export of goods,

he shall be punishable,—

(*i*) in the case of an offence relating to,—

(*A*) any goods the market price of which exceeds one crore of rupees; or

(*B*) the evasion or attempted evasion of duty exceeding [4][fifty lakh] of rupees; or

(*C*) such categories of prohibited goods as the Central Government may, by notification in the Official Gazette, specify; or

1. Subs. by Act 29 of 2006, s. 30, for "six months" (w.e.f. 13-7-2006).
2. Subs. by s. 31, *ibid*., for "six months" (w.e.f. 13-7-2006).
3. Subs. by Act 22 of 2007, s. 112, for sub-section (*1*) (w.e.f. 11-5-2007).
4. Subs. by Act 17 of 2013, s. 78, for "thirty lakh" (w.e.f. 10-5-2013).

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(*D*) fraudulently availing of or attempting to avail of drawback or any exemption from duty referred to in clause (*d*), if the amount of drawback or exemption from duty exceeds [1][fifty lakh] of rupees, with imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than one year;

(*ii*) in any other case, with imprisonment for a term which may extend to three years, or with fine, or with both.]

[2][(*2*) If any person convicted of an offence under this section or under sub-section (*1*) of section 136 is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court such imprisonment shall not be for less than [3][one year].

(*3*) For the purposes of sub-sections (*1*) and (*2*), the following shall not be considered as special and adequate reasons for awarding a sentence of imprisonment for a term of less than [3][one year], namely:—

(*i*) the fact that the accused has been convicted for the first time for an offence under this Act;

(*ii*) the fact that in any proceeding under this Act, other than a prosecution, the accused has been ordered to pay a penalty or the goods which are the subject matter of such proceedings have been ordered to be confiscated or any other action has been taken against him for the same act which constitutes the offence;

(*iii*) the fact that the accused was not the principal offender and was acting merely as a carrier of goods or otherwise was a secondary party to the commission of the offence;

(*iv*) the age of the accused.]

[4]**[135A. Preparation**.—If a person makes preparation to export any goods in contravention of the provisions of this Act, and from the circumstances of the case it may be reasonably inferred that if not prevented by circumstances independent of his will, he is determined to carry out his intention to commit the offence, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

135B. Power of court to publish name, place of business, etc., of persons convicted under the Act.—(*1*) Where any person is convicted under this Act for contravention of any of the provisions thereof, it shall be competent for the court convicting the person to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person in such newspapers or in such manner as the court may direct.

(*2*) No publication under sub-section (*1*) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(*3*) The expenses of any publication under sub-section (*1*) shall be recoverable from the convicted person as if it were a fine imposed by the court.]

136. Offences by officers of customs.—(*1*) If any officer of customs enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or [5][connives at any act or thing, whereby any fraudulent export is effected or] any duty of customs leviable on any goods, or any prohibition for the

1. Subs. by Act 17 of 2013, s. 78, for "thirty lakh" (w.e.f. 10-5-2013).
2. Ins. by Act 36 of 1973, s. 5 (w.e.f. 1-9-1973).
3. Subs. by Act 25 of 1978, s. 16, for "six months" (w.e.f. 1-7-1978).
4. Ins. by Act 36 of 1973, s. 6 (w.e.f. 1-9-1973).
5. Subs. by Act 32 of 2003, s. 125, for "connives at any act or thing whereby" (w.e.f. 14-5-2003).

time being in force under this Act or any other law for the time being in force with respect to any goods is or may be evaded, he shall be punishable with imprisonment for a term which may extend to [1][three years], or with fine, or with both.

(*2*) If any officer of customs,—

(*a*) requires any person to be searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or document secreted about his person; or

(*b*) arrests any person without having reason to believe that he has been guilty of an offence punishable under section 135; or

(*c*) searches or authorises any other officer of customs to search any place without having reason to believe that any goods, documents or things of the nature referred to in section 105 are secreted in that place,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(*3*) If any officer of customs, except in the discharge in good faith of his duty as such officer or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

137. Cognizance of offences.—(*1*) No court shall take cognizance of any offence under section 132, section 133, section 134 or [2][section 135 or section 135A], except with the previous sanction of the [3][Principal Commissioner of Custom or Commissioner of Customs].

(*2*) No court shall take cognizance of any offence under section 136,—

(*a*) where the offence is alleged to have been committed by an officer of customs not lower in rank than [4][Assistant Commissioner of Customs or Deputy Commissioner of Customs], except with the previous sanction of the Central Government;

(*b*) where the offence is alleged to have been committed by an officer of customs lower in rank than [4][Assistant Commissioner of Customs or Deputy Commissioner of Customs] except with the previous sanction of the [3][Principal Commissioner of Customs or Commissioner of Customs].

[5][(*3*) Any offence under this Chapter may, either before or after the institution of prosecution, be compounded by the [6][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] on payment, by the person accused of the offence to the Central Government, of [7][such compounding amount and in such manner of compounding] as may be specified by rules.]

[8][Provided that nothing contained in this sub-section shall apply to—

(*a*) a person who has been allowed to compound once in respect of any offence under sections 135 and 135A;

1. Subs. by Act 36 of 1973, s. 7, for "two years" (w.e.f. 1-9-1973).
2. Subs. by Act 29 of 2006, s. 32, for "section 135" (w.e.f. 13-7-2006).
3. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Subs. by Act 22 of 1995, s. 50, for "Assistant Collector of Customs" (w.e.f. 26.5.1995). Again Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
5. Ins. by Act 23 of 2004, s. 71 (w.e.f. 10-9-2004).
6. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
7. Subs. by Act 33 of 2009, s. 89, for "such compounding amount" (w.e.f. 19-8-2009).
8. Ins. by s. 89, *ibid*. (w.e.f. 19-8-2009).

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(*b*) a person who has been accused of committing an offence under this Act which is also an offence under any of the following Acts, namely:—

(*i*) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);

(*ii*) the Chemical Weapons Convention Act, 2000 (34 of 2000);

(*iii*) the Arms Act, 1959 (54 of 1959);

(*iv*) the Wild Life (Protection) Act, 1972 (53 of 1972);

(*c*) a person involved in smuggling of goods falling under any of the following, namely:—

(*i*) goods specified in the list of Special Chemicals, Organisms, Materials, Equipment and Technology in Appendix 3 to Schedule 2 (Export Policy) of ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(*ii*) goods which are specified as prohibited items for import and export in the ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);

(*iii*) any other goods or documents, which are likely to affect friendly relations with a foreign State or are derogatory to national honour;

(*d*) a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;

(*e*) a person who has been convicted under this Act on or after the 30th day of December, 2005.]

138. Offences to be tried summarily.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Chapter other than an offence punishable [1][under clause (*i*) of sub-section (*1*) of section 135 or under sub-section (*2*) of that section] may be tried summarily by a Magistrate.

[2]**[138A. Presumption of culpable mental state**.—(*1*) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this section, "culpable mental state" includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact.

(*2*) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

138B. Relevancy of statements under certain circumstances.—(*1*) A statement made and signed by a person before any gazetted officer of customs during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(*a*) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

1. Subs. by Act 36 of 1973, s. 8, for "under clause (*i*) of section 135" (w.e.f. 1-9-1973).
2. Ins. by s. 9, *ibid*. (w.e.f. 1-9-1973).

(*b*) when the person who made the statement is examined as a witness in the case before the court and the court is of opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.

(*2*) The provisions of sub-section (*1*) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a court, as they apply in relation to a proceeding before a court.]

[1]**[138C. Admissibility of micro films, facsimile copies of documents and computer print outs as documents and as evidence**.—(*1*) Notwithstanding anything contained in any other law for the time being in force,—

(*a*) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(*b*) a facsimile copy of a document; or

(*c*) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer print out"), if the conditions mentioned in sub-section (*2*) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question,

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(*2*) The conditions referred to in sub-section (*1*) in respect of a computer printout shall be the following, namely:—

(*a*) the computer printout containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(*b*) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(*c*) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(*d*) the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of the said activities.

(*3*) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (*a*) of sub-section (*2*) was regularly performed by computers, whether—

(*a*) by a combination of computers operating over that period; or

(*b*) by different computers operating in succession over that period; or

(*c*) by different combinations of computers operating in succession over that period; or

(*d*) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

1. Ins. by Act 29 of 1988, s. 6 (w.e.f. 1-7-1988) *vide* Notification No. 18/88-C.E. (N.T.), dated 29-6-1988.

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all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(*4*) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(*a*) identifying the document containing the statement and describing the manner in which it was produced;

(*b*) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(*c*) dealing with any of the matters to which the conditions mentioned in sub-section (*2*) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(*5*) For the purposes of this section,—

(*a*) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(*b*) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(*c*) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.—For the purposes of this section,—

(*a*) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and

(*b*) any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.]

[1]**[139. Presumption as to documents in certain cases**.—Where any document—

(*i*) is produced by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law, or

(*ii*) has been received from any place outside India in the course of investigation of any offence alleged to have been committed by any person under this Act,

and such document is tendered by the prosecution in evidence against him or against him and any other person who is tried jointly with him, the court shall—

(*a*) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

1. Subs. by Act 36 of 1973, s. 10 for section 139 (w.e.f. 1-9-1973).

(*b*) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;

(*c*) in a case falling under clause (*i*) also presume, unless the contrary is proved, the truth of the contents of such document.]

[1][*Explanation*.—For the purposes of this section, "document" includes inventories, photographs and lists certified by a Magistrate under sub-section (*1C*) of section 110.]

140. Offences by companies.—(*1*) If the person committing an offence under this Chapter is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Chapter if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

[2]**[140A. Application of section 562 of the Code of Criminal Procedure, 1898, and of the Probation of Offenders Act, 1958**.—(*1*) Nothing contained in section 562 of the Code of Criminal Procedure, 1898 (5 of 1898), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

(*2*) The provisions of sub-section (*1*) shall have effect notwithstanding anything contained in sub-section (*3*) of section 135.]

CHAPTER XVII

MISCELLANEOUS

141. Conveyances and goods in a customs area subject to control of officers of customs.—[3][(*1*)] All conveyances and goods in a customs area shall, for the purpose of enforcing the provisions of this Act, be subject to the control of officers of customs.

[4][(*2*) The imported or export goods may be received, stored, delivered, despatched 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.]

142. Recovery of sums due to Government.—(*1*) [5][Where any sum payable by any person] under this Act [6][including the amount required to be paid to the credit of the Central Government under section 28B] is not paid,—

1. Ins. by Act 80 of 1985, s. 11 (w.e.f. 27-12-1985).
2. Ins. by Act 36 of 1973, s. 11 (w.e.f. 1-9-1973).
3. Section 141 numbered as sub-section (*1*) thereof by Act 18 of 2008, s. 74 (w.e.f. 10-5-2008).
4. Ins. by s. 74, *ibid*. (w.e.f. 10-5-2008).
5. Subs. by Act 22 of 1995, s. 66, for certain words (w.e.f. 26-5-1995).
6. Ins. by Act 10 of 2000, s. 88 (w.e.f. 12-5-2000).

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(*a*) the proper officer may deduct or may require any other officer of customs 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; or

(*b*) the [1][Assistant Commissioner of Customs or Deputy Commissioner of Customs] may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the [1][Assistant Commissioner of Customs or Deputy Commissioner of Customs] or such other officer of customs; or

[2][(*c*) if the amount cannot be recovered from such person in the manner provided in clause (*a*) or clause (*b*)—

(*i*) the [1][Assistant Commissioner of Customs or Deputy Commissioner of Customs] may prepare a certificate signed by him 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 and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue; or

(*ii*) the proper officer may, on an authorisation by [3][Principal Commissioner of Customs or Commissioner of Customs] and in accordance with the rules made in this behalf, 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; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus, if any, to such person;]

[4][Provided that where the person (hereinafter referred to as predecessor), by whom any sum payable under this Act including the amount required to be paid to the credit of the Central Government under section 28B is not paid, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, materials, preparations, plants, machineries, vessels, utensils, implements and articles in the custody or possession of the person so succeeding may also be attached and sold by the proper officer, after obtaining written approval from the [3][Principal Commissioner of Customs or Commissioner of Customs], for the purposes of recovering the amount so payable by such predecessor at the time of such transfer or otherwise disposal or change.]

[5][(*d*) (*i*) the proper officer may, by a notice in writing, require any other person from whom money is due to such person or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(*ii*) every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before the payment is made, notwithstanding any rule, practice or requirement to the contrary;

1. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
2. Subs. by Act 22 of 1995, s. 66, for clause (*c*) (w.e.f. 26-5-1995).
3. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Ins. by Act 23 of 2004, s. 72 (w.e.f. 10-9-2004).
5. Ins. by Act 17 of 2013, s. 79 (w.e.f. 10-5-2013).

(*iii*) in case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Chapter shall follow.]

(*2*) 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 provisions of that sub-section.

[1]**[142A. Liability under Act to be first charge**.—Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest or any other sum payable by an assessee or any other person under this Act, shall, save as otherwise provided in section 529A of the Companies Act, 1956 (1 of 1956), the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 (51 of 1993) and [2][the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002) and the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]]

143. Power to allow import or export on execution of bonds in certain cases.—(*1*) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the [3][Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the [3][Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the [3][Assistant Commissioner of Customs or Deputy Commissioner of Customs] approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(*2*) If the thing is done within the time specified in the bond, the [3][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; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(*3*) If the thing is not done within the time specified in the bond, the [3][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.

143A. *[Duty deferment.]Omitted by The Finance Act,* 2013 (17 *of* 2013), *s.* 80 (*w.e.f.* 10-5-2013).

[4]**[143AA. Power to simplify or provide different procedure, etc., to facilitate trade**.—Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to,—

(*a*) maintain transparency in the import and export documentation; or

(*b*) expedite clearance or release of goods entered for import or export; or

(*c*) reduce the transaction cost of clearance of importing or exporting goods; or

(*d*) maintain balance between customs control and facilitation of legitimate trade.]

1. Ins. by Act 8 of 2011, s. 51 (w.e.f. 8-4-2011).
2. Subs. by Act 31 of 2016, s. 248, for "and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)" (w.e.f. 1-11-2016) *vide* Notification S.O. No. 3355(E), dated 1-11-2016.
3. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
4. Ins. by Act 13 of 2018, s. 97 (w.e.f. 28-3-2018).

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144. Power to take samples.—(*1*) The proper officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs area, take samples of such goods in the presence of the owner thereof, for examination or testing, or for ascertaining the value thereof, or for any other purposes of this Act.

(*2*) 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 three months of the date on which the sample was taken, it may be disposed of in such manner as the [1][Principal Commissioner of Customs or Commissioner of Customs] may direct.

(*3*) No duty shall be chargeable on any sample of goods taken under this section which is consumed or destroyed during the course of any test or examination thereof, [2]***.

145. Owner, etc., to perform operations incidental to compliance with customs law.—All operations necessary for making any goods available for examination by the proper officer or for facilitating such examination shall be performed by, or at the expense of, the owner, importer or exporter of the goods, as the case may be.

[3]**[146. Licence for customs brokers**.—(*1*) No person shall carry on business as a customs broker 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.

(*2*) The Board may 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 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 a customs broker;

(*d*) the manner of conducting the examination;

(*e*) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;

(*f*) the circumstances in which a licence may be suspended or revoked; and

(*g*) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeal may be filed.]

[4]**[146A. Appearance by authorised representative**.—(*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.

(*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 [5][custom broker] licensed under section 146; or

(*c*) any legal practitioner who is entitled to practise in any civil court in India; or

1. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
2. The words ", if such duty amounts to five rupees or more" omitted by Act 17 of 2013, s. 81 (w.e.f. 10-5-2013).
3. Subs. by Act 17 of 2013, s. 82, for section 146 (w.e.f. 10-5-2013).
4. Ins. by Act 44 of 1980, s. 50 and The Fifth Schedule (w.e.f. 11-10-1982).
5. Subs. by Act 17 of 2013, s. 83, for "customs house agent" (w.e.f. 10-5-2013).

(*d*) any person who has acquired such qualifications as the Central Government may specify by rules made in this behalf.

(*3*) Notwithstanding anything contained in this section, no person who was a member of the Indian Customs and Central Excise Service-Group A and has retired or resigned from such Service after having served for not less than three years in any capacity in that Service shall be entitled to appear as an authorised representative in any proceedings before an officer of customs for a period of two years from the date of his retirement or resignation, as the case may be.

(*4*) No person,—

(*a*) who has been dismissed or removed from Government service; or

[1][(*b*) who is convicted of an offence connected with any proceeding under this Act, the Central Excise and Salt Act, 1944 (1 of 1944), or the Gold (Control) Act, 1968 (45 of 1968) or the Finance Act, 1994 (32 of 1994); or]

(*c*) who has become an insolvent,

shall be qualified to represent any person under sub-section (*1*), for all times in the case of a person referred to in clause (*a*), and for such time as the [2][Principal Commissioner of Customs or Commissioner of Customs] or the competent authority under the [3][Central Excise and Salt Act, 1944 (1 of 1944), or the Gold (Control) Act, 1968 (45 of 1968) or the Finance Act, 1994 (32 of 1994)], as the case may be, 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*).

(*5*) 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 practice 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*).

(*6*) 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:—

(*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.]

147. Liability of principal and agent.—(*1*) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(*2*) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner,

1. Subs. by Act 17 of 2013, s. 83, for clause (*b*) (w.e.f. 10-5-2013).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by Act 17 of 2013, s. 83, for "Central Excises and Salt Act, 1944 (1 of 1944) or the Gold (Control) Act, 1968 (45 of 1968)" (w.e.f. 10-5-2013).

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importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(*3*) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes [1][including liability therefor under this Act]:

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered from the agent unless in the opinion of [2][Assistant Commissioner of Customs or Deputy Commissioner of Customs] the same cannot be recovered from the owner, importer or exporter.

148. Liability of agent appointed by the person in charge of a conveyance.—(*1*) Where this Act requires anything to be done by the person in charge of a conveyance, it may be done on his behalf by his agent.

(*2*) An agent appointed by the person in charge of a conveyance and any person who represents himself to any officer of customs as an agent of any such person in charge, and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person in charge by or under this Act or any law for the time being in force, and to penalties and confiscations which may be incurred in respect of that matter.

149. Amendment of documents.—Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

150. Procedure for sale of goods and application of sale proceeds.—(*1*) 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.

(*2*) The proceeds of any such sale shall be applied—

(*a*) firstly to the payment of the expenses of the sale,

(*b*) 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,

(*c*) next to the payment of the duty, if any, on the goods sold,

(*d*) next to the payment of the charges in respect of the goods sold due to the person having the custody of the goods,

(*e*) 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,

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

1. Ins. by Act 17 of 2013, s. 84 (w.e.f. 10-5-2013).
2. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

[1][Provided that where it is not possible to pay the balance of sale proceeds, if any, to the owner of the goods within a period of six months from the date of sale of such goods or such further period as the [2][Principal Commissioner of Customs or Commissioner of Customs] may allow, such balance of sale proceeds shall be paid to the Central Government.]

151. Certain officers required to assist officers of customs.—The following officers are hereby empowered and required to assist officers of customs in the execution of this Act, namely:—

(*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.

[3][**151A. Instructions to officers of customs**.—The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of goods or with respect to the levy of duty thereon, [4][or for the implementation of any other provisions of this Act or of any other law for the time being in force, insofar as they relate to any prohibition, restriction or procedure for import or export of goods] issue such orders, instructions and directions to officers of customs as it may deem fit and such officers of customs and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that 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 [5][Commissioner of Customs] (Appeals) in the exercise of his appellate functions.]

[6][**151B. Reciprocal arrangement for exchange of information facilitating trade**.—(*1*) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.

(*2*) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.

(*3*) Subject to the provisions of sub-section (*2*), the information received under sub-section (*1*) may also be used as evidence in investigations and proceedings under this Act.

(*4*) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.

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1. The proviso ins. by Act 8 of 2011, s. 52 (w.e.f. 8-4-2011).
2. Subs. by Act 25 of 2014, s. 78, for "Commissioner of Customs" (w.e.f. 6-8-2014).
3. Ins. by Act 80 of 1985, s. 12 (w.e.f. 27-12-1985).
4. Ins. by Act 8 of 2011, s. 53 (w.e.f. 8-4-2011).
5. Subs. by Act 22 of 1995, s. 50, for "Collector of Customs" (w.e.f. 26-5-1995).
6. Ins. by Act 13 of 2018, s. 98 (w.e.f. 28-3-2018).

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(*5*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*) or sub-section (*3*), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.

Explanation.—For the purposes of this section, the expressions,—

(*i*) "contracting State" means any country outside India in respect of which agreement or arrangements have been made by the Central Government with the Government or authority of such country through an agreement or otherwise;

(*ii*) "corresponding law" means any law in force in the contracting State corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the offences under this Act.]

152. Delegation of powers.—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 [1][a [2][Principal Chief Commissioner of Customs or Chief Commissioner of Customs] or a [3][Principal Commissioner of Customs or Commissioner of Customs]] empowered in this behalf by the Central Government;

(*b*) any power exercisable by a [3][Principal Commissioner of Customs or Commissioner of Customs] under this Act may be exercisable also by a [4][Joint Commissioner of Customs] or an [5][Assistant Commissioner of Customs or Deputy Commissioner of Customs] empowered in this behalf by the Central Government;

(*c*) any power exercisable by a [4][Joint Commissioner of Customs] under this Act may be exercisable also by an [5][Assistant Commissioner of Customs or Deputy Commissioner of Customs] empowered in this behalf by the Central Government;

(*d*) any power exercisable by an [5][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.

[6]**[153. Modes for service of notice order, etc**.—(*1*) An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

(*a*) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(*b*) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(*c*) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

1. Subs by Act 29 of 1988, s. 7, for "a Collector of Customs" (w.e.f. 1-7-1988) *vide* Notification No. 18/88 (N.T.)-C.E., dated 29-6-1988.
2. Subs. by Act 25 of 2014, s. 78, for "Chief Commissioner of Customs" (w.e.f. 6-8-2014).
3. Subs. by s. 78, *ibid*., for "Commissioner of Customs" (w.e.f. 6-8-2014).
4. Subs. by Act 27 of 1999, s. 100, for "Deputy Commissioner of Customs" (w.e.f. 11-5-1999).
5. Subs. by s. 100, *ibid*., for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).
6. Subs. by Act 13 of 2018, s. 99, for section 153 (w.e.f. 28-3-2018).

(*d*) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(*e*) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(*2*) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (*1*).

(*3*) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

154. Correction of clerical errors, etc.—Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be.

[1]**[154A. Rounding off of duty, etc**.—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.]

[2]**[154B. Publication of information respecting persons in certain cases**.—(*1*) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under this Act in respect of such person, it may cause to be published such names and particulars in such manners as it thinks fit.

(*2*) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Commissioner (Appeals) under section 128 or the Appellate Tribunal under section 129A, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—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 treasures 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.]

155. Protection of action taken under the Act.—(*1*) No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Government or a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act or the rules or regulations.

(*2*) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

156. General power to make rules.—(*1*) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.

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1. Ins. by Act 12 of 1990, s. 62 (w.e.f. 31-5-1990).
2. Ins. by Act 29 of 2006, s. 33 (w.e.f. 13-7-2006).

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(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

[1][(*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;

[2][(*c*) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.]

(*d*) 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;

(*e*) 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;

(*f*) 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;

[3][(*g*) 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.]

[4][(*h*) the amount to be paid [5][for compounding and the manner of compounding] under sub-section (*3*) of section 137.]

157. General power to make regulations.—(*1*) Without prejudice to any power to make regulations contained elsewhere in this Act, the Board may make regulations consistent with this Act and the rules, generally to carry out the purposes of this Act.

(*2*) 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 [6][and manner to deliver or present] of a bill of entry, shipping bill, bill of export, [7][arrival manifest or import manifest], import report, [8][departure manifest or export manifest], export report, [9][bill of transhipment, declaration for transhipment] boat note and bill of coastal goods;

[10][(*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 clause (*d*) of sub-section (*1*) of section 26A;

(*aii*) the form and manner of making application for refund of duty under sub-section (*2*) of section 26A;]

1. Subs. by Act 22 of 2007, s. 113, for clause (*a*) (w.e.f. 10-10-2007) *vide* Notification No. 93/2007-Cus. (N.T.), dated 10-9-2007.
2. Ins. by Act 28 of 2016, s. 138 (w.e.f. 14-5-2016).
3. Added by Act 36 of 1973, s. 12 (w.e.f. 1-9-1973).
4. Ins. by Act 23 of 2004, s. 73 (w.e.f. 10-9-2004).
5. Subs. by Act 33 of 2009, s. 90, for "for compounding" (w.e.f. 19-8-2009).
6. Ins. by Act 13 of 2018, s. 100 (w.e.f. 28-3-2018).
7. Subs. by s. 56, *ibid*., for "import manifest" (w.e.f. 28-3-2018).
8. Subs. by s. 56, *ibid*., for "export manifest" (w.e.f. 28-3-2018).
9. Subs. by Act 27 of 1999, s. 115, for "bill of transhipment" (w.e.f. 11-9-1999).
10. Ins. by Act 33 of 2009, s. 91 (w.e.f. 19-8-2009).

[1][(*aa*) the [2][form and manner] in which an application for refund shall be made under section 27;]

[3][(*ab*) the form, the particulars, the manner and the time of delivering the passenger and crew manifest for arrival and departure and passenger name record information and the penalty for delay in delivering such information under sections 30A and 41A;]

(*b*) the conditions subject to which the transhipment 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;

(*c*) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65.

[4][(*d*) the time and manner of finalisation of provisional assessment;

(*e*) the manner of conducting pre-notice consultation;

(*f*) the circumstances under which, and the manner in which, supplementary notice may be issued;

(*g*) the form and manner in which an application for advance ruling or appeal shall be made, and the procedure for the Authority, under Chapter VB;

(*h*) the manner of clearance or removal of imported or export goods;

(*i*) the documents to be furnished in relation to imported goods;

(*j*) the conditions, restrictions and the manner of making deposits in electronic cash ledger, the utilisation and refund therefrom and the manner of maintaining such ledger;

(*k*) the manner of conducting audit;

(*l*) the goods for controlled delivery and the manner thereof;

(*m*) the measures and separate procedure or documentation for a class of importers or exporters or categories of goods or on the basis of the modes of transport of goods.]

158. Provisions with respect to rules and regulations.—(*1*) All rules and regulations made under this Act shall be published in the Official Gazette.

(*2*) 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;

[5][(*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.]

[6][**159. Rules, certain notifications and orders to be laid before Parliament**.—Every rule or regulation made under this Act, every notification issued under sections 11, 11B, 11H, 11-I, 11K, 11N, 14, 25, 28A, 43, 66, 69, 70, 74, 75, 76, 98, 98A, 101 and 123 and every order made under sub-section (*2*) of section 25, other than an order relating to goods of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in

1. Ins. by Act 40 of 1991, s. 14 (w.e.f. 20-9-1991).
2. Subs. by Act 22 of 1995, s. 67, for "form" (w.e.f. 26-5-1995).
3. Ins. by Act 7 of 2017, s. 108 (w.e.f. 31-3-2017).
4. Subs. by Act 13 of 2018, s. 100, for clause (*d*) (w.e.f. 28-3-2018).
5. Subs. by Act 18 of 2008, s. 75, for clause (*ii*) (w.e.f. 10-5-2008).
6. Subs. by Act 22 of 1995, s. 68, for section 159 (w.e.f. 26-5-1995).

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session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or order, or both Houses agree that the rule or regulation should not be made or notification or order should not be issued or made, the rule or regulation or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification or order.]

[1][**159A. Effect of amendments, etc., of rules, regulations, notifications or orders**.—Where any rule, regulation, notification or order made or issued under this Act or any notification or order issued under such rule or regulation, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not—

(*a*) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or

(*b*) affect the previous operation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, regulation, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.]

160. Repeal and savings.—(*1*) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(*2*) In the Indian Tariff Act, 1934 (32 of 1934)—

(*a*) for section 2, the following section shall be substituted, namely:—

"**2. Duties specified in the Schedules to be levied**.—The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules.

(*b*) sections 5 and 6 shall stand repealed.

(*3*) Notwithstanding the repeal of any enactment by this section,—

(*a*) any notification, rule, regulation, order or notice issued or any appointment or declaration made or any licence, permission or exemption granted for any assessment made, confiscation adjudged or any duty levied or any penalty or fine imposed or any forfeiture, cancellation or discharge of any bond ordered or any other thing done or any other action taken under any repealed enactment shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(*b*) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act.

1. Ins. by Act 14 of 2001, s. 113 (w.e.f. 11-5-2001).

(*4*) This Act shall apply to all goods which are subject to the control of customs at the commencement of this Act notwithstanding that the goods were imported before such commencement.

(*5*) Where the period prescribed for any application, appeal, revision or other proceeding under any repealed enactment had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal or revision to be made or a proceeding to be instituted under this Act by reason only of the fact that a longer period therefore is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

(*6*) The provisions of section 65 shall apply to goods warehoused before the commencement of this Act if the operations permissible under that section were carried on after such commencement.

(*7*) Any duty or penalty payable under any repealed enactment may be recovered in a manner provided under this Act but without prejudice to any action already taken for the recovery of such duty or penalty under the repealed enactment.

(*8*) The mention of particular matters in sub-sections (*4*), (*5*), (*6*) and (*7*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

(*9*) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of any Port authority in a major port as defined in the Indian Ports Act, 1908 (15 of 1908).

161. Removal of difficulties.—If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to be necessary or expedient for the purpose of removing the difficulty.

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THE SCHEDULE

(*See* Section 160)

Repeals

Year	**No.**	**Short title**	**Extent of repeal**
(1)	(2)	(3)	(4)
1878	8	The Sea Customs Act	The whole
1896	8	The Inland Bonded Warehouses Act	The whole
1924	19	The Land Customs Act	The whole
1934	22	The Aircraft Act	Section 16