THE CENTRAL EXCISE ACT, 1944

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———

*THE CENTRAL EXCISE ACT, 1944[1]

ACT NO. 1 OF 1944

[24*th February*, 1944.]

An Act to consolidate and amend the law relating to central duties of excise [2][* * *]

Whereas it is expedient to consolidate and amend the law relating to central duties of excise on goods manufactured or produced in [3][[4][certain parts] of India] [5][* * *];

It is hereby enacted as follows:—

CHAPTER I

1. Short title, extent and commencement.— [6][(*1*) This Act may be called **the Central Excise Act, 1944.]**

(*2*) It extends to the whole of India [7][* * *].

(*3*) It shall come into force on such date[8] as the Central Government may, by notification in the Official

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

[9][(*a*) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) [10][Commissioner of Central Excise (Appeals) or Appellate Tribunal;]

1. *See* Gazette of India, 1943, Pt. V, p. 243 for Statement of Objects and Reason sand *see* Gazette of India, 1944, Pt. V. p. 12 for Report of the Select Committee.

This Act has been applied to—

(*1*) all the partially excluded areas in the State of Orissa by Orissa Government Notification No. 1226-II-C-13/44-Com., dated 21st March, 1944;

(*2*) Darjeeling District with effect from 28th February, 1944, see Bengal Government Notification No. 342-R, dated 22nd March, 1944; (*3*) excluded areas in the State of Madras (with modifications), see Madras Government Notification No. 37, Fort St. George Gazette, Pt. I, p. 281, dated 11th April, 1944;

(*4*) partially excluded areas in the State of Madras with effect from 28th February, 1944, see Madras Government Notification No. 745-Public-Political, dated 4th March, 1944.

This Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, section 3 and Schedule; to Dadra and Nagar Haveli by Reg. 6 of 1963, section 2 and Schedule I and to the whole of the Union territory of Lakshadweep by Reg. 8 of 1965, section 3 and Schedule. 2. The words "and to Salt" omitted by Act 33 of 1996, s. 69 (w.e.f. 28-9-1996).

3. Subs. by the A.O. 1948, for "British India".

4. Subs. by the A.O. 1950, for "the Provinces".

5. The words "and to Salt" omitted by Act 33 of 1996, s. 70 (w.e.f. 28-9-1996).

6. Subs. by *ibid*, s. 71, for sub-section (*1*), (w.e.f. 28-9-1996).

7. The words "except the State of Jammu and Kashmir" omitted by Act 41 of 1954, s. 2 and Sch, (w.e.f. 8-10-1954).

9. Ins. by Act 44 of 1980, s. 50 and Sch. V, Part II-1 (w.e.f. 11-10-1982).

10. Subs. by Act 22 of 1995, s. 70, for "Collector of Central Excise (Appeals)".

* The Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union list of the Seventh Schedule to the (Constitution) repealed by the Central Goods and Services Tax Act, 2017 (12 of 2017), sec. 174, (w.e.f. 1-7-2017).

(*aa*) "Appellate Tribunal" means the Customs, Excise and [1][Service Tax] Appellate Tribunal constituted under Section 129 of the Customs Act, 1962 (52 of 1962);]

[2][(*aaa*)] "broker" or "commission agent" means a person who in the ordinary course of business makes contracts for the sale or purchase of excisable goods for others;

[3][(*b*) "Central Excise Officer" means the [4][Principal Chief Commissioner of Central Excise, Chief Commissioner of Central Excise, Principal Commissioner of Central Excise], Commissioner of Central

Excise (Appeals), Additional Commissioner of Central Excise, [5][Joint Commissioner of Central Excise,] [6][Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] or any other officer of the Central Excise Department, or any person (including an officer of the State Government) invested by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) with any of the powers of a Central Excise Officer under this Act;]

(*c*) "curing" includes wilting, drying, fermenting and any process for rendering an unmanufactured product fit for marketing or manufacture;

(*d*) "excisable goods" means goods specified in [7][the Fourth Schedule] as being subject to a duty of excise[8] and includes salt;

[9][*Explanation*.— For the purposes of this clause, "goods" includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.]

(*e*) "factory" means any premises, including the precincts thereof, wherein or in any part of which excisable goods [10][* * *] are manufactured, or wherein or in any part of which any manufacturing process connected with the production of these goods is being carried on or is ordinarily carried on;

[11][(*ee*) "Fund" means the Consumer Welfare Fund established under Section 12C;]

[12][(*f*) "manufacture" includes any process—

1. Subs. by Act 32 of 2003, s. 135, for "Gold (control)" (w.e.f. 14-05-2003).
2. Clause (*a*) re-lettered by Act 44 of 1980, s. 50 and Sch. V, Part II (w.e.f. 11-10-1982).
3. Subs. by Act 22 of 1995, s. 71, for "clause b" (w.e.f. 26-5-1995).
4. Subs. by Act 25 of 2014, s. 96, for "Chief Commissioner of Central Excise" (w.e.f. 6-8-2014).
5. Ins. by Act 27 of 1999, s. 120(*i*) (w.e.f. 11-5-1999).
6. Subs. by *ibid*, s. 119, for Assistant Commissioner of Central Excise.
7. Subs. by Act 18 of 2017, s. 5(*a*), for "the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)".
8. References to the expressions "duty", "duties," "duty of excise" and "duties of excise" shall, save as otherwise expressly provided in this Act and unless the context otherwise requires, be construed to include a reference to the special duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985.
9. Ins. by Act 18 of 2008, s. 78, (w.e.f. 10-5-2008).
10. The word "other than salt" omitted by Act 18 of 2017, s. 5(*b*).
11. Ins. by Act 40 of 1991, s. 2 (w.e.f. 20-2-1991). Earlier cl. (*ee*), ins. by Act 25 of 1950, s. 11 and Sch. IV, omitted by Act 41 of 1954, s. 2 and Sch (w.e.f. 8-10-1954).
12. Subs. by Act 5 of 1986, s. 4, for Sub-clause (*f*) (w.e.f. 28-2-1986).

(*i*) incidental or ancillary to the completion of a manufactured product;

(*ii*) which is specified in relation to any goods in the Section or Chapter Notes of [1][the Fourth

Schedule] as amounting to [2][manufacture ;or],

[3][(*iii*) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer;]

and the word "manufacture" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;]

[4][(*ff*) "National Tax Tribunal" means the National Tax Tribunal established under Section 3 of the National Tax Tribunal Act, 2005 (49 of 2005);]

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "sale" and "purchase", with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;

(*i*) [5][* * *]

(*j*) [6][* * *]

(*jj*) [7][* * *]

(*k*) "wholesale dealer" means a person who buys or sells excisable goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent, who, in addition to making contracts for the sale or purchase of excisable goods for others, stocks such goods belonging to others as an agent for the purpose of sale.

[8][**2A. References of certain expressions**.— In this Act, save as otherwise expressly provided and unless the context otherwise requires, references to the expressions "duty", "duties", "duty of excise" and "duties of excise" shall be construed to include a reference to "Central Value Added Tax (CENVAT)".]

1. Subs. by Act 18 of 2017, s. 5(*c*), for "the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)". 2. Subs. by Act 20 of 2002, s. 132(*i*), for "manufacture" (w.e.f. 11-5-2002).

3. Subs. by Act 32 of 2003, s. 135, for sub-clause (*iii*). (w.e.f. 14-5-2003).

4. Ins. by Act 49 of 2005, s. 30 and Sch. (Pt. VII-1) (w.e.f. 28-12-2005).

5. Clause (*i*) omitted by Act 33 of 1996, s. 72, (w.e.f. 28-9-1996).

6. Clause (*j*) omitted by *ibid*, s. 72, (w.e.f. 28-9-1996).

7. Clause (*jj*), omitted by Act 25 of 1950, s. 11 and Sch. IV. Earlier clause (jj) was inserted by the A.O. 1950. 8. Ins. by Act 10 of 2000, s. 91 (w.e.f. 12-5-2000).

CHAPTER II

LEVY AND COLLECTION OF DUTY

[1][**3. Duty specified in the Fourth Schedule to be levied**.— (*1*) There shall be levied and collected in such manner as may be prescribed a duty of excise to be called the Central Value Added Tax (CENVAT) on all excisable goods (excluding goods produced or manufactured in special economic zones) which are produced or manufactured in India as, and at the rates, set forth in the Fourth Schedule:

Provided that the duty of excise which shall be levied and collected on any excisable goods which are produced or manufactured by a hundred per cent export oriented undertaking and brought to any other place in India, shall be an amount equal to the aggregate of the duties of customs which would be leviable under the Customs Act, 1962 (52 of 1962) or any other law for the time being in force, on like goods produced or manufactured outside India if imported into India, and where the said duties of customs are

chargeable by reference to their value, the value of such excisable goods shall, notwithstanding anything contained in any other provision of this Act, be determined in accordance with the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975 (51 of 1975).

Explanation 1.— Where in respect of any such like goods, any duty of customs leviable for the time being in force is leviable at different rates, then, such duty shall, for the purposes of this proviso, be deemed to be leviable at the highest of those rates.

Explanation 2.— For the purposes of this sub-section,—

(*i*) "hundred per cent export-oriented undertaking" means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the board appointed in this behalf by the Central Government in exercise of the powers conferred by Section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(*ii*) "Special Economic Zone" shall have the meaning assigned to it in clause (*za*) of Section 2 of the Special Economic Zones Act, 2005 (28 of 2005).

(*2*) The provisions of sub-section (*1*) shall apply in respect of all excisable goods which are produced or manufactured in India by or on behalf of the Government, as they apply in respect of goods which are not produced or manufactured by the Government.

the said duty, tariff values of any articles enumerated, either specifically or under general headings, in the

Fourth Schedule as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

1. Subs. by Act 18 of 2017, s. 6, for section 3.

(*4*) The Central Government may fix different tariff values—

(*a*) for different classes or descriptions of the same excisable goods; or

(*b*) for excisable goods of the same class or description—

(*i*) produced or manufactured by different classes of producers or manufacturers; or

(*ii*) sold to different classes of buyers:

Provided that in fixing different tariff values in respect of excisable goods falling under sub-clause (*i*) or sub-clause (*ii*), regard shall be had to the sale prices charged by the different classes of producers or manufacturers or, as the case may be, the normal practice of the wholesale trade in such goods.]

1[**3A. Power of Central Government to charge excise duty on the basis of capacity of production in respect of notified goods**.— (*1*) Notwithstanding anything contained in Section 3, where the Central Government, having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods or such other factors as may be relevant, is of the opinion that it is necessary to safeguard the interest of revenue, specify, by notification in the Official Gazette, such goods as notified goods and there shall be levied and collected duty of excise on such goods in accordance with the provisions of this section.

(*2*) Where a notification is issued under sub-section (*1*), the Central Government may, by rules,— (*a*) provide the manner for determination of the annual capacity of production of the factory, in which such goods are produced, by an officer not below the rank of Assistant 2[Principal Commissioner of Central Excise or Commissioner of Central Excise] and such annual capacity shall be deemed to be the annual production of such goods by such factory; or

(*b*)(*i*) specify the factor relevant to the production of such goods and the quantity that is deemed to be produced by use of a unit of such factor; and

(*ii*) provide for the determination of the annual capacity of production of the factory in which such goods are produced on the basis of such factor by an officer not below the rank of Assistant 2[Principal Commissioner of Central Excise or Commissioner of Central Excise] and such annual capacity of production shall be deemed to be the annual production of such goods by such factory:

Provided that where a factory producing notified goods is in operation during a part of the year only, the annual production thereof shall be calculated on proportionate basis of the annual capacity of production:

1. Ins. by Act 18 of 2008, s. 79. (w.e.f. 10-5-2008) Prior s. 3A was omitted by Act 14 of 2001, s. 121. 2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

Provided further that in a case where the factor relevant to the production is altered or modified at any time during the year, the annual production shall be re-determined on a proportionate basis having regard to such alteration or modification.

(*3*) The duty of excise on notified goods shall be levied, at such rate, on the unit of production or, as the case may be, on such factor relevant to the production, as the Central Government may, by notification

Provided that where a factory producing notified goods did not produce the notified goods during any continuous period of fifteen days or more, the duty calculated on a proportionate basis shall be abated in respect of such period if the manufacturer of such goods fulfils such conditions as may be prescribed.

(*4*) The provisions of this section shall not apply to goods produced or manufactured, by a hundred per cent export-oriented undertaking and brought to any other place in India.

Explanation 1.— For the removal of doubts, it is hereby clarified that for the purposes of Section 3 of the Customs Tariff Act, 1975 (51 of 1975), the duty of excise leviable on the notified goods shall be deemed

to be the duty of excise leviable on such goods under the [1][Fourth Schedule], read with any notification for the time being in force.

Explanation 2.— For the purposes of this section, the expression "hundred per cent export-oriented undertaking" shall have the meaning assigned to it in Section 3.

[2][*Explanation 3*.— For the purposes of sub-sections (*2*) and (*3*), the word "factor" includes "factors".]]

[3][**3B. Emergency power of Central Government to increase duty of excise**.— (*1*) Where, in respect of any goods, the Central Government is satisfied that the duty leviable thereon under Section 3 should be increased and that circumstances exist which render it necessary to take immediate action, the Central of duty specified therein in respect of such goods in the following manner, namely—

(*a*) in a case where the rate of duty as specified in the Fourth Schedule as in force immediately before the issue of such notification is nil, a rate of duty not exceeding fifty per cent *ad valorem* expressed in any form or method;

(*b*) in any other case, a rate of duty which shall not be more than twice the rate of duty specified in respect of such goods in the Fourth Schedule as in force immediately before the issue of the said notification:

Provided that the Central Government shall not issue any notification under this sub-section for substituting the rate of duty in respect of any goods as specified by an earlier notification issued under this sub-section by that Government before such earlier notification has been approved with or without modifications under sub-section (*2*).

1. Subs. by Act 18 of 2017, s. 7, for "First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)". 2. Ins. by Act 20 of 2015, s. 92.
3. Ins. by Act 18 of 2017, s. 8.

Explanation.— For the purposes of this sub-section, the term "form or method", in relation to a rate of duty of excise, means the basis, including valuation, weight, number, length, area, volume or any other measure, on which the duty may be levied.

(*2*) Every notification under sub-section (*1*) shall be laid before each House of Parliament, if it is in session, as soon as may be after the issue of the notification, and, if it is not in session, within seven days of its reassembly, 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.

(*3*) Any notification issued under sub-section (*1*), including a notification approved or modified under sub-section (*2*), may be rescinded by the Central Government at any time by issuing notification in the Official Gazette.]

[1][**3C. Power of Central Government to amend Fourth Schedule**.—(*1*) Where the Central Government is satisfied that it is necessary so to do in the public interest, it may, by notification in the Official Gazette, amend the Fourth Schedule:

Provided that such amendment shall not alter or affect in any manner the rates specified in the Fourth Schedule at which the duties of excise shall be leviable on the goods specified therein.]

[2][**4. Valuation of excisable goods for purposes of charging of duty of excise**.— (*1*) Where under this Act, the duty of excise is chargeable on any excisable goods with reference to their value, then, on each removal of the goods, such value shall—

(*a*) in a case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value;

(*b*) in any other case, including the case where the goods are not sold, be the value determined in such manner as may be prescribed.

1. Ins. by Act 18 of 2017, s. 8.

2. Subs. by Act 10 of 2000, s. 94 (w.e.f. 1-7-2000).

[1][*Explanation*.— For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.]

(*2*) The provisions of this section shall not apply in respect of any excisable goods for which a tariff value has been fixed under sub-section (*2*) of Section 3.

(*3*) For the purposes of this section,—

(*a*) "assessee" means the person who is liable to pay the duty of excise under this Act and includes his agent;

(*b*) persons shall be deemed to be "related" if—

(*i*) they are inter-connected undertakings;

(*ii*) they are relatives;

(*iii*) amongst them the buyer is a relative and a distributor of the assessee, or a sub-distributor of such distributor; or

(*iv*) they are so associated that they have interest, directly or indirectly, in the business of each other.

Explanation.—In this clause—

[2][(*i*) "inter-connected undertakings" means two or more undertakings which are inter-connected with each other in any of the following manners, namely—

(*A*) if one owns or controls the other;

(*B*) where the undertakings are owned by firms, if such firms have one or more common partners;

(*C*) where the undertakings are owned by bodies corporate,—

(*I*) if one body corporate manages the other body corporate; or

(*II*) if one body corporate is a subsidiary of the other body corporate; or

(*III*) if the bodies corporate are under the same management; or

(*IV*) if one body corporate exercises control over the other body corporate in any other manner;

1. Ins. by Act 32 of 2003, s. 136,(w.e.f. 14-5-2003).

2. Subs. by Act 23 of 2012, s. 133, for "(*i*)".

(*D*) where one undertaking is owned by a body corporate and the other is owned by a firm, if one or more partners of the firm,—

(*I*) hold, directly or indirectly, not less than fifty per cent of the shares, whether preference or equity, of the body corporate; or

(*II*) exercise control, directly or indirectly, whether as director or otherwise, over the body corporate;

(*E*) if one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners, if such bodies corporate are under the same management;

(*F*) if the undertakings are owned or controlled by the same person or by the same group;

(*G*) if one is connected with the other either directly or through any number of undertakings which are inter-connected undertakings within the meaning of one or more of the foregoing sub-clauses.

Explanation I.— For the purposes of this clause, two bodies corporate shall be deemed to be under the same management—

(*i*) if one such body corporate exercises control over the other or both are under the control of the same group or any of the constituents of the same group; or

(*ii*) if the Managing Director or manager of one such body corporate is the Managing Director or manager of the other; or

(*iii*) if one such body corporate holds not less than one-fourth of the equity shares in the other or controls the composition of not less than one-fourth of the total membership of the Board of Directors of the other; or

(*iv*) if one or more directors of one such body corporate constitute, or at any time within a period of six months immediately preceding the day when the question arises as to whether such bodies corporate are under the same management, constituted (whether independently or together with relatives of such directors or employees of the first mentioned body corporate) one-fourth of the directors of the other; or

(*v*) if the same individual or individuals belonging to a group, while holding (whether by themselves or together with their relatives) not less than one-fourth of the equity shares in one such body corporate also hold (whether by themselves or together with their relatives) not less than one-fourth of the equity shares in the other; or

(*vi*) if the same body corporate or bodies corporate belonging to a group, holding, whether independently or along with its or their subsidiary or subsidiaries, not less than one-fourth of the equity shares in one body corporate, also hold not less than one-fourth of the equity shares in the other; or

(*vii*) if not less than one-fourth of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individual (whether independently or together with his relatives) or the same body corporate (whether independently or together with its subsidiaries); or

(*viii*) if not less than one-fourth of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individuals belonging to a group or by the same bodies corporate belonging to a group, or jointly by such individual or individuals and one or more of such bodies corporate; or

(*ix*) if the directors of one such body corporate are accustomed to act in accordance with the directions or instructions of one or more of the directors of the other, or if the directors of both the bodies corporate are accustomed to act in accordance with the directions or instructions of an individual, whether belonging to a group or not.

Explanation II.— If a group exercises control over a body corporate, that body corporate and every other body corporate, which is a constituent of, or controlled by, the group shall be deemed to be under the same management.

Explanation III.— If two or more bodies corporate under the same management hold, in the aggregate, not less than one-fourth equity share capital in any other body corporate, such other body corporate shall be deemed to be under the same management as the first mentioned bodies corporate.

Explanation IV.— In determining whether or not two or more bodies corporate are under the same management, the shares held by financial institutions in such bodies corporate shall not be taken into account.

Illustration

Undertaking *B* is inter-connected with undertaking *A* and undertaking *C* is inter-connected with undertaking *B*. Undertaking *C* is inter-connected with undertaking *A*; if undertaking *D* is inter-connected with undertaking *C*, undertaking *D* will be inter-connected with undertaking B and consequently with undertaking A; and so on.

Explanation V.— For the purposes of this clause, "group" means a group of—

(*i*) two or more individuals, associations of individuals, firms, trusts, trustees or bodies corporate (excluding financial institutions), or any combination thereof, which exercises, or is established to be in a position to exercise, control, directly or indirectly, over any body corporate, firm or trust; or

(*ii*) "associated persons".

Explanation VI.— For the purposes of this clause,—

(*I*) a group of persons who are able, directly or indirectly, to control the policy of a body corporate, firm or trust, without having a controlling interest in that body corporate, firm or trust, shall also be deemed to be in a position to exercise control over it;

(*II*) associated persons—

(*a*) in relation to a director of a body corporate, means—

(*i*) a relative of such director, and includes a firm in which such director or his relative is a partner;

(*ii*) any trust of which any such director or his relative is a trustee;

(*iii*) any company of which such director, whether independently or together with his relatives, constitutes one-fourth of its Board of Directors;

(*iv*) any other body corporate, at any general meeting of which not less than one-fourth of the total number of directors of such other body corporate are appointed or controlled by the director of the first mentioned body corporate or his relative, whether acting singly or jointly;

(*b*) in relation to the partner of a firm, means a relative of such partner and includes any other partner of such firm; and

(*c*) in relation to the trustee of a trust, means any other trustee of such trust;

(*III*) where any person is an associated person in relation to another, the letter shall also be deemed to be an associated person in relation to the former;]

(*b*) "relative" shall have the meaning assigned to it in clause (*41*) of Section 2 of the Companies Act, 1956 (1 of 1956);

(*c*) "place of removal" means—

(*i*) a factory or any other place or premises of production or manufacture of the excisable goods;

(*ii*) a warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without [1][payment of duty;]

[2][(*iii*) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,]

from where such goods are removed;

[2][(*cc*) "time of removal", in respect of the excisable goods removed from the place of removal referred to in sub-clause (*iii*) of clause (*c*), shall be deemed to be the time at which such goods are cleared from the factory;]

(*d*) "transaction value" means the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to

1. Subs. by Act 32 of 2003, s. 136, for "payment of duty,".
2. Ins. by, *ibid*, s. 136.

pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods.]

1[**4A. Valuation of excisable goods with reference to retail sale price**.— (*1*) The Central Government provisions of the 2[Legal Metrology Act, 2009 (1 of 2010)] or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such goods, to which the provisions of sub-section (*2*) shall apply.

(*2*) Where the goods specified under sub-section (*1*) are excisable goods and are chargeable to duty of excise with reference to value, then, notwithstanding anything contained in Section 4, such value shall be deemed to be the retail sale price declared on such goods less such amount of abatement, if any, from such

(*3*) The Central Government may, for the purpose of allowing any abatement under sub-section (*2*), take into account the amount of duty of excise, sales tax and other taxes, if any, payable on such goods.

3[(*4*) Where any goods specified under sub-section (*1*) are excisable goods and the manufacturer—

(*a*) removes such goods from the place of manufacture, without declaring the retail sale price of such goods on the packages or declares a retail sale price which is not the retail sale price as required to be declared under the provisions of the Act, rules or other law as referred to in sub-section (*1*); or

(*b*) tampers with, obliterates or alters the retail sale price declared on the package of such goods after their removal from the place of manufacture,

then, such goods shall be liable to confiscation and the retail sale price of such goods shall be ascertained in the prescribed manner and such price shall be deemed to be the retail sale price for the purposes of this section.

4[*Explanation 1*.—For the purposes of this section, "retail sale price" means the maximum price at

form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration for such sale:

1. Ins. by Act 26 of 1997, s. 82.
2. Subs. by Act 8 of 2011, s. 62 (w.e.f. 1-8-2011).
3. Subs. by Act 32 of 2003, s. 137, for sub-section (*4*).
4. Subs. by Act 21 of 1998, s. 105.

Provided that in case the provisions of the Act, rules or other law as referred to in sub-section (*1*) require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly.

Explanation 2.— For the purposes of this section,—

(*a*) where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price;

(*b*) where the retail sale price, declared on packages of any excisable goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(*c*) where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged

form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.]

[1][**5. Remission of duty on goods found deficient in quantity**.— (*1*) The Central Government may, by rules made under this section, provide for remission of duty of excise leviable on any excisable goods which due to any natural cause are found to be deficient in quantity.

(*2*) Any rules made under sub-section (*1*) may, having regard to the nature of the excisable goods or of processing or of curing thereof, the period of their storage or transit and other relevant considerations, fix the limit or limits of percentage beyond which no such remission shall be allowed:

Provided that different limit or limits of percentage may be fixed for different varieties of the same excisable goods or for different areas or for different seasons.]

[2][**5A. Power to grant exemption from duty of excise**.—(*1*) If the Central Government is satisfied that either absolutely or subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification, excisable goods of any specified description from the whole or any part of the duty of excise leviable thereon:

Provided that, unless specifically provided in such notification, no exemption therein shall apply to excisable goods which are produced or manufactured—

1. Ins. by Act 25 of 1978, s. 20 (w.e.f. 1-7-1978). The original section was omitted by Act 41 of 1954, s. 2 and Sch. 2.
Ins. by Act 29 of 1988, s. 9 (w.e.f. 1-7-1988).

(*i*) in a [1][free trade zone [2][* * *]] and brought to any other place in India; or

(*ii*) by a hundred per cent export-oriented undertaking and [3][brought to any other place in India].

Explanation.—In this proviso, [1]["free trade zone" [4][* * *] and "hundred per cent export-oriented undertaking" shall have the same meanings as in Explanation 2 to sub-section (*1*) of Section 3.

[5][(1A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (*1*) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods.]

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

[7][(2A) The Central Government may, if it considers it necessary or expedient so to do for the 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 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 notification or order, as the case may be.]

(*3*) An exemption under sub-section (*1*) or sub-section (*2*) in respect of any excisable goods from any part of the duty of excise leviable thereon (the duty of excise 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 excisable goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of excise chargeable on such goods shall in no case exceed the statutory duty.

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

(*4*) Every notification issued under sub-rule (*1*), and every order made under sub-rule (*2*), of Rule 8 of the Central Excise Rules, 1944, and in force immediately before the commencement of the Customs and

1. Subs. by Act 14 of 2001, s. 122, for "free trade zone".

2. The words "or a special economic zone" omitted by Act 20 of 2002, s. 134 (w.e.f. a date to be notified). 3. Subs. by Act 14 of 2001, s. 122, for "allowed to be sold in India".
4. The words ", special economic zone" omitted by Act 20 of 2002, s. 134 (w.e.f. a date to be notified). 5. Ins. by Act 18 of 2005, s. 75.
6. Subs. by Act 32 of 2003, s. 138, for "sub-section (2)".
7. Ins. by Act 20 of 2002, s. 134.

Central Excises Laws (Amendment) Act, 1988 shall be deemed to have been issued or made under the provisions of this section and shall continue to have the same force and effect after such commencement until it is amended, varied, rescinded or superseded under the provisions of this section.]

[1][(*5*) Every notification issued under sub-section (*1*) or sub-section (2-A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette.]

(*6*) [2][* * *]]

[3][**5B. Non-reversal of CENVAT credit**.— Where an assessee has paid duty of excise on a final product and has been allowed credit of the duty or tax or cess paid on inputs, capital goods and input services used in making of the said product, but subsequently the process of making the said product is held by the court as not chargeable to excise duty, the Central Government may, by notification, order for non-reversal of such credit allowed to the assessee subject to such conditions as may be specified in the said notification:

Provided that the order for non-reversal of credit shall not apply where an assessee has preferred a claim for refund of excise duty paid by him:

Provided further that the Central Government may also specify in the notification referred to above for non-reversal of credit, if any, taken by the buyer of the said product.]

[4][**6. Registration of certain persons**.— Any prescribed person who is engaged in—

(*a*) the production or manufacture or any process of production or manufacture of any specified goods included in the [5][First Schedule and the Second Schedule] to the Central Excise Tariff Act, 1985 (5 of 1986), or

(*b*) the wholesale purchase or sale (whether on his own account or as a broker or commission agent) or the storage of any specified goods included in the [5][First Schedule and the Second Schedule] to the Central Excise Tariff Act, 1985 (5 of 1986),

shall get himself registered with the proper officer in such manner as may be prescribed.]

7. [**Form and Conditions of licence**.]— *Omitted by the Finance Act*, 1992 (*Act* 18 *of* 1992), *s*. 113.

8. Restriction on possession of goods specified in the Second Schedule.— From such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, no person

1. Subs. by Act 28 of 2016, S. 142(*i*), for clause (*5*).

2. Clause (*6*) Omitted by Act 28 of 2016, s. 142(*ii*).
3. Ins. by Act 22 of 2007, s. 116.
4. Subs. by Act 18 of 1992, s. 113(*i*), for section 6, (w.e.f. 14-5-1992). 5. Subs. by Act 27 of 1999, s. 119, for "the schedule" (w.e.f. 11-5-1999).

shall, except as provided by rules made under this Act, have in his possession [1][any goods specified in the

Second Schedule] in excess of such quantity as may be prescribed for the purposes of this section as the maximum amount of such goods or of any variety of such goods which may be possessed at any one time by such a person.

9. Offences and penalties.—[2][(*1*)] Whoever commits any of the following offences, namely:— [3][(*a*) contravenes any of the provisions of Section 8 or of a rule made under clause (*iii*) or clause (*xxvii*) of sub-section (*2*) of Section 37;]

(*b*) evades the payment of any duty payable under this Act;

[4][(*bb*) removes any excisable goods in contravention of any of the provisions of this Act or any rules made thereunder or in any way concerns himself with such removal;

(*bbb*) acquires possession of, or in any way concerns himself in transporting, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder;]

[5][(*bbbb*) contravenes any of the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products;]

(*c*) fails to supply any information which he is required by rules made under this Act to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information;

(*d*) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (*a*) and (*b*) of this section;

[6][shall be punishable,—

(*i*) in the case of an offence relating to any excisable goods, the duty leviable thereon under this Act exceeds [7][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 a term of less than six months;

1. Subs. by Act 18 of 1956, s. 9, for "any excisable goods specified in this behalf in Part B of the Second Sch." (w.e.f. 27-4-1956).

2. S. 9 renumbered as sub-section (*1*) of that section by Act 36 of 1973, s. 20 (w.e.f. 1-9-1973). 3.
Subs. by Act 18 of 1992, s. 113, for "clause (*a*)" (w.e.f. 14-5-1992).

4. Ins. by Act 36 of 1973, s. 20(*i*)(*a*) (w.e.f. 1-9-1973).

5. Ins. by Act 21 of 1998, s. 107 (w.e.f. 1-8-1998).

6. Subs. by Act 36 of 1973, s. 20(*i*)(*b*) for certain words.

7. Subs. by Act 17 of 2013, s. 88, for "thirty lakh".

(*ii*) in any other case, with imprisonment for a term which may extend to three years or with fine or with both.]

[1][(*2*) If any person convicted of an offence under this section 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 a term of less than six months.

(*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 six months, 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 in relation to 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 in the commission of the offence;

(*iv*) the age of the accused.]

[2][**9A. Certain offences to be non-cognizable**.— [3][(*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), offences under Section 9, except the offences referred to in sub-section (1A), shall be non-cognizable within the meaning of that Code.

(1A) The offences relating to excisable goods where the duty leviable thereon under this Act exceeds fifty lakh rupees and punishable under clause (*b*) or clause (*bbbb*) of sub-section (*1*) of Section 9, shall be cognizable and non-bailable.]

[4][(*2*) Any offence under this chapter may, either before or after the institution of prosecution, be compounded by the [5][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] on payment, by the person accused of the offence to the Central Government, of [6][such compounding amount and in such manner of compounding] as may be prescribed:]

[7][Provided that nothing contained in this sub-section shall apply to—

1. Ins. by Act 36 of 1973, s. 20(*ii*).
2. Ins. by *ibid*, s. 21.
3. Subs. by Act 17 of 2013, s. 89, for (*1*)
4. Ins. by Act 23 of 2004, s. 79.
5. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise". 6.
Subs. by Act 33 of 2009, s. 104(*i*) for "such compounding amount".
7. Ins. by *ibid*, s. 104(*ii*).

(*a*) a person who has been allowed to compound once in respect of any of the offences under the provisions of clause (*a*), (*b*), (*bb*), (*bbb*), (*bbbb*) or (*c*) of sub-section (*1*) of Section 9;

(*b*) a person who has been accused of committing an offence under this Act which is also an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);

(*c*) 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;

(*d*) a person who has been convicted by the court under this Act on or after the 30th day of December, 2005.]

[1][**9AA. Offences by companies**.— (*1*) Where an offence under this Act has been committed by 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 the 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 any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act 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 neglect 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 anybody 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[**9B. 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.

1. Ins. by Act 79 of 1985, s. 2 (w.e.f. 27-12-1985).
2. Ins. by Act 36 of 1973, s. 21.

(*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.]

1[**9C. 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.]

1[**9D. Relevancy of statements under certain circumstances**.— (*1*) A statement made and signed by a person before any Central Excise Officer of a gazetted rank 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

(*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[**9E. 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

1. Ins. by Act 36 of 1973, s. 21.

(5 of 1898)[1], 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 9.]

10. Power of Courts to order forfeiture.— Any Court trying an offence under this Chapter may order the forfeiture to [2][Government] of any goods in respect of which the Court is satisfied that an offence under this Chapter has been committed, and may also order the forfeiture of any receptacles, packages or coverings in which such goods are contained and the animals, vehicles, vessels or other conveyances used in carrying the goods, and any implements or machinery used in the manufacture of the goods.

11. Recovery of sums due to Government.— [3][(*1*)] In respect of duty and any other sums of any kind payable to the Central Government under any of the provisions of this Act or of the rules made thereunder [4][including the amount required to be paid to the credit of the Central Government under Section 11-D], the officer empowered by the [5][Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)] to levy such duty or require the payment of such sums [6][may deduct or require any other Central Excise Officer or a proper officer referred to in Section 142 of the Customs Act, 1962 (52 of 1962) to deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control or may be in the hands or under disposal or control of such other officer, or may recover the amount] by attachment and sale of excisable goods belonging to such person; and if the amount payable is not so recovered he may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue:

[7][(*2*)(*i*) The Central Excise 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,

1. Now the relevant provisions of the CRPC, 1973 (2 of 1974).

2. Subs. by the A.O. 1950.

3. Renumbered sub-section (1) by Act 17 of 2013, s. 90.

4. Ins. by Act 10 of 2000, s. 96.

5. Subs. by Act 54 of 1963, s. 5 for "Central Board of Revenue" (w.e.f. 1-1-1964), here and throughout the Act.

6. Subs. by Act 17 of 2013, s. 90(*a*) for "may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due which may be in his hands or under his disposal or control, or may recover the amount" by Act 17 of 2013, s. 90(*a*).

7. Ins. by Act 17 of 2013, s. 90(*b*).

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 a notice is issued under this sub-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 payment is made, notwithstanding any rule, practice or requirement to the contrary;

(*iii*) in a case where the person to whom a notice under this sub-section has been issued, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be a person from whom duty and any other sums of any kind payable to the Central Government under any of the

provisions of this Act or the rules made thereunder have become due, in respect of the amount specified in the notice and all the consequences under this Act shall follow.]

[1][Provided that where the person (hereinafter referred to as predecessor) from whom the duty or any other sums of any kind, as specified in this section, is recoverable or due, 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 excisable 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 such officer empowered by the Central Board of Excise and Customs, after obtaining written approval from the [2][Principal Commissioner of Central Excise or Commissioner of Central Excise], for the purposes of recovering such duty or other sums recoverable or due from such predecessor at the time of such transfer or otherwise disposal or change.]

refunded.— (*1*) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,—

(*a*) the Central Excise Officer shall, within [4][two years] from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so 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;

1. Ins. by Act 23 of 2004, s. 80.

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 3. Subs. by Act 8 of 2011, s. 63.

4. Subs. by Act 28 of 2016, s. 143, for "one year".

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

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

(*ii*) the duty ascertained by the Central Excise Officer,

the amount of duty along with interest payable thereon under Section 11-AA.

(*2*) The person who has paid the duty under clause (*b*) of sub-section (*1*), shall inform the Central Excise 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 so paid or any penalty leviable under the provisions of this Act or the rules made thereunder.

(*3*) Where the Central Excise 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 [1][two years] shall be computed from the date of receipt of information under sub-section (*2*).

(*4*) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by the reason of—

(*a*) fraud; or

(*b*) collusion; or

(*c*) any wilful misstatement; or

(*d*) suppression of facts; or

(*e*) contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,

by any person chargeable with the duty, the Central Excise Officer shall, within five years from the relevant date, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under Section 11-AA and a penalty equivalent to the duty specified in the notice.

(*5*) [2][* * *]

(*6*) [3][* * *]

1. Subs. by Act 28 of 2016, s. 143, for "one year".
2. Sub-section (5) omitted by Act 20 of 2015, s. 93(*i*).
3. Sub-section (6) omitted by *ibid*, s. 93(*i*).

(*7*) [1][* * *]

[2][(7A) Notwithstanding anything contained in sub-section (*1*) or sub-section (*3*) or sub-section (*4*) [3][* * *], the Central Excise Officer may, serve, subsequent to any notice or notices served under any of those sub-sections, as the case may be, a statement, containing the details of duty of central excise not levied or paid or short-levied or short-paid or erroneously refunded for the subsequent period, on the person chargeable to duty of central excise, then, service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (*1*) or sub-section (*3*) or sub-section (4) [3][* * *], subject to the condition that the grounds relied upon for the subsequent period are the same as are mentioned in the earlier notice or notices.]

[4][(8) Where the service of notice is stayed by an order of a court or tribunal, the period of such stay shall be excluded in computing the period of [5][two years] referred to in clause (*a*) of sub-section (*1*) or five years referred to in sub-section (*4*) [3][* * *], as the case may be.]

(*9*) Where any appellate authority or tribunal or court concludes that the notice issued under sub-section (*4*) is not sustainable for the reason that the charges of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of [5][two years], deeming as if the notice were issued under clause (*a*) of sub-section (*1*).

(*10*) The Central Excise 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 of excise due from such person not being in excess of the amount specified in the notice.

(*11*) The Central Excise Officer shall determine the amount of duty of excise under sub-section (*10*)—

(*a*) within six months from the date of notice where it is possible to do so, in respect of cases falling under sub-section (*1*);

(*b*) within [5][two years] from the date of notice, where it is possible to do so, in respect of cases falling under sub-section (*4*) [3][* * *].

(*12*) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (*10*), then the amount of penalties and interest under this section shall stand modified accordingly, taking into account the amount of duty of excise so modified.

1. Sub-section (7) omitted by Act 20 of 2015, s. 93(*i*).
2. Ins. by Act 17 of 2013, s. 91.
3. The words "or sub-section (5)" omitted by Act 20 of 2015, s. 93(*ii*). 4.
Subs. by Act 23 of 2012, s. 135(*b*), for sub-section 8.
5. Subs. by Act 28 of 2016, s. 143, for "one year".

(*13*) Where the amount as modified by the appellate authority or tribunal or court is more than the amount determined under sub-section (*10*) by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority or

tribunal or court in respect of such increased amount.

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

(*15*) The provisions of sub-sections (*1*) to (*14*) shall apply, *mutatis mutandis*, to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.

Explanation 1.— For the purposes of this section and Section 11-AC,—

(*a*) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(*b*) "relevant date" means,—

(*i*) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder;

(*ii*) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed [1][* * *], the date on which such return has been filed;

(*iii*) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder;

(*iv*) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;

(*v*) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund;

[2][(*vi*) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.]

(*c*) [3][* * *]

1. The words "on due date" omitted by Act 20 of 2015, s. 93(*iii*)(*A*). 2. Ins. by *ibid*, s. 93(*iii*)(*B*).

3. Clause (c) omitted by *ibid*, s. 93(*iii*)(*C*).

[1][*Explanation 2*.— For the removal of doubts, it is hereby declared that any non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of Section 11A as amended by the Finance Act, 2015.]

[2][(*16*) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.]]

[3][**11AA. Interest on delayed payment of duty**.— (*1*) Notwithstanding anything contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty, shall, in addition to the duty, be liable to pay interest at the rate specified in sub-section (*2*), whether such payment is made voluntarily or after determination of the amount of duty under Section 11A.

(*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 in terms of Section 11A after the due date by the person liable to pay duty and such interest shall be calculated from the date on which such duty becomes due up to the date of actual payment of the amount due.

(*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 37-B; 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.]

[4][**11AC. Penalty for short-levy or non-levy of duty in certain cases**.— (*1*) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows—

(*a*) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as

1. Subs. by Act 20 of 2015, s. 93(*iv*).

2. Ins. by *ibid*, s. 93(*iv*).

3. Subs. by Act 8 of 2011, s. 64, for Section 11-AA and 11-AB.

4. Subs. by Act 20 of 2015, s. 94, for "11-AC".

determined under sub-section (*10*) of Section 11-A shall also be liable to pay a penalty not exceeding ten per cent of the duty so determined or Rupees Five thousand, whichever is higher:

Provided that where such duty and interest payable under Section 11-AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

(*b*) where any duty as determined under sub-section (*10*) of Section 11A and the interest payable thereon under Section 11AA in respect of transactions referred to in clause (*a*) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(*c*) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful misstatement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (*10*) of Section 11A shall also be liable to pay a penalty equal to the duty so determined:

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with the 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent of the duty so determined;

(*d*) where any duty demanded in a show cause notice and the interest payable thereon under Section 11AA, issued in respect of transactions referred to in clause (*c*), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent. of the duty demanded, subject to the condition that such reduced penalty is also paid

within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded;

(*e*) where any duty as determined under sub-section (*10*) of Section 11A and the interest payable thereon under Section 11AA in respect of transactions referred to in clause (*c*) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified.

(*2*) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (*10*) of Section 11A, then, the amount of penalty payable under clause (*c*) of sub-section (*1*) and the interest payable under Section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (*10*) of Section 11A shall also be liable to pay such amount of penalty and interest so modified.

(*3*) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (*10*) of Section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (*b*) or clause (*e*) of sub-section (*1*) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court.

Explanation 1.— For the removal of doubts, it is hereby declared that—

(*i*) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President shall be governed by the provisions of Section 11AC as amended by the Finance Act, 2015;

(*ii*) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order determining duty under sub-section (*10*) of Section 11-A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (*a*) of sub-section (*1*) or on payment of duty, interest and penalty under clause (*d*) of sub-section (*1*), subject to the condition that the payment of duty, interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President;

(*iii*) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (*10*) of Section 11-A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (*b*) or clause (*e*) of sub-section (*1*), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order.

Explanation 2.— For the purposes of this section, the expression "specified records" means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.]

[1][**11B. Claim for refund of**[2][**duty and interest, if any, paid on such duty**].— (*1*) Any person claiming refund of any [3][duty of excise and interest, if any, paid on such duty] may make an application for refund of such [2][duty and interest, if any, paid on such duty] to the Assistant [4][Principal Commissioner of

1. Ins. by Act 25 of 1978, s. 21, (w.e.f. 1-8-1978).

2. Subs. by Act 18 of 2008, s. 80(*i*)(*b*), for "duty" (w.e.f. 10-5-2008). 3.
Subs. by *ibid*, s. 80(*i*)(*a*), for "duty of excise".
4. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

Central Excise or Commissioner of Central Excise] [1][or Deputy [2][Principal Commissioner of Central Excise or Commissioner of Central Excise]] before the expiry of [3][two years] [4][from the relevant date] [5][in such form [6][and manner]] as may be prescribed and the application shall be accompanied by such documentary or other evidence (including the documents referred to in Section 12-A) as the applicant may furnish to establish that the amount of [7][duty of excise and interest, if any, paid on such duty] in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such [8][duty and interest, if any, paid on such duty] had not been passed on by him to any other person:

Provided that where an application for refund has been made before the commencement of the Central Excises and Customs Laws (Amendment) Act, 1991, such application shall be deemed to have been made under this sub-section as amended by the said Act and the same shall be dealt with in accordance with the provisions of sub-section (*2*) as substituted by that Act:]

[9][Provided further that] the limitation of [3][two years] shall not apply where any [8][duty and interest, if any, paid on such duty] has been paid under protest.

[10][* * *]

[11][(*2*) If, on receipt of any such application, the Assistant [2][Principal Commissioner of Central Excise or Commissioner of Central Excise] [1][or Deputy [2][Principal Commissioner of Central Excise or Commissioner of Central Excise]] is satisfied that the whole or any part of the [7][duty of excise 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 [7][duty of excise and interest, if any, paid on such duty] as determined by the Assistant [2][Principal Commissioner of Central Excise or Commissioner of Central Excise] [1][or Deputy [2][Principal Commissioner of Central Excise or Commissioner of Central Excise]] 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*) rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

1. Ins. by Act 27 of 1999, s. 119.
2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 3.
Subs. by Act 28 of 2016, s. 143, for "one year".
4. Subs. by Act 44 of 1980, s. 49, for "from the date of payment of duty". 5.
Ins. by Act 40 of 1991, s. 3(*b*) (w.e.f. 20-9-1991).
6. Ins. by Act 22 of 1995, s. 74.
7. Subs. by Act 18 of 2008, s. 80(*i*)(*a*), for "duty of excise".
8. Subs. by *ibid*, s. 80(*i*)(*b*), for "duty".
9. Ins. by Act 40 of 1991, s. 3 (w.e.f. 20-9-1991).
10. Explanation to sub-section (*1*) omitted by Act 44 of 1980, s. 49. 11.
Subs. by Act 40 of 1991, s. 3 (w.e.f. 20-9-1991).

(*b*) unspent advance deposits lying in balance in the applicant's account current maintained with the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise];

(*c*) refund of credit of duty paid on excisable goods used as inputs in accordance with the rules made, or any notification issued, under this Act;

(*d*) the [2][duty of excise and interest, if any paid on such duty] paid by the manufacturer, if he had not passed on the incidence of such [3][duty and interest, if any, paid on such duty] to any other person;

(*e*) the [2][duty of excise and interest, if any paid on such duty] borne by the buyer, if he had not passed on the incidence of such [3][duty and interest, if any, paid on such duty] to any other person;

(*f*) the [2][duty of excise 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:

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 [3][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 or any Court or in any other provision of this Act or the rules 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 reassembly, 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][*Explanation*.— For the purposes of this section,—

(*A*) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2.
Subs. by Act 18 of 2008, s. 80(*ii*)(*a*), for "duty of excise".
3. Subs. by *ibid*, s. 80(*ii*)(*b*), for "duty".

4. Subs. by Act 44 of 1980, s. 49, for the Explanation.

(*B*) "relevant date" means,—

(*a*) in the case of goods exported out of India where a refund of excise duty paid is available in respect of the goods themselves or, as the case may be, the excisable materials used in the manufacture of such goods,—

(*i*) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(*ii*) if the goods are exported by land, the date on which such goods pass the frontier, or

(*iii*) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(*b*) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process, in any factory, the date of entry into the factory for the purposes aforesaid;

(*c*) in the case of goods to which banderols are required to be affixed if removed for home consumption but not so required when exported outside India, if returned to a factory after having been removed from such factory for export out of India, the date of entry into the factory;

(*d*) in a case where a manufacturer is required to pay a sum, for a certain period, on the basis of the rate fixed by the Central Government by notification in the Official Gazette in full discharge of his liability for the duty leviable on his production of certain goods, if after the manufacturer has made the payment on the basis of such rate for any period but before the expiry of that period such rate is reduced, the date of such reduction;

[1][(*e*) in the case of a person, other than the manufacturer, the date of purchase of the goods by such person;]

[2][(*ea*) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (*2*) of Section 5-A, the date of issue of such order;]

[3][(*eb*) in case where duty of excise is paid provisionally under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;]

[4][(*ec*) in case where the duty becomes refundable as a consequence of judgment, decree, order or direction of appellate authority, Appellate Tribunal or any court, the date of such judgment, decree, order or direction;]

(*f*) in any other case, the date of payment of duty.]

1. Subs. by Act 40 of 1991, s. 3(*c*), for sub clause (*e*) (w.e.f. 20-9-1991). 2. Ins. by Act 33 of 1996, s. 77.
3. Ins. by Act 21 of 1998, s. 108.
4. Ins. by Act 22 of 2007, s. 117.

[1][**11-BB. Interest on delayed refunds**.— If any duty ordered to be refunded under sub-section (*2*) of Section 11-B to any 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, [2][not below five per cent and not exceeding thirty per cent per annum as is for the time being fixed [3][by the 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 11-B 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 [4][National Tax Tribunal] or any court against an order of the Assistant [5][Principal Commissioner of Central Excise or Commissioner of Central Excise] [6][or Deputy [5][Principal Commissioner of Central Excise or Commissioner of Central Excise]], under sub-section (2) of Section 11-B, the order passed by the Commissioner (Appeals), Appellate Tribunal [4][, National Tax Tribunal] or, as the case may be, by the court shall be deemed to be an order passed under the said sub-section (*2*) for the purposes of this section.]

[7][**11C. Power not to recover duty of excise not levied or short-levied as a result of general practice**.— [8][(*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 of excise (including non-levy thereof) on any excisable goods; and

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

(*i*) to duty of excise, 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 of excise than what was, or is being, levied, according to the said practice,

duty of excise payable on such goods, or, as the case may be, the duty of excise 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 of excise was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.]

1. Ins. by Act 22 of 1995, s. 75.
2. Subs. by Act 14 of 2001, s. 126, for "not below ten per cent" (w.e.f. 11-5-2001).
3. Subs. by Act 10 of 2000, s. 102, for "by the Board".
4. Ins. by Act 49 of 2005, s. 30 and Sch. (Pt. VII) (w.e.f. 28-12-2005).
5. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
6. Ins. by Act 27 of 1999, s. 119.
7. Ins. by Act 25 of 1978, s. 21, (w.e.f. 1-7-1978).
8. Renumbered as sub-sec. (*1*) and sub-sec. (*2*) inserted by Act 29 of 1988, s. 10 (w.e.f. 1-7-1988).

[1][(*2*) Where any notification under sub-section (*1*) in respect of any goods has been issued, the whole of the duty of excise paid on such goods or, as the case may be, the duty of excise 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 11-B:

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 Assistant [2][Principal Commissioner of Central Excise or Commissioner of Central Excise] [3][or Deputy [2][Principal Commissioner of Central Excise or Commissioner of Central Excise]], in the form referred to in sub-section (*1*) of Section 11-B, before the expiry of six months from the date of issue of the said notification.]

[4][**11D. Duties of excise 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 or any Court or in any other provision of this Act or the rules made thereunder, [5][every person who is liable to pay duty under this Act or the rules made thereunder, and has collected any amount in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods] in any manner as representing duty of excise, shall forthwith pay the amount so collected to the credit of the Central Government.

[6][(1A) Every person, who has collected any amount in excess of the duty assessed or determined and paid on any excisable goods or has collected any amount as representing duty of excise on any excisable 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.]

[7][(*2*) Where any amount is required to be paid to the credit of the Central Government under [8][sub-section (*1*) or sub-section (1-A), as the case may be,] and which has not been so paid, the Central Excise Officer may serve, on the person liable to pay such amount, a notice requiring him to show cause why the said amount, as specified in the notice, should not be paid by him to the credit of the Central Government.]

1. Subs. by Act 40 of 1991, s. 4, for sub-section (*2*) (w.e.f. 20-9-1991).
2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
3. Ins. by Act 27 of 1999, s. 119.
4. Ins. by Act 40 of 1991, s. 5 (w.e.f. 20-9-1991).
5. Subs. by Act 10 of 2000, s. 103, for certain words (w.r.e.f. 20-9-1991).
6. Ins. by Act 18 of 2008, s. 81(*i*).
7. Subs. by Act 10 of 2000, s. 103, for sub-section (*2*) (w.r.e.f. 20-9-1991).
8. Subs. by Act 18 of 2008, s. 81(*ii*), for the word, brackets and figure "sub-section (*1*)".

(*3*) The Central Excise 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 [1][sub-section (*1*) or sub-section (1A) or sub-section (*3*), as the case may be,] shall be adjusted against the duty of excise payable by the person on finalisation of assessment or any other proceeding for determination of the duty of excise relating to the excisable goods referred to in [2][sub-section (*1*) and sub-section (1A)].

(*5*) Where any surplus is left after the adjustment 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 11B 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 [3][Principal Commissioner of Central Excise or Commissioner of Central Excise] for the refund of such surplus amount.]]

[4][**11DD. Interest on the amounts collected in excess of the duty**.— (*1*) Where an amount has been collected in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the [5][buyer of such goods or from any person or where a person has collected any amount as representing duty of excise on any excisable goods which are wholly exempt or are chargeable to *nil* rate of duty, the person] who is liable to pay such amount as determined under sub-section (*3*) of Section 11-D, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent, and not exceeding thirty-six percent per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Act, but for the provisions contained in sub-section (*3*) of Section 11-D, till the date of payment of such amount:

Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under Section 37B, and such amount payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole amount, including the amount already paid.

1. Subs. by Act 18 of 2008, s. 81(*iii*)(*a*), for the word, brackets and figure "sub-section (*1*) or sub-section (*3*)". 2. Subs. by *ibid*, s. 81(*iii*)(*b*), for the word, brackets and figure "sub-section (*1*)".

3. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

4. Ins. by Act 32 of 2003, s. 140 (w.e.f. 14-5-2003).

5. Subs. by Act 18 of 2008, s. 82, for the words "buyer of such goods, the person".

(*2*) The provisions of sub-section (*1*) shall not apply to cases where the amount had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation 1.— Where the amount determined under sub-section (*3*) of Section 11-D is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (*1*) shall be on such reduced amount.

Explanation 2.—Where the amount determined under sub-section (*3*) of Section 11-D is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (*1*) shall be on such increased amount.]

[1][**11DDA. Provisional attachment to protect revenue in certain cases**.— (*1*) Where, during the pendency of any proceedings under Section 11A or Section 11D, the Central Excise Officer is 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 [2][Principal Commissioner of Central Excise or Commissioner of Central Excise], by order in writing, attach provisionally any property belonging to the person on whom notice is served under [3][* * *] Section 11A or sub-section (*2*) of Section 11D, as the case may be, in accordance with the rules made in this behalf under Section 142 of the Customs Act, 1962 (52 of 1962).

(*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 [4][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] 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 32-E is made to the Settlement Commission, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (*1*) of Section 32-F is made shall be excluded from the period specified in the preceding proviso.]

[5][**11E. 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 or the rules made thereunder 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

1. Ins. by Act 29 of 2006, s. 36.

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 3.
The words "sub-section (*1*) of" omitted by Act 17 of 2013, s. 92.
4. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise" 5. Ins.
by Act 8 of 2011, s. 66.

Financial Institutions Act, 1993 (51 of 1993) [1][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], be the first charge on the property of the assessee or the person, as the case may be.]

12. Application of the provisions of Act[2][**52 of 1962**] **to Central Excise Duties**.— The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the [3][Customs Act, 1962 (52 of 1962)], relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties imposed by Section 3 [4][Section 3-A]:

[5][Provided that the provisions of the Customs Act, 1962(52 of 1962) relating to offences and penalties shall not apply for the matters covered by section 3A for the period beginning on the 10th day of May, 2008 and ending immediately before the day on which the Finance Bill, 2011 receives the assent of the President.]

INDICATING AMOUNT OF DUTY IN THE PRICE OF GOODS, ETC., FOR PURPOSE OF REFUND AND CREDITING CERTAIN AMOUNTS TO THE FUND

12A. 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 of excise 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.

12B. Presumption that the incidence of duty has been passed on to the buyer.— Every person who has paid the duty of excise 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.

12C. Consumer Welfare Fund.— (*1*) There shall be established by the Central Government a fund, to be called the Consumer Welfare Fund.

(*2*) There shall be credited to the Fund, in such manner as may be prescribed,—

1. Subs. by Act 31 of 2016, s. 246 & Sch. II, 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).
2. Subs. by Act 33 of 1996, s. 78,
3. Subs. by *ibid*, s. 78, for "Sea Customs Act, 1878 (8 of 1878)".
4. Ins. by Act 8 of 2011, s. 67 (w.r.e.f. 10-5-2008).
5. Ins. by *ibid,* s. 67 (w.e.f. 10-5-2008).
6. Ins. by Act 40 of 1991, s. 6 (w.e.f. 20-9-1991).

(*a*) the amount of duty of excise referred to in sub-section (*2*) of Section 11B or sub-section (*2*) of Section 11C or sub-section (2) of Section 11D;

(*b*) the amount of duty of customs referred to in sub-section (*2*) of Section 27 or sub-section (*2*) of Section 28A, or sub-section (*2*) of Section 28B of the Customs Act, 1962 (52 of 1962);

(*c*) any income from investment of the amount credited to the Fund and any other monies received by the Central Government for the purposes of this Fund;

[1][(*d*) the surplus amount referred to in sub-section (*6*) of Section 73A of the Finance Act, 1994 (32 of 1994).]

12D. Utilisation of the Fund.— (*1*) Any money credited to the Fund shall be utilised by the Central Government for the welfare of the consumers in accordance with such rules as that Government may make in this behalf.

(*2*) The Central Government shall maintain or, if it thinks fit, specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.]

CHAPTER III
POWERS AND DUTIES OF OFFICERS AND LANDHOLDERS

[2] [[3][**12E.] Powers of Central Excise Officers**.—(*1*) A Central Excise Officer may exercise the powers and discharge the duties conferred or imposed under this Act on any other Central Excise Officer who is subordinate to him.

(*2*) Notwithstanding anything contained in sub-section (*1*), the [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] (Appeals) shall not exercise the powers and discharge the duties conferred or imposed on a Central Excise Officer other than those specified in Section 14 or Chapter VI-A.]

[5][**12F. Power of search and seizure**.— (*1*) Where the Joint [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] or Additional [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] or such other Central Excise Officer as may be notified by the Board has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may

1. Ins. by Act 21 of 2006, s. 64.
2. Ins. by Act 79 of 1985, s. 4 (w.e.f. 27-12-1985).
3. Section "12A" renumbered as "12E" by Act 40 of 1991, s. 7 (w.e.f. 20-9-1991). 4.
Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
5. Ins. by Act 8 of 2011, s. 68.

authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

[1][(*2*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to search and seizure 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 "[2][Principal Commissioner of Central Excise or Commissioner of Central Excise]" were substituted.]]

[3][**13. Power to arrest**.— Any Central Excise Officer not below the rank of Inspector of Central Excise may, with the prior approval of the [2][Principal Commissioner of Central Excise or Commissioner of Central Excise], arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder.]

(*2*) Any person accused or reasonably suspected of committing an offence under this Act or any rules made thereunder, who on demand of any officer duly empowered by the Central Government in this behalf refuses to give his name and residence, or who gives a name or residence which such officer has reason to believe to be false, may be arrested by such officer in order that his name and residence may be ascertained.

14. Power to summon persons to give evidence and produce documents in inquiries under this Act.— (*1*) Any Central Excise Officer duly empowered by the Central Government in this behalf 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 for any of the purposes of this Act. 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.

(*2*) 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 to produce such documents and other things as may be required:

Provided that the exemptions under Sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions of attendance under this section.

(*3*) 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).

1. Subs. by Act 23 of 2012, s. 137, for sub-section (2).

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

3. Subs. by Act 32 of 2003, s. 141, for section 13 (w.e.f. 14-5-2003).

[1][**14A. Special audit in certain cases**.— (*1*) If at any stage of enquiry, investigation or any other proceedings before him, any Central Excise Officer not below the rank of an Assistant [2][Principal Commissioner of Central Excise or Commissioner of Central Excise], having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person, he may, with the previous approval of the [3][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise], direct such manufacturer or such person to get the accounts of his factory, office, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a [4][cost accountant or chartered accountant], nominated by the [3][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] in this behalf.

(*2*) The [4][cost accountant or chartered accountant], so nominated shall, within the period specified by the Central Excise Officer, submit a report of such audit duly signed and certified by him to the said Central Excise Officer mentioning therein such other particulars as may be specified:

Provided that the Central Excise Officer may, on an application made to him in this behalf by the manufacturer or the person and for any material and sufficient reason, extend the said period by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (*1*) is received by the manufacturer or the person.

(*3*) The provisions of sub-section (*1*) shall have effect notwithstanding that the accounts of the manufacturer or person aforesaid have been audited under any other law for the time being in force or otherwise.

(*4*) [5][* * *]

(*5*) The manufacturer or the person shall be given an opportunity of being heard in respect of any material gathered on the basis of audit under sub-section (*1*) and proposed to be utilised in any proceedings under this Act or rules made thereunder.

[6][*Explanation 1*].— For the purpose of this section, "cost accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of Section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959).]

1. Ins. by Act 22 of 1995, s. 76 (w.e.f. 26-5-1995).

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

3. Subs. by *ibid*, s. 95, for "Chief Commissioner of Central Excise". 4.

Subs. by Act 33 of 2009, s. 105(*i*), for "cost accountant".

5. Omitted by Act 10 of 2000, s. 104.

6. Renumbered by Act 33 of 2009, s. 105(*ii*).

[1][*Explanation 2*.— For the purposes of this section, "chartered accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949).]

[2][**14AA. Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc.**— (*1*) If the [3][Principal Commissioner of Central Excise or Commissioner of Central Excise] has reason to believe that the credit of duty availed of or utilised under the rules made under this Act by a manufacturer of any excisable goods—

(*a*) is not within the normal limits having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate;

(*b*) has been availed of or utilised by reason of fraud, collusion or any wilful misstatement or suppression of facts,

he may direct such manufacturer to get the accounts of his factory, office, depot, distributor or any other place, as may be specified by him, audited by a [4][cost accountant or chartered accountant] nominated by him.

(*2*) The [4][cost accountant or chartered accountant] so nominated shall, within the period specified by the [3][Principal Commissioner of Central Excise or Commissioner of Central Excise], submit a report of such audit duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified.

(*3*) The provisions of sub-section (*1*) shall have effect notwithstanding that the accounts of the said manufacturer aforesaid have been audited under any other law for the time being in force or otherwise.

(*4*) [5][* * *]

(*5*) The manufacturer shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (*1*) and proposed to be utilised in any proceeding under this Act or rules made thereunder.

[6][*Explanation 1*.]— For the purpose of this section, "cost accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of Section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959).

1. Ins. by Act 33 of 2009, s. 105(*ii*).

2. Ins. by Act 26 of 1997, s. 83.

3. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 4.

Subs. by Act 33 of 2009, s. 106(*i*), for "cost accountant".

5. Omitted by Act 10 of 2000, S. 105.

6. *Explanation* renumbered by Act 33 of 2009, s. 106(i) & (ii).

[1][*Explanation 2*.— For the purposes of this section, "chartered accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949).]

15. Officers required to assist Central Excise Officers.— All officers of Police and Customs and all officers of Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the Central Excise Officers in the execution of this Act.

[2][**15A. Obligation to furnish information return**.— (*1*) Any person, being—

(*a*) an assessee; or

(*b*) a local authority or other public body or association; or

(*c*) any authority of the State Government responsible for the collection of value added tax or sales tax; or

(*d*) an income tax authority appointed under the provisions of the Income Tax Act, 1961 (43 of 1961); or

(*e*) a banking company within the meaning of clause (*a*) of Section 45-A of the Reserve Bank of India Act, 1934 (2 of 1934); or

(*f*) 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

(*g*) the Registrar or Sub-Registrar appointed under Section 6 of the Registration Act, 1908 (16 of 1908); or

(*h*) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or

(*i*) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or

(*j*) 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

(*k*) the recognised stock exchange referred to in clause (*f*) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(*l*) a depository referred to in clause (*e*) of sub-section (*1*) of Section 2 of the Depositories Act, 1996 (22 of 1996); or

1. Ins. by Act 33 of 2009, s. 106(*i*) & (*ii*).
2. Ins. by Act 25 of 2014, s. 97.

(*m*) 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 any periodic return or document containing details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, form (including electronic form) and manner, to such authority or agency as may be prescribed.

(*2*) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within

such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.

(*3*) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (*1*) or sub-section (*2*), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.]

[1][**15B. Penalty for failure to furnish information return**.— If a person who is required to furnish an information return under Section 15-A fails to do so within the period specified in the notice issued under sub-section (*3*) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues.]

16. [Owners or occupiers of land to report manufacture of contraband excisable goods].— *Omitted by Finance Act* 2002 (20 *of* 2002), *s*. 137.

17. [Punishment for connivance at offences].—*Omitted by s*. 137, *ibid*

18. Searches and arrests how to be made.— All searches made under this Act or any rules made thereunder and all arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898)[2], relating respectively to searches and arrests made under that Code.

1. Ins. by Act 25 of 2014, S. 97.

2. *See* now the CrPC, 1973 (2 of 1974).

19. Disposal of persons arrested.— Every person arrested under this Act shall be forwarded without delay to the nearest Central Excise Officer empowered to send persons so arrested to a Magistrate, or, if there is no such Central Excise Officer within a reasonable distance, to the officer-in-charge of the nearest police station.

20. Procedure to be followed by officer-in-charge of police station.— The officer-in-charge of a police station to whom any person is forwarded under Section 19 [1][shall, where the offence is non-cognizable, either admit him] to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

21. Inquiry how to be made by Central Excise Officers against arrested persons forwarded to them under Section 19.— (*1*) When any person is forwarded under Section 19 to a Central Excise Officer empowered to send persons so arrested to a Magistrate, the Central Excise Officer shall proceed to inquire into the charge against him.

(*2*) For this purpose the Central Excise Officer may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898) [2], when investigating a cognizable case:

Provided that—

(*a*) if the Central Excise Officer is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he [1][shall, where the offence is non-cognizable, either admit him] to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

(*b*) if it appears to the Central Excise Officer that there is not sufficient evidence or reasonable ground of suspicion against the accused person [3][in respect of offence which is non-cognizable], he shall release the accused person on his executing a bond, with or without sureties as the Central Excise Officer may

direct, to appear, if and when so required, before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

22. Vexatious search, seizure, etc., by Central Excise Officer.— Any Central Excise or other officer exercising powers under this Act or under the rules made thereunder who—

(*a*) without reasonable ground of suspicion searches or causes to be searched any house, boat or place;

(*b*) vexatiously and unnecessarily detains, searches or arrests any person;

1. Subs. by Act 17 of 2013, s. 93, for "shall either admit him".
2. *See* now the CrPC, 1973 (2 of 1974).
3. Ins. by Act 17 of 2013, s. 94(ii).

(*c*) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;

(*d*) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty;

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

23. Failure of Central Excise Officer in duty.— Any Central Excise Officer who ceases or refuses to perform or withdraws himself from the duties of his office, unless he has obtained the express written permission of the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise], or has given to his superior officer two months' notice in writing of his intention or has other lawful excuse, shall on conviction before a Magistrate be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three months' pay, or with both.

ADVANCE RULINGS

23A. Definitions.—In this Chapter, unless the context otherwise requires,—

[3][(*a*) "activity" means production or manufacture of goods and includes any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer, as the case may be;]

(*b*) "advance ruling" means the determination, by the authority of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity proposed to be undertaken, by the applicant;

[4][(*c*) "applicant" means—

(*i*) (*a*) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(*b*) a resident setting up a joint venture in India in collaboration with a non-resident; or

(*c*) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
2. New Chapter III-A consisting of Ss. 23-A to 23-H ins. by Act 27 of 1999, S. 124.
3. Subs. by Act 17 of 2013, s. 95 for clause '(*a*) "activity" means production or manufacture of goods;'. 4.
Subs. by Act 18 of 2005, s. 76, for clause (*c*).

who or which, as the case may be, proposes to undertake any business activity in India;

(*ii*) a joint venture in India; or

(*iii*) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (*1*) of Section 23-C;]

[1][*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 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 23-C;

[2][(*e*) "Authority" means the Authority for Advance Rulings as defined in clause (*e*) of Section 28-E of the Customs Act, 1962 (52 of 1962);]

[3][(*f*) "non-resident", "Indian company" and "foreign company" shall have the meaning assigned to them in clauses (30), (26) and (23-A) of Section 2 of the Income Tax Act, 1961 (43 of 1961).]

23B. [Vacancies, etc., not to invalidate proceedings].— *Omitted by Finance Act* 2017 (7 *of* 2017), *s*. 113.

23C. 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 any goods under the Central Excise Tariff Act, 1985;

(*b*) applicability of a notification issued under sub-section (*1*) of Section 5A 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. Ins. by Act 22 of 2007, s. 118.

2. Subs. by Act 7 of 2017, s. 112 for clause (*e*).

3. Subs. by Act 32 of 2003, s. 142, for clause (*f*).

[1][(*d*) notifications issued, in respect of duties of excise under this Act, the Central Excise Tariff Act, 1985 (5 of 1986) and any duty chargeable under any other law for the time being in force in the same manner as duty of excise leviable under this Act;

(*e*) [2][admissibility of credit of service tax paid or deemed to have been paid on input service or excise duty] paid or deemed to have been paid on the goods used in or in relation to the manufacture of the excisable goods;]

[3][(*f*) determination of the liability to pay duties of excise on any goods under this Act.]

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

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

23D. Procedure on receipt of application.—(*1*) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the [5][Principal Commissioner of Central Excise or Commissioner of Central Excise] 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 [5][Principal Commissioner of Central Excise or Commissioner of Central Excise].

(*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 [6][* * *] where the question raised in the application is,—

(*a*) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any Court;

(*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.

1. Ins. by Act 32 of 2003, s. 143.
2. Subs. by Act 17 of 2013, s. 96, for "admissibility of credit of excise duty".
3. Ins. by Act 21 of 2006, s. 65.
4. Subs. by Act 7 of 2017, s. 114, for "two thousand five hundred rupees".
5. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
6. The words "except in the case of a resident applicant" *omitted* by Act 20 of 2002, s. 138.

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

(*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 35-Q.

(*6*) The Authority shall pronounce its advance ruling in writing within [2][six 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 Central Excise or Commissioner of Central Excise], as soon as may be, after such pronouncement.

23E. Applicability of advance ruling.—(*1*) The advance ruling pronounced by the Authority under Section 23D 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 23C;

(*c*) on the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise], and the Central Excise Authorities subordinate to him, in request 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.

23F. 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 Central Excise or Commissioner of Central Excise] or otherwise, that an advance ruling pronounced by it under sub-section (*6*) of [3][Section 23D] 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 (after excluding the period

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2.
Subs. by Act 7 of 2017, s. 115, for "ninety days".
3. Subs. by Act 17 of 2013, s. 97, for "Section 28I".

beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

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

23G. Powers of Authority.—(*1*) The 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.

(2) The 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 and every proceeding before the 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.

23H. Procedure of Authority.—The 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 under this Act.

[2][**23I. Transitional provision**.—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.]]

[3][CHAPTER IV
TRANSPORT BY SEA

24. [Penalties for carrying excisable goods in certain vessels].—*Omitted by Finance Act* 2002 (20 *of* 2002), *s*. 139 (*w.e.f.* 11-5-2002).

25. [Exceptions].— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).

26. [Power of stoppage, search and arrest.]— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).

27. [Penalties for resisting officer.]— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).

28. [Confiscation of vessel and cargo.]— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).

29. [Jurisdiction.]— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).

30. [Power to exempt from operation of this Chapter.]— *Omitted by s.* 139, *ibid*. (w.e.f. 11-5-2002).]

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2.
Ins. by Act 7 of 2017, s. 116.

3. Omitted by Act 20 of 2002, s. 139 (w.e.f. 11-5-2002)

[1][CHAPTER V
SETTLEMENT OF CASES

[2]**[31. Definitions**.—In this Chapter, unless the context otherwise requires.—

(*a*) "assessee" means any person who is liable for payment of excise duty assessed under this Act or any other Act and includes any producer or manufacturer of excisable goods or a registered person under the rules made under this Act, of a private warehouse in which excisable goods are stored;

(*b*) "Bench" means a Bench of the Settlement Commission;

[3][(*c*) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, pending before an adjudicating authority on the date on which an application under sub-section (*1*) of Section 32-E is made:

Provided that when any proceeding is referred back [4][* * *] 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;]

(*d*) "Chairman" means the Chairman of the Settlement Commission;

(*e*) "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;

(*f*) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice-Chairman;

(*g*) "Settlement Commission" means the [5][Customs, Central Excise and Service Tax Settlement Commission] constituted under Section 32; and

(*h*) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.]

[6][**32. Customs and Central Excise Settlement Commission**.—(*1*) The Central Government shall, by

Service Tax Settlement Commission] for the settlement of cases under this Chapter and Chapter XIV-A of the Customs Act, 1962.

1. Chapter V consisting of Ss. 31 to 32P, ins. by Act 21 of 1998, s. 110, 2.
Ins. by *ibid*. s. 110.
3. Subs. by Act 22 of 2007, s. 119, for clause (c), (w.e.f. 1-6-2007).
4. The words "in any appeal or revision, as the case may be," *omitted* by Act 20 of 2015, s. 95.
5. Subs. by Act 25 of 2014, s. 98, for "Customs and Central Excise Settlement Commission". 6.
Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).
7. Subs. by Act 25 of 2014, s. 99, for "the Customs and Central Excise Settlement Commission".

(*2*) The Settlement Commission shall consist of a Chairman and as many Vice-Chairmen and other Members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with Customs and Central Excise matters.

(*3*) The Chairman, Vice-Chairman and other Members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, administration of customs and central excise laws:]

[1][* * *]

[2][**32A. Jurisdiction and powers of Settlement Commission**.—(*1*) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Settlement Commission may be exercised by Benches thereof.

(*2*) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(*3*) The Bench for which the Chairman is the presiding officer shall be the principal Bench and other Benches shall be known as additional Benches.

(*4*) Notwithstanding anything contained in sub-section (*1*) and sub-section (*2*), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench.

(*5*) The principal Bench shall sit at Delhi and the Central Government shall, by notification in the Official Gazette, establish additional Benches at such places as it considers necessary.

(*6*) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench:

Provided that if at any stage of the hearing of any such case or matter, it appears to the presiding officer that the case or matter is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the presiding officer of such Bench to the Chairman for transfer to such Bench as the Chairman may deem fit:

1. Proviso omitted by Act 20 of 2015, s. 96.

2. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

[1][Provided further that at any stage of the hearing of any such case or matter, referred to in the first proviso, the Chairman may, if he thinks that the case or matter is of such a nature that it ought to be heard by a Bench consisting of three Members, constitute such Bench and if Vice-Chairman is not one of the Members, the senior among the Members shall act as the presiding officer of such Bench.]

(*7*) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a special Bench consisting of more than three Members.

(*8*) Subject to the other provisions of this Chapter, the special Bench shall sit at a place to be fixed by the Chairman.]

[2][**32B. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances**.—(*1*) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or [3][the Member] as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(*2*) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or [3][the Member] as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.]

[2][**32C. Power of Chairman to transfer cases from one Bench to another**.—On the application of the assessee or the Chief Commissioner or [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] and after giving notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.]

[2][**32D. Decision to be by majority**.—If the Members of a Bench differ in opinion on any point, the point shall be decided according 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 Chairman 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 Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.]

1. Ins. by Act 22 of 2007, s. 120.

2. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

3. Subs. by Act 20 of 2015, s. 97, for ", as the case may be, such one of the Vice-Chairmen". 4.

Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

[1][**32E. Application for settlement of cases**.—[2][(*1*) An assessee 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 prescribed and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification, under-valuation, inapplicability of exemption notification or CENVAT credit [3][or otherwise] and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(*a*) the applicant has filed returns showing production, clearance and central excise duty paid in the prescribed manner;

(*b*) a show cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant;

(*c*) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and

(*d*) the applicant has paid the additional amount of excise duty accepted by him along with interest due under [4][Section 11AA]:

[5][Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the returns referred to in clause (*a*) of the first proviso to sub-section (*1*), may after recording the reasons therefor, allow the applicant to make such application:

Provided also that] no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any court:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985 (5 of 1986).

(*1*A) [6][* * *]]

(*2*) [7][* * *]

1. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).
2. Subs. by Act 22 of 2007, s. 121, for sub-section (*1*) (w.e.f. 1-6-2007).
3. Subs. by Act 14 of 2010, s. 65, for "but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register".
4. Subs. by Act 25 of 2014, s. 100(*i*)(*a*), for "Section 11AB".
5. Subs. by *ibid*., s. 100(*i*)(*b*), for "Provided further that".
6. Sub-section (1A) omitted by Act 20 of 2015, s. 98.
7. Omitted by Act 25 of 2014, s. 100(*ii*).

(*3*) Every application made under sub-section (*1*) shall be accompanied by such fees as may be prescribed.

(*4*) An application made under sub-section (*1*) shall not be allowed to be withdrawn by the applicant.

[1][(*5*) Any person other than an assessee, 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 assessee 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 prescribed.]]

2[3[**32F. Procedure on receipt of an application under Section 32E**.—(*1*) On receipt of an application under 4[* * *] Section 32E, 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 5[Principal Commissioner of Central Excise or Commissioner of Central Excise] 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 5[Principal Commissioner of Central Excise or Commissioner of Central Excise] 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.

(*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

1. Ins. by Act 7 of 2017, s. 117.

2. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

3. Subs. by Act 22 of 2007, s. 122, for "section 32F" (w.e.f. 1-6-2007).

4. The word "sub-section (*1*) of" omitted by Act 7 of 2017, s. 118(*i*). 5. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

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 Central Excise or Commissioner of Central Excise] 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 Central Excise or Commissioner of Central Excise] 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 Central Excise or Commissioner of Central Excise] 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 Central Excise or Commissioner of Central Excise 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 Central Excise or Commissioner of Central Excise as the case may be, and has given them a reasonable opportunity of being heard.]

(*6*) An order under sub-section (*5*) shall not be passed in respect of an application filed [3][* * *] after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under Section 32-E had been made:

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

2. Ins. by Act 7 of 2017, s. 118(*ii*).

3. The words "on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007," omitted by Act 20 of 2015, s. 99.

[1][Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months.]

(*7*) Subject to the provisions of Section 32A, 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 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 therefor 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 32E.

(*9*) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5), is not paid by the assessee 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 Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of Section 11.

(*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 Central Excise 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.]

[2][**32G. Power of Settlement Commission to order provisional attachment to protect revenue**.—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 revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.

(*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.]

1. Ins. by Act 14 of 2010, s. 66.

2. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

[1][**32H. [Power of Settlement Commission to reopen completed proceedings**.]—*Omitted by Finance Act* 2015 (*Act* 20 *of* 2015), *s*. 100.]

[1][**32I. Powers and procedure of Settlement Commission**.—(*1*) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a Central Excise Officer under this Act or the rules made thereunder.

(*2*) Where an application made under Section 32E has been allowed to be proceeded with under Section 32F, the Settlement Commission shall, until an order is passed under sub-section [2][(*5*)] of Section 32F, have, subject to the provisions of sub-section [3][(*4*)] of that section, exclusive jurisdiction to exercise the powers and perform the functions of any Central Excise Officer, under this Act 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 matters other upon those before the Settlement Commission.

(*4*) The Settlement Commission shall, subject to the provisions of 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.]

[1][**32J. Inspection, etc., of reports**.—No person shall be entitled to inspect, or obtain copies of, any report made by any Central Excise Officer 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 the prescribed fee:

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 of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.]

[1] [**32K. Power of Settlement Commission to grant immunity from prosecution and penalty**.—The Settlement Commission may, if it is satisfied that any person who made the application for settlement under Section 32E has cooperated 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 may think fit to impose, immunity from prosecution for any offence under this Act [4][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:

1. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).
2. Subs. by Act 22 of 2007, s. 124 (w.e.f. 1-6-2007), for "(7)".
3. Subs. by *ibid*, s. 124 (w.e.f. 1-6-2007), for "(6)".
4. Subs. by *ibid*, s. 125, for "or under the Indian Penal Code (45 of 1860) 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).

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 32E.

[1][* * *]

(*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 [2][sub-section (*5*) of Section 32-F 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 particular 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.]

[3][**32L. Power of Settlement Commission to send a case back to the Central Excise Officer**.—(*1*) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under Section 32E has not cooperated with the Settlement Commission in the proceedings before it, send the case back to the Central Excise Officer having jurisdiction who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under Section 32E had been made.

(*2*) For the purpose of sub-section (*1*), the Central Excise 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 Central Excise 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 11A and for the purposes of interest under Section 11BB, 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 32E and ending with the date of receipt by the

1. *Explanation* omitted by Act 20 of 2015, S. 101.

2. Subs. by Act 22 of 2007, s. 125, for "sub-section (*7*) of section 32F 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),

3. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

Central Excise Officer of the order of the Settlement Commission sending the case back to the Central Excise Officer shall be excluded.]

[1][**32M. Order of settlement to be conclusive**.—Every order of settlement passed under sub-section [2][(*5*)] of Section 32-F 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][**32N. Recovery of sums due under order of settlement**.—Any sum specified in an order of settlement passed under sub-section [2][(*5*)] of Section 32-F 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 under Section 11 by the Central Excise Officer having jurisdiction over the person who made the application for settlement under Section 32E.]

[1][**32O. Bar on subsequent application for settlement in certain cases**.— [3][(*1*)] [4][Where, [5][* * *]]—

(*i*) an order of settlement [6][* * *] provides for the imposition of a penalty on the person who made the application under Section 32E for settlement, on the ground of concealment of particulars of his duty liability; or

[7][*Explanation*.—In this clause, the concealment of particulars of duty liability relates to any such concealment made from the Central Excise Officer.]

(*ii*) after the passing of an order of settlement [8][* * *] 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 Central Excise Officer having jurisdiction by the

Settlement Commission under Section 32-L,

then, he shall not be entitled to apply for settlement under Section 32-E in relation to any other matter.

(*2*) [9][* * *]]

1. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).
2. Subs. by Act 22 of 2007, s. 126, for "(7)" (w.e.f. 1-6-2007),.
3.Renumbered by *ibid*, s. 128.
4. Subs. by *ibid*, s. 128, for "Where".
5. The words "before the 1st day of June, 2007" Omitted by Act 14 of 2010, S. 67(*a*)(*i*).
6. The words "passed under sub-section (7) of Section 32-F, as it stood immediately before the commencement of Section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of Section 32-F" omitted by Act 20 of 2015, s. 102(*a*).
7. Ins. by Act 25 of 2014, s. 101.
8. The words "under the said sub-section (7), as it stood immediately before the commencement of Section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of Section 32-F" *omitted* by Act 20 of 2015, s. 102(*b*).
9. Ins. by Act 22 of 2007, s. 128 and omitted by Act 14 of 2010, s. 67(b).

[1][**32P. 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.]

32PA. [Certain persons who have filed appeals to the Appellate Tribunal entitled to make applications to the Settlement Commission.]— *Omitted by Finance Act* 2007 (22 *of* 2007), *s*. 129 (*w.e.f.* 1-6-2007).

CHAPTER VI

ADJUDICATION OF CONFISCATIONS AND PENALTIES

33. Power of adjudication.— [2][Where under this Act or by the rules made thereunder] 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 [3][Principal Commissioner of Central Excise or Commissioner of Central Excise];

(*b*) up to confiscation of goods not exceeding five hundred rupees in value and imposition of penalty not exceeding two hundred and fifty rupees, by an Assistant [3][Principal Commissioner of Central Excise or Commissioner of Central Excise] [4][or Deputy [3][Principal Commissioner of Central Excise or Commissioner of Central Excise]]:

Provided that the [5][Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)], may, in the case of any officer performing the duties of an Assistant [3][Principal Commissioner of Central Excise or Commissioner of Central Excise], reduce the limits indicated in clause (*b*) of this section, and may confer on any officer the powers indicated in clause (*a*) or (*b*) of this section.

[6][**33A. 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:

1. Ins. by Act 21 of 1998, s. 110 (w.e.f. 1-8-1998).

2. Subs. by Act 27 of 1999, s. 125, for "Where by the rules made under this Act" (w.e.f. 11-5-1999). 3. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
4. Ins. by Act 27 of 1999, s. 119.
5. Subs. by Act 54 of 1963, s. 5, for "Central Board of Revenue" (w.e.f. 1-1-1964).
6. Ins. by Act 23 of 2004, s. 81.

Provided that no such adjournment shall be granted more than three times to a party during the proceeding.]

34. Option to pay fine in lieu of confiscation.—Wherever confiscation is adjudged under this Act or the rules made thereunder, the officer adjudging it, shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

[1][**34A. Confiscation or penalty not to interfere with other punishments**.—No confiscation made or penalty imposed under the provisions of this Act or of any rule made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.]

[2][CHAPTER VIA

APPEALS

35. Appeals to [3][Commissioner (Appeals)].—(*1*) Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer, lower in rank than a [4][Principal Commissioner of Central Excise or Commissioner of Central Excise], may appeal to the [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] (Appeals) [hereafter in this Chapter referred to as the [3][Commissioner (Appeals)]] [5][within sixty days] from the date of the communication to him of such decision or order:

[6][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].

[7][(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 the prescribed form and shall be verified in the prescribed manner.

1. Ins. by Act 36 of 1973, s. 22, (w.e.f. 1-9-1973).
2. Subs. by Act 44 of 1980, s. 50 and Schedule V, Pt. II-2, for sections 35, 35A and 36 (w.e.f. 11-10-1982). 3. Substituted by Act 22 of 1995, s. 70, for "Collector (Appeals)" (w.e.f. 26-5-1995).
4. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
5. Subs. by Act 14 of 2001, s. 127, for "with three months" (w.e.f. 11-5-2001).
6. Subs. by *ibid*., s. 127, for proviso (w.e.f. 11-5-2001).
7. Ins. by Act 23 of 2004, s. 82 (w.e.f. 10-9-2004).

35A. Procedure in appeal.—(*1*) The [1][Commissioner (Appeals)] shall give an opportunity to the appellant to be heard, if he so desires.

(*2*) The [1][Commissioner (Appeals)] may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the [1][Commissioner (Appeals)] is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*3*) [2][The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:]

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 [1][Commissioner (Appeals)] is of opinion that any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, no order requiring the appellant to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in Section 11A to show cause against the proposed order.

(*4*) The order of the [1][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.

[3][(*4*A) 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 [1][Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the adjudicating authority [4][, the [5][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise]] and the [6][Principal Commissioner of Central Excise or Commissioner of Central Excise].

35B. 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 [6][Principal Commissioner of Central Excise or Commissioner of Central Excise] as an adjudicating authority;

1. Substituted by Act 22 of 1995, Section 70, for "Collector (Appeals)" (w.e.f. 26-5-1995).

2. Subs. by Act 14 of 2001, s. 128(*a*), for certain words (w.e.f. 11-5-2001). 3.
Ins. by *ibid*., s. 128(*b*) (w.e.f. 11-5-2001).

4. Ins. by Act 18 of 2005, s. 78.

5. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise". 6.
Subs. by *ibid*., s. 95, for "Commissioner of Central Excise".

(*b*) an order passed by the [1][Commissioner (Appeals)] under Section 35-A;

(*c*) an order passed by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) (hereafter in this Chapter referred to as the Board) or the Appellate [2][Principal Commissioner of Central Excise or Commissioner of Central Excise] under Section 35, as it stood immediately before the appointed day;

(*d*) an order passed by the Board or the [2][Principal Commissioner of Central Excise or Commissioner of Central Excise], either before or after the appointed day, under Section 35-A, as it stood immediately before that day:

[3][Provided that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (*b*) if such order relates to,—

(*a*) a case of loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another, or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse;

(*b*) a rebate of duty of excise on goods exported to any country or territory outside India or on excisable materials used in the manufacture of goods which are exported to any country or territory outside India;

(*c*) goods exported outside India (except to Nepal or Bhutan) without payment of duty;

[4][(*d*) credit of any duty allowed to be utilised towards payment of excise duty on final products under the provisions of this Act or the rules made thereunder and such order is passed by the Commissioner (Appeals) on or after the date appointed under Section 109 of the Finance (No. 2) Act, 1998:]

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*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise 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

(*ii*) 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 47 of the Finance Act, 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 35-EE as if such appeal or matter were an application or a matter arising out of an application made to it under that section.]

1. Subs. by Act 22 of 1995, Section 70, for "Collector (Appeals)" (w.e.f. 26-5-1995). 2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".
3. Subs. by Act 21 of 1984, s. 47, for "Provided that" (w.e.f. 11-5-1984).
4. Ins. by Act 21 of 1998, s. 109 (w.e.f. 1-8-1998).
5. Subs. by Act 25 of 2014, s. 102(*a*), for "fifty thousand rupees". 6. Ins. by Act 21 of 1984, s. 47(*b*) (w.e.f. 11-5-1984).

[1][(1B) (*i*) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) may, [2][by order], constitute such Committees as may be necessary for the purposes of this Act.

(*ii*) Every Committee constituted under clause (*i*) shall consist of two [3][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] or two [4][Principal Commissioner of Central Excise or Commissioner of Central Excise], as the case may be.]

[5][(*2*) [6][The Committee of Commissioners of Central Excise may, if it is] is of opinion that an order passed by the Appellate [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] under Section 35, as it stood immediately before the appointed day, or the [7][Commissioner (Appeals)] under Section 35-A, is not legal or proper, direct any Central Excise Officer authorised by him in this behalf (hereafter in this Chapter referred to as the authorised officer) to appeal [8][on its behalf] to the Appellate Tribunal against such order.]

[9][Provided that where the Committee of [4][Principal Commissioner of Central Excise or Commissioner of Central Excise] 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 [3][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise]

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 any Central Excise Officer to appeal to the Appellate Tribunal against such order.

Explanation.—For the purposes of this sub-section, "jurisdictional Chief Commissioner" means the [3][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] having jurisdiction over the adjudicating authority in the matter.]

1. Ins. by Act 18 of 2005, s. 79.

2. Subs. by Act 25 of 2014, s. 102(*b*), for "by notification in the Official Gazette". 3. Subs. by *ibid*, s. 95, for "Chief Commissioner of Central Excise".

4. Subs. by *ibid*, s. 95, for "Commissioner of Central Excise".

5. Subs. by Act 62 of 1986, s. 34(*a*)(*i*), for sub-section (2).

6. Subs. by Act 18 of 2005, s. 79, for "The Commissioner of Central Excise may, if he is". 7. Subs. by Act 22 of 1995, s. 70, for "Collector (Appeals)" (w.e.f. 26-5-1995).

8. Subs. by Act 18 of 2005, s. 79(*a*)(*ii*), for "on his behalf".

9. Ins. by Act 18 of 2008, s. 83.

(*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 [1][Principal Commissioner of Central Excise or Commissioner of Central Excise], 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 the prescribed manner 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.

[2][(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner 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 Central Excise Officer 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 Central Excise Officer 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 Central Excise Officer 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*).

(*7*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal [3][* * *] 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:

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2. Subs. by Act 23 of 2004, s. 83, for sub-section (6) (w.e.f. 1-11-2004). 3. The word "for grant of stay or" omitted by Act 25 of 2014, s. 102(c).

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] under this sub-section.]

35C. 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.

[2][(1A) The Appellate Tribunal 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*) The Appellate Tribunal may, at any time within [3][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 [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] or the other party to the appeal:

Provided that an amendment which has the effect of enhancing an 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.

[4][(*2*A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed:

[5][* * *]

(*3*) The Appellate Tribunal shall send a copy of every order passed under this section to the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] and the other party to the appeal.

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2. Ins. by Act 23 of 2004, s. 84.

3. Subs. by Act 20 of 2002, s. 140(*i*), for "four years".

4. Ins. by *ibid*, s. 140(*ii*).

5. First, Second & Third Proviso omitted by Act 25 of 2014, s. 103.

(*4*) [1][Save as provided in the National Tax Tribunal Act, 2005] orders passed by the Appellate Tribunal on appeal shall be final.

35D. Procedure of Appellate Tribunal.—(*1*) The provisions of sub-sections (*1*), (*2*), (*5*) and (*6*) of Section 129-C of the Customs Act, 1962 (52 of 1962), shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962 (52 of 1962).

(*2*) [2][* * *]

(*3*) 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*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise 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

(*b*) the amount of fine or penalty involved, does not exceed [3][fifty lakh rupees].

35E. Powers of [4][Committee of [5][Principal Chief Commissioner of Central Excise or Chief Commissioners of Central Excise] or [6][Principal Commissioner of Central Excise or Commissioners of Central Excise]] to pass certain orders.—(*1*) The [4][Committee of [5][Principal Chief Commissioners of Central Excise or Commissioner of Central Excise]] or may, of its own motion, call for and examine the record of any proceeding in which a [6][Principal Commissioner of Central Excise or Commissioner of Central Excise]] 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 [7][Commissioner [8][or any other Commissioner]] to apply to the Appellate Tribunal [9][or, as the case may be, the Customs and Excise Revenues Appellate Tribunal established under Section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986] for the determination of such points arising out of the decision or order as may be specified by the [4][Committee of [5][Principal Chief Commissioners of Central Excise or Commissioner of Central Excise]] in its order:

1. Subs. by Act 49 of 2005, s. 30 and Sch. (Pt. VII-5), for "Save as provided in section 35G or section 35L" (w.e.f. 28-12-2005). 2. Sub-section (*2*) omitted by Act 22 of 1995, s. 77 (w.e.f. 26-5-1995).

3. Subs. by Act 17 of 2013, s. 99, for "ten lakh rupees" (w.e.f. 10-5-2013).

4. Subs. by Act 18 of 2005, s. 80, for "Board" (w.e.f. 13-5-2005).

5. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise" (w.e.f. 6-8-2014). 6. Subs. by *ibid*., s. 95, for "Commissioner of Central Excise" (w.e.f. 6-8-2014).

7. Subs. by Act 22 of 1995, s. 70, for "Collector" (w.e.f. 26-5-1995).

8. Ins. by Act 14 of 2001, s. 129.

9. Ins. by Act 62 of 1986, s. 34, w.e.f. the appointed day under that Act.

[1][Provided that where the Committee of [2][Principal Chief Commissioners of Central Excise or Chief Commissioner of Central Excise] differs in its opinion as to the legality or propriety of the decision or order of the [3][Principal Commissioner of Central Excise or Commissioner of Central Excise], 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, if is of the opinion that the decision or order passed by the [3][Principal Commissioner of Central Excise or Commissioner of Central Excise] 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 Central Excise or Commissioner of Central Excise] 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 Central Excise Officer 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 Central Excise or Commissioner of Central Excise] 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 the authorised officer makes an application to the Appellate Tribunal [8][or, as the case may be, the Customs and Excise Revenues Appellate Tribunal established under Section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986] or the [5][Commissioner (Appeals)] within a period of [9][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 [8][or, as the case may be, the Customs and Excise Revenues Appellate Tribunal established under Section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986] or the [5][Commissioner (Appeals)], as the case may be, as if such application

1. Ins. by Act 18 of 2008, s. 84(*i*).

2. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise" (w.e.f. 6-8-2014). 3. Subs. by *ibid*., s. 95, for "Commissioner of Central Excise" (w.e.f. 6-8-2014).
4. Subs. by Act 29 of 2006, s. 37, for "such authority".
5. Subs. by Act 22 of 1995, s. 70, for "Collector (Appeals)" (w.e.f. 26-5-1995).
6. Subs. by Act 18 of 2008, s. 84(*ii*), for sub-section (3) (w.e.f. 10-5-2008).
7. Ins. by Act 25 of 2014, s. 104.
8. Ins. by Act 62 of 1986, s. 34, w.e.f. the appointed day under that Act.
9. Subs. by Act 22 of 2007, s. 130, for "three months".

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 35-B, [1][or, as the case may be, the provisions of the Customs and Excise Revenues Appellate Tribunal Act, 1986] shall, so far as may be, apply to such application.

[2][(*5*) The provisions of this section shall not apply to any decision or order in which the determination of any question having a relation to the rate of duty of excise 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 of 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 of excise for the time being in force, whether under the Central Excise Tariff Act, 1985 (5 of 1986), or under any other Central Act providing for the levy and collection of any duty of excise, 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 of excise in cases where the assessment is made on or after the 28th day of February, 1986; or

(*c*) whether any goods are excisable goods or whether the rate of duty of excise on any goods is nil; or

(*d*) whether any goods fall under a particular heading or sub-heading of the [3][First Schedule and the Second Schedule] to the Central Excise Tariff Act, 1985 (5 of 1986), or the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), or the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978), or that any goods are or not covered by a particular notification or order issued by the Central Government or the Board, as the case may be, granting total or partial exemption from duty; or

(*e*) whether the value of any goods for the purposes of assessment of duty of excise 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.]

[4][**35EA. Powers of revision of Board or**[5][**Principal Commissioner of Central Excise or Commissioner of Central Excise**] **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 [5][Principal Commissioner of Central Excise or Commissioner of Central Excise] has passed any decision or order [not being a decision or order passed under sub-section (*2*) of this section] of the nature

1. Ins. by Act 62 of 1986, s. 34, w.e.f. the appointed day under that Act. 2. Ins. by Act 29 of 1988, s. 11 (w.e.f. a date to be notified).
3. Subs. by Act 27 of 1999, s. 119, for "the Schedule".
4. Ins. by Act 29 of 1988, s. 12 (w.e.f. a date to be notified).
5. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

referred to in sub-section (*5*) of Section 35-E for the purpose of satisfying itself as to correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit.

(*2*) The [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] 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 35-E 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 [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] is of the opinion that any duty of excise 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 11-A to show cause against the proposed order.

(*4*) No proceedings 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, 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]**[35EE. Revision by Central Government.**— (*1*) The Central Government may, on the application of any person aggrieved by any order passed under Section 35-A, where the order is of the nature referred to in the first proviso to sub-section (*1*) of Section 35-B, annul or modify such order:

[3][Provided that the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees.]

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

2. Ins. by Act 21 of 1984, s. 50 (w.e.f. 11-5-1984).

3. Ins. by Act 27 of 1999, s. 126(*a*) (w.e.f. 11-5-1999).

Explanation.—For the purposes of this sub-section, "order passed under Section 35-A" includes an order passed under that section before the commencement of Section 47 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][(1A) The [2][Principal Commissioner of Central Excise or Commissioner of Central Excise] may, if he is of the opinion that an order passed by the Commissioner (Appeals) under Section 35-A 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 any Central Excise Officer 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 any Central Excise Officer 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 35A 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.

1. Ins. by Act 27 of 1999, s. 126(*b*) (w.e.f. 11-5-1999).

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 3.
Subs. by Act 27 of 1999, s. 126(*c*), for sub-section (3) (w.e.f. 11-5-1999).

(*6*) Where the Central Government is of opinion that any duty of excise 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 11A.]

[1][**35F. 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 35, 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 Central Excise lower in rank than the [2][Principal Commissioner of Central Excise or Commissioner of Central Excise];

(*ii*) against the decision or order referred to in clause (*a*) of sub-section (*1*) of Section 35-B, 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 35-B, 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:

Provided that the amount required to be deposited under this section shall not exceed Rupees Ten crores:

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.

Explanation.—For the purposes of this section "duty demanded" shall include,—

(*i*) amount determined under Section 11D;

(*ii*) amount of erroneous CENVAT credit taken;

(*iii*) amount payable under Rule 6 of the CENVAT Credit Rules, 2001 or the CENVAT Credit Rules, 2002 or the CENVAT Credit Rules, 2004.]

[3][**35FF. Interest on delayed refund of amount deposited under Section 35F**.—Where an amount deposited by the appellant under Section 35F 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 refund of such amount:

1. Subs. by Act 25 of 2014, s. 105, for section 35F (w.e.f. 6-8-2014). 2. Subs. by *ibid*, s. 95, for "Commissioner of Central Excise".
3. Subs. by *ibid*, s. 106, for section 35FF.

Provided that the amount deposited under Section 35F, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of Section 35FF as it stood before the commencement of the said Act.]

35G. [Appeal to High Court].— *Omitted by The National Tax Tribunal Act*, 2005 (*Ac*t 49 *of* 2005), *s.* 30 *and Sch., Pt. VII*-6 (*w.e.f.* 28-12-2005).

35H. [**Application to High Court**.]— *Omitted by ibid*, *s.* 30 *and Sch., Pt. VII*-6 (*w.e.f.* 28-12-2005).

35I. [**Power of High Court or Supreme Court to require statement to be amended**.]— *Omitted by The National Tax Tribunal Act*, 2005 (*Ac*t 49 *of* 2005), *s.* 30 *and Sch., Pt. VII*-6 (*w.e.f.* 28-12-2005).

35J. [**Case before High Court to be heard by not less than two judges**.]— *Omitted by ibid*, *s.* 30 *and Sch., Pt. VII*-6 (*w.e.f.* 28-12-2005).

35K. Decision of High Court or Supreme Court on the case stated.—(*1*) The [1][* * *] 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.

[2][(1A) Where the High Court delivers a judgment in an appeal filed before it under Section 35G, effect shall be given to the order passed on the appeal by the concerned Central Excise Officer on the basis of a certified copy of the judgment.]

(*2*) The costs of any [3][reference to [4][***] an appeal to[4][* * *] the Supreme Court, [5][* * *]] which shall not include the fee for making the reference shall be in the discretion of the Court.

35L. Appeal to Supreme Court.— [6][(*1*)] An appeal shall lie to the Supreme Court from—

[7][(*a*) any judgment of the High Court delivered—

(*i*) in an appeal made under Section 35G; or

1. The words "High Court or the" omitted by Act 49 of 2005, s. 30 and Sch. (Pt. VII-7) (w.e.f. 28-12-2005). 2. Ins. by Act 32 of 2003, s. 146(*a*) (w.e.f. 1-7-2003).

3. Subs. by *ibid*, s. 146, for "reference to the High Court or the Supreme Court" (w.e.f. 14-5-2003).
4. The words "the High Court or" omitted by Act 49 of 2005, s. 30 and Sch. (Pt. VII-7(*ii*)(*a*)) (w.e.f. 28-12-2005).
5. The words "as the case may be" omitted by *ibid*, s. 30 and Sch. (Pt. VII-7(*ii*)(*b*)) (w.e.f. 28-12-2005). 6.
Renumbered by Act 25 of 2014, s. 107.
7. Subs. by Act 32 of 2003, s. 147, for clause (*a*) (w.e.f. 14-5-2003).

(*ii*) on a reference made under Section 35G by the Appellate Tribunal before the 1st day of July, 2003;

(*iii*) on reference made under Section 35H,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after the passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or]

(*b*) any order passed [1][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 excise or to the value of goods for purposes of assessment.

[2][(*2*) For the purposes of this Chapter, the determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.]

35M. 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 35L 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 35K or Section 35N.

(*2*) The costs of the appeal shall be in the discretion of the Supreme Court.

(*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 35-K in the case of a judgment of the High Court.

35N. 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 [3][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 35C shall be payable in accordance with the order so passed.

35O. Exclusion of time taken for copy.—In computing the period of limitation prescribed 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.

1. Ins. by Act 49 of 2005, s. 30 and Sch. (Pt. VII-8) (w.e.f. 28-12-2005). 2.
Ins. by Act 25 of 2014, s. 107.
3. Ins. by Act 49 of 2005, s. 30 and Sch. (Pt. VII-9) (w.e.f. 28-12-2005).

35P. Transfer of certain pending proceedings and transitional provisions.—(*1*) Every appeal which is pending immediately before the appointed day before the Board under Section 35, 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 36, 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*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise 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

(*b*) 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 36 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 reheard.

(*3*) Every proceeding which is pending immediately before the appointed day before the Board or the [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] under Section 35-A, 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 [1][Principal Commissioner of Central Excise or Commissioner of Central Excise], 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 35-Q, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

35Q. Appearance by authorised representative.—(*1*) Any person who is entitled or required to appear before a Central Excise Officer or the Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under this Act to appear 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*) any legal practitioner who is entitled to practise in any civil court in India; or

(*c*) any person who has acquired such qualifications as the Central Government may prescribe for this purpose.

(*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 a Central Excise Officer 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

(*b*) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962 (52 of 1962) or the Gold (Control) Act, 1968 (45 of 1968)[1] 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 Central Excise or

Commissioner of Central Excise] or the competent authority under the Customs Act, 1962 or the Gold (Control) Act, 1968 (45 of 1968)[1], 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

1. Repealed by Act 18 of 1990, s. 2.

2. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise".

in relation to his right to appear before a Central Excise Officer or the Appellate Tribunal as it has in relation to his right to practise as a legal practitioner;

(*b*) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (*1*).

(*6*) Any order or direction under clause (*d*) 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.

[1][**35R. Appeal not to be filed in certain cases**.—(*1*) The Central Board of Excise and Customs 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 Central Excise Officer under the provisions of this chapter.

(*2*) Where, in pursuance of the orders or instructions or directions, issued under sub-section (*1*), the Central Excise Officer 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 Central Excise Officer from filing 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 Central Excise Officer 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 Central Excise Officer has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(*4*) [2][The Commissioner (Appeals) or the Appellate Tribunal or court] hearing such appeal, application, revision or reference shall have regard to the circumstances under which appeal, application, revision or reference was not filed by the Central Excise Officer in pursuance of the orders or instructions or directions issued under sub-section (*1*).

1. Ins. by Act 8 of 2011, s. 69 (w.e.f. 8-4-2011).

2. Subs. by Act 25 of 2014, s. 108, for "The Appellate Tribunal or court".

(*5*) Every order or instruction or direction issued by the Central Board of Excise and Customs 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 of 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.]

36. Definitions.—In this Chapter—

(*a*) "appointed day" means the date[1] of coming into force of the amendments to this Act specified in Part II of the Fifth Schedule to the Finance (No. 2) Act, 1980 (44 of 1980);

(*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 [2][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.]

[3][CHAPTER VIB

PRESUMPTION AS TO DOCUMENTS]

[4][**36A. Presumption as to documents in certain cases**.—Where any document 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 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*) unless the contrary is proved by such person, presume—

(*i*) the truth of the contents of such document;

(*ii*) 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

1. Came into force on 11-10-1982 vide G.S.R. 592 (E), dated 11th October, 1982.

2. Subs. by Act 10 of 1989 the Goa, Daman & Diu Reorganisation Act, 1987 (w.e.f. 30-5-1987). 3. Chapter heading ins. by Act 44 of 1980, s. 5 (w.e.f. 11-10-1982).

4. Ins. by Act 36 of 1973, s. 23.

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;

(*b*) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.]

[1][**36B. Admissibility of microfilms, facsimile copies of documents and computer printouts as documents and as evidence**.—(*1*) Notwithstanding anything contained in any other law for the time being in force,—

(*a*) a microfilm of a document or the reproduction of the image or images embodied in such microfilm (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 printout"), 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 reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

1. Ins. by Act 29 of 1988, S. 13 (w.e.f. 1-7-1988).

(*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,

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 therefrom by calculation, comparison or any other process.]

CHAPTER VII

SUPPLEMENTAL PROVISIONS

37. Power of Central Government to make rules.—(*1*) The Central Government may make rules to carry into effect the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

[1][(*i*) provide for determining under Section 4 the nearest ascertainable equivalent of the normal price;

(*ia*) having regard to the normal practice of the wholesale trade, define or specify the kinds of trade discount to be excluded from the value under Section 4 including the circumstances in which and the conditions subject to which such discount is to be so excluded;]

[2][(*ib*)] provide for the assessment and collection of duties of excise, the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid;

[3][(*ibb*) provide for charging or payment of interest on the differential amount of duty which becomes payable or refundable upon finalisation of all or any class of provisional assessments;]

[4][(*ic*) provide for the remission of duty of excise leviable on any excisable goods, which due to any natural cause are found to be deficient in quantity, the limit or limits of percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same excisable goods or for different areas or for different seasons;]

[5][(*i-d*) provide for the amount to be paid [6][for compounding and the manner of compounding] under sub-section (2) of Section 9-A;]

(*ii*) prohibit absolutely, or with such exceptions, or subject to such conditions as the Central Government thinks fit, the production or manufacture, or any process of the production or manufacture,

1. Ins. by Act 22 of 1973, s. 3 (w.e.f. 1-9-1973).

2. Clause (*i*) renumbered as clause (*ib*) by *ibid*, s. 3 (w.e.f. 1-9-1973). 3.
Ins. by Act 27 of 1999, s. 131(*a*) (w.e.f. 11-5-1999).

4. Ins. by Act 25 of 1978, s. 25 (w.e.f. 1-7-1978).

5. Ins. by Act 23 of 2004, s. 85.

6. Subs. by Act 33 of 2009, s. 110, for "Compounding".

of excisable goods, or of any component parts or ingredients or containers thereof, except on land or premises approved for the purpose;

(*iii*) prohibit absolutely, or with such exceptions, or subject to such conditions as the Central Government thinks fit, [1][* * *] the transit of excisable goods from any part of [2][India] to any other part thereof;

(*iv*) regulate the removal of excisable goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a [3][registered] person, or a bonded warehouse, or to a market;

(*v*) regulate the production or manufacture, or any process of the production or manufacture, the possession, storage and sale of salt, and so far as such regulation is essential for the proper levy and collection of the duties imposed by this Act, or of any other excisable goods, or of any component parts or ingredients or containers thereof;

(*vi*) provide for the employment of officers of the [4][Government] to supervise the carrying out of any rules made under this Act;

(*vii*) require a manufacturer or the licensee of a warehouse to provide accommodation within the precincts of his factory or warehouse for officers employed to supervise the carrying out of regulations made under this Act and prescribe the scale of such accommodation;

(*viii*) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering goods into and clearing goods from such warehouses;

(*ix*) provide for the distinguishing of goods which have been [5][manufactured after registration], of materials which have been imported under licence, and of goods on which duty has been paid, or which are exempt from duty under this Act;

(*x*) impose on persons engaged in the production or manufacture, storage or sale (whether on their own account or as brokers or commission agents) of salt, and, so far as such imposition is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;

1. The words "the bringing of excisable goods into India from the State of Jammu and Kashmir, or" omitted by Act 41 of 1954, s. 2 and Sch (w.e.f. 8-10-1954).

2. Subs. by Act 25 of 1950, s. 11 and Sch. IV, for "the States".

3. Subs. by Act 18 of 1992, s. 113(*5*)(*i*)(*a*), for "licensed" (w.e.f. 14-5-1992).

4. Subs. by the A.O. 1950.

5. Subs. by Act 18 of 1992, s. 113(*5*)(*i*)(*b*), for "manufactured under licence" (w.e.f. 14-5-1992).

(*xi*) require that excisable goods shall not be sold or offered or kept for sale in [1][India] except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed;

(*xii*) provide for the issue of [2][registration certificates] and transport permits and the fees, if any, to be charged therefor:

Provided that the fees for the licensing of the manufacture and refining of salt and saltpetre shall not exceed, in the case of each such licence, the following amounts, namely:—

	Rs.
Licence to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining	50
Licence to manufacture saltpetre	2

Licence to manufacture sulphate of soda (*Kharinun*) by solar heat in evaporating pans	10
Licence to manufacture sulphate of soda (*Kharinun*) by artificial heat	2
Licence to manufacture other saline substances	2;

(*xiii*) provide for the detention of goods, plant, machinery or material, for the purpose of exacting the duty, the procedure in connection with the confiscation, otherwise than under Section 10 or Section 28, of goods in respect of which breaches of that Act or rules have been committed, and the disposal of goods so detained or confiscated;

[3][(*xiii-a*) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit;]

(*xiv*) authorise and regulate the inspection of factories and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale or transport of salt, and so far as such inspection or search is essential for the proper levy and collection of the duties imposed by this Act, of any other excisable goods;

(*xv*) authorise and regulate the composition of offences against, or liabilities incurred under this Act or the rules made thereunder;

1. Subs. by Act 25 of 1950, s. 11 and Sch. IV, for "the States".

2. Subs. by Act 18 of 1992, s. 113(5)(*i*)(*c*), for "licences" (w.e.f. 14-5-1992). 3. Ins. by Act 14 of 2010, s. 68.

(*xvi*) provide for the grant of a rebate of the duty paid on goods which are exported out of India or shipped for consumption on a voyage to any port outside India [1][including interest thereon];

[2][* * *]

[3][(*xvi-a*) provide for the credit of duty paid or deemed to have been paid on the goods used in, or in relation to, the manufacture of excisable goods;]

[4][(*xvi-aa*) provide for credit of service tax leviable under Chapter V of the Finance Act, 1994 (32 of 1994), paid or payable on taxable services used in, or in relation to, the manufacture of excisable goods;]

[5][(*xvi-b*) provide for the giving of credit of sums of money with respect to raw materials used in the manufacture of excisable goods;]

[6][(*xvi-c*) provide for charging and payment of interest, as the case may be, on credit of duty paid or deemed to have been paid on the goods used in, or in relation to, the manufacture of excisable goods where such credit is varied subsequently;]

(*xvii*) exempt any goods from the whole or any part of the duty imposed by this Act;

[7][(*xvii-a*) provide incentives for increased production or manufacture of any goods by way of remission of, or any concession with respect to, duty payable under this Act;]

(*xviii*) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of the Central Government, or of any factory in which saltpetre is manufactured or refined, and regulate the possession, storage and sale of salt within such area;

(*xix*) define an area and any other place in which salt is manufactured, and regulate the possession, storage and sale of salt within such area;

(*xx*) authorise the [8][Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)] or [9][Chief Commissioners of Central Excise or Commissioners of Central Excise] appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government under this section;

1. Ins. by Act 22 of 1995, s. 78(*a*)(*i*).
2. Proviso omitted by Act 49 of 1957, s. 2.
3. Ins. by Act 23 of 1986, s. 51 (w.e.f. 13-5-1986).
4. Ins. by Act 23 of 2004, s. 85.
5. Ins. by Act 11 of 1987, s. 94.
6. Ins. by Act 22 of 1995, s. 78.
7. Ins. by Act 14 of 1982, s. 48.
8. Subs. by Act 54 of 1963, s. 5, for central Board of Revenue" (w.e.f. 1-1-1964).
9. Subs, by Act 25 of 2014, s. 95, for "Commissioners of Central Excise" (w.e.f. 6-8-2004).

[1][(*xxi*) provide for 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 of any rule made thereunder;]

[2][(*xxii*) provide for the charging of fees for the examination of excisable goods intended for export out of India and for rendering any other service by a Central Excise Officer under this Act or the rules made thereunder;]

[3][(*xxiii*) specify the [4][form and manner] in which application for refund shall be made under Section 11-B;

(*xxiv*) provide for the manner in which money is to be credited to the Fund;

(*xxv*) provide for the manner in which the Fund shall be utilised for the welfare of the consumers;

(*xxvi*) specify the form in which the account and records relating to the Fund shall be maintained;]

[5] [(*xxvii*) specify the persons who shall get themselves registered under Section 6 and the manner of their registration;]

[6][(*xxviii*) provide for the lapsing of credit of duty lying unutilised with the manufacturer of specified excisable goods on an appointed date and also for not allowing such credit to be utilised for payment of any kind of duty on any excisable goods on and from such date.]

[7][(2A) The power to make rules conferred by clause (*xvi*) of sub-section (*2*) shall include the power to give retrospective effect to rebate of duties on inputs used in the export goods from a date not earlier than the changes in the rates of duty on such inputs.]

(*3*) In making rules under this section, the Central Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding [8][five thousand rupees].

[9][(*4*) Notwithstanding anything contained in sub-section (*3*), and without prejudice to the provisions of Section 9, in making rules under this section, the Central Government may provide that if any manufacturer, producer or licensee of a warehouse—

(*a*) removes any excisable goods in contravention of the provisions of any such rule, or

(*b*) does not account for all such goods manufactured, produced or stored by him, or

1. Ins. by Act 36 of 1973, s. 24.
2. Ins. by Act 79 of 1985, s. 6 (w.e.f. 27-12-1985).
3. Ins. by Act 40 of 1991, s. 8 (w.e.f. 20-9-1991).
4. Subs. by Act 22 of 1995, s. 78, for "form".
5. Ins. by Act 18 of 1992, s. 113(*5*)(*i*)(*d*) (w.e.f. 4-5-1992).

6. Ins. by Act 27 of 1999, s. 131 (w.r.e.f. 16-3-1995).
7. Ins. by Act 22 of 1995, s. 78 (w.e.f. 26-5-1999).
8. Subs. by Act 10 of 2000, s. 108, for certain words (w.e.f. 12-5-2000). 9.
Ins. by Act 19 of 1968, s. 38(i) (w.e.f. 11-5-1968).

(*c*) engages in the manufacture, production or storage of such goods without having applied for the [1][registration as] required under Section 6, or

[2][(*d*) contravenes the provisions of any such rule with intent to evade payment of duty,

then, all such goods shall be liable to confiscation and the manufacturer, producer or licensee shall be liable to a penalty not exceeding the duty leviable on such goods or [3][five thousand rupees], whichever is greater.]

[4][(*5*) Notwithstanding anything contained in sub-section (*3*), the Central Government may make rules to provide for the imposition upon any person who acquires possession of, or is in any way concerned in transporting, removing, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder, a penalty [5][not exceeding the duty leviable on such goods or [6][five thousand rupees], whichever is greater].]

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 may be exercisable also by [8][a [9][Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise] or a [10][Principal Commissioner of Central Excise or Commissioner of Central Excise]] empowered in this behalf by the Central Government;

(*b*) any power exercisable by a [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] under this Act may be exercisable also by a [11][Joint] [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] or an Assistant [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] or Deputy [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] empowered in this behalf by the Central Government;

(*c*) any power exercisable by a [11][Joint] [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] under this Act may be exercisable also by an Assistant [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] or Deputy [10][Principal Commissioner of Central Excise or Commissioner of Central Excise] empowered in this behalf by the Central Government; and

1. Subs. by Act 18 of 1992, s. 113(*5*)(*ii*), for "licence" (w.e.f. 14-5-1992).
2. Subs. by Act 10 of 2000, s. 108, for (*d*) in sub-section (4).
3. Subs. by Act 20 of 2015, s. 103, for "two thousand rupees".
4. Ins. by Act 36 of 1973, s. 24 (w.e.f. 1-9-1973).
5. Subs. by Act 10 of 2000, s. 108, for certain words, (w.e.f. 12-5-2000).
6. Subs. by Act 20 of 2015, s. 103, for "two thousand rupees".
7. Ins. by Act 25 of 1978, s. 26 (w.e.f. 1-7-1978).
8. Subs. by Act 29 of 1988, s. 14, for "a Collector of Central Excise" (w.e.f. 16-8-1988).
9. Subs. by Act 25 of 2014, s. 95, for "Chief Commissioner of Central Excise" (w.e.f. 6-8-2014). 10.
Subs. by *ibid*, s. 95, for "Commissioner of Central Excise".
11. Subs. by Act 27 of 1999, s. 119, for "Deputy Commissioner of Central Excise" (w.e.f. 11-5-1999).

(*d*) any power exercisable by an Assistant [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] or Deputy [1][Principal Commissioner of Central Excise or

Commissioner of Central Excise] under this Act may be exercisable also by a gazetted officer of Central Excise empowered in this behalf by the Board.]

[2][**37B. Instructions to Central Excise Officers**.—The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on [3][such goods or for the implementation of any other provision of this Act], issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any Central Excise Officer 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 [1][Principal Commissioner of Central Excise or Commissioner of Central Excise] (Appeals) in the exercise of his appellate functions.

[1][**37C. Service of decisions, orders, summons, etc**.—(*1*) Any decision or order passed or any summons or notices issued under this Act or the rules made thereunder, shall be served,—

(*a*) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgment due [4][or by speed post with proof of delivery or by courier approved by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)], to the person for whom it is intended or his authorised agent, if any;

(*b*) if the decision, order, summons or notice cannot be served in the manner provided in clause (*a*), by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person for whom such decision, order, summons or notice, as the case may be, is intended;

(*c*) if the decision, order, summons or notice cannot be served in the manner provided in clauses (*a*) and (*b*), by affixing a copy thereof on the notice-board of the officer or authority who or which passed such decision or order or issued such summons or notice.

1. Subs. by Act 25 of 2014, s. 95, for "Commissioner of Central Excise". 2. Sections 37B & 37C ins. by Act 79 of 1985, s. 7 (w.e.f. 27-12-1985). 3. Subs. by Act 28 of 2016, s. 144, for "such goods" (w.e.f. 14-5-2016). 4. Ins. by Act 17 of 2013, s. 100(*i*).

(*2*) Every decision or order passed or any summons or notice issued under this Act or the rules made thereunder, shall be deemed to have been served on the date on which the decision, order, summons or notice is tendered or delivered by post [1][or courier referred to in sub-section (*1*)] or a copy thereof is affixed in the manner provided in sub-section (*1*).]

[2][**37D. Rounding off of duty, etc**.—The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund 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.]

[3][**37E. 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 manner as if 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 35 of the Appellate Tribunal under Section 35-B, 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 treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it.]

[4][**38. Publication of rules and notifications and laying of rules before Parliament**.—(*1*) All rules made and notifications issued under this Act shall be published in the Official Gazette.

[5][(*2*) Every rule made under this Act, every notification issued under [6][Section 3A, [7][Section 3C] Section 4A,] sub-section (*1*) of Section 5A, [8][Section 5B] and Section 11C and every order made under sub-section (*2*) of Section 5A, 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 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 notification or order, or both Houses agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no

1. Ins. by Act 17 of 2013, s. 100(*ii*).
2. Ins. by Act 12 of 1990, s. 65 (w.e.f. 31-5-1990).
3. Ins. by Act. 29 of 2006, s. 38 (w.e.f. 1-9-1973).
4. Subs. by Act 22 of 1973, s. 4, for section 38.
5. Subs. by Act 22 of 1995, s. 79, for sub-section (2) (w.e.f. 26-5-1995). 6.
Ins. by Act 26 of 1997, s. 84 (w.e.f. 14-5-1997).
7. Ins. by Act 18 of 2017, s. 9.
8. Ins. by Act 8 of 2011, s. 70.

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 notification or order.]]

[1][**38A. Effect of amendments, etc. of rules, notifications or orders**.—Where any rule, notification or order made or issued under this Act or any notification or order issued under such rule, 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, 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, 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, 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, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.]

2[**38B. Savings of references to Chapter, Heading, Sub-heading and tariff item in Central Excise Tariff Act, 1985**.—Notwithstanding the repeal of the Central Excise Tariff Act, 1985 (5 of 1986) by sub-section (*1*) of Section 174 of the Central Goods and Services Tax Act, 2017, any reference to the Chapter, heading, sub-heading or tariff item, as the case may be, in the First Schedule to the said Act or in any rules or regulations made thereunder, or in any notification, circular, order or instruction issued thereunder, shall mean a reference to the Chapter, heading, sub-heading or tariff item, as the case may be, in the Fourth Schedule.]

39. Repeal of enactments.—[*Rep. by the Repealing and Amending Act, 1947* (*2 of 1948*), *S. 2 and Sch.*]

3[**40. Protection of action taken under the Act**.—(*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of the Central Government or a State Government for anything which is done, or intended to be done, in good faith, in pursuance of this Act or any rule made thereunder.

1. Ins. by Act 14 of 2001, s. 131 (w.r.e.f. 28-2-1944).

2. Ins. by Act 18 of 2017, s. 10.

3. Subs. by Act 22 of 1973, s. 5, for section 40 (w.e.f. 1-9-1973).

(*2*) No proceeding, other than a suit, shall be commenced against the Central Government or any officer of the Central Government or a State Government for anything done or purported to have been done in pursuance of this Act or any rule made thereunder, 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.]

[THE FIRST SCHEDULE:]*Omitted* by the Central Excise Tariff Act, 1985 (Act 5 of 1986), s. 4 (w.e.f. 28-2-1986).

[1][**THE SECOND SCHEDULE**

[*See* Section 8]

TOBACCO

[2][**THE THIRD SCHEDULE**

[*See* Section 2(*f*)(*iii*)]

NOTES

1. In this Schedule, "heading", "sub-heading" and "tariff item" mean respectively, a heading, sub-heading and tariff item in the Fourth Schedule.

2. The rules for the interpretation, the Section, Chapter Notes and the General Explanatory Notes of the Fourth Schedule shall apply to the interpretation of this Schedule.

Sl. No.	Heading, Sub-heading or Tariff Item	Description of goods
1.	2402 20 10 to 2402 20 90	All Goods
2.	2403 99 10, 2403 99 20, 2403 99 30	Chewing tobacco and preparations containing chewing tabacco
3.	2403 99 90	Pan masala containing tobacco.]

1. Subs. by Act 18 of 1956, s. 36, for THE SECOND SCHEDULE (w.e.f. 27-4-1956). 2. Subs. by Act 18 of 2017, s. 11 and Schedule I, for THE THIRD SCHEDULE.

[1][**THE FOURTH SCHEDULE**

[*See* Section 2(*d*) and 2(*f*)(*ii*)]

General rules for the interpretation of this Schedule

Classification of goods in this Schedule shall be governed by the following principles:

1. The titles of Sections, Chapters and Sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Sections or Chapter Notes and, provided such headings or notes do not otherwise require, according to the following provisions.

2. Any reference in a heading—

(*a*) to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled;

(*b*) to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of clause (*b*) of Rule 2 or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows—

(*a*) the heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods;

(*b*) mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to clause (*a*), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable;

1. Ins. by Act 18 of 2017, s. 12 and Schedule II.

(*c*) when goods cannot be classified by reference to clause (*a*) or clause (*b*), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

5. For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading notes and, mutatis mutandis, to the above rules, on the understanding that only sub-headings at the same level are comparable. For the purposes of this rule, the relative chapter notes also apply, unless the context otherwise requires.

General Explanatory Notes

1. Where in column (2) of this Schedule, the description of an article or group of articles under a heading is preceded by "-", the said article or group of articles shall be taken to be a sub-classification of the article or group of articles covered by the said heading. Where, however, the description of an article or group of articles is preceded by "--", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-". Where the description of an article or group of articles is preceded by "---" or "----", the said article or group of articles shall be taken to be a sub-classification of the immediately preceding description of the article or group of articles which has "-" or "--".

2. The abbreviation "%" in column (4) of this Schedule, in relation to the rate of duty, indicates that the duty on the goods to which the entry relates shall be charged on the basis of the value of the goods fixed, defined or deemed to be, as the case may be, under or in sub-section (2), read with sub-section (3) of Section 3 or Section 4 or Section 4-A of the Central Excise Act, 1944 (1 of 1944), the duty being equal to such percentage of the value as is indicated in that column.

Additional Notes

In this Schedule,—

(*1*) The expression,—

(*a*) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four digit number and includes all sub-headings of tariff items the first four digits of which correspond to that number;

(*b*) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six digit number and includes all tariff items the first six digits of which correspond to that number;

(*c*) "tariff item" means a description of goods in the list of tariff provisions accompanying either eight-digit number and the rate of the duty of excise, or eight digit number with blank in the column of the rate of duty;

(*2*) The list of tariff provisions is divided into sections, chapters and sub-chapters;

(*3*) In column (3), the standard unit of quantity is specified for each tariff item to facilitate the collection, comparison and analysis of trade statistics;

(*4*) "….." against any goods denotes that Central Excise Duty under this Schedule is not leviable on such goods.

List of Abbreviations used

Abbreviations	For
1. Kg.	Kilogram
2. Tu	Thousand in number

Section IV

TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

NOTE

In this Section, the expression "unit container" means a container, whether large or small (for example, tin, can, box, jar, bottle, bag or carton, drum, barrel or canister) designed to hold a predetermined quantity or number.

CHAPTER 24

TOBACCO AND MANUFACTURED TOBACCO SUBSTITUTES

NOTES

1. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.

2. In relation to products of Heading 2401 or 2402 or 2403, labelling or relabelling of containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

3. In this Chapter, "Pan masala containing tobacco", commonly known as "gutkha" or by any other name, included in Tariff Item 2403 99 90, means any preparation containing betelnuts and tobacco and any one or more of the following ingredients, namely—

(*i*) lime; and

(*ii*) kattha (catechu),

whether or not containing any other ingredients, such as cardamom, copra and menthol.

SUB-HEADING NOTE

For the purposes of sub-heading 2403 11, the expression "water pipe tobacco" means tobacco intended for smoking in a water pipe and which consists of a mixture of tobacco and glycerol, whether or not containing aromatic oils and extracts, molasses or sugar, and whether or not flavoured with fruit. However, tobacco-free products intended for smoking in a water pipe are excluded from this sub-heading.

SUPPLEMENTRY NOTES

For the purposes of this Chapter:

(*1*) "tobacco" means any form of tobacco, whether cured or uncured and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.

(*2*) "cut-tobacco" means the prepared or processed cut-to-size tobacco which is generally blended or moisturised to a desired extent for use in the manufacture of machine rolled cigarettes.

(*3*) "smoking mixtures for pipes and cigarettes" of sub-heading 2403 10 does not cover " Gudaku".

Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2401	**Unmanufactured Tobacco; Tobacco Refuse**		
2401 10	-2401 10 - *Tobacco, not stemmed or stripped:*		
2401 10 10	- - Flue cured virginia tobacco	Kg.	64%

Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2401 10 20	- - - Sun cured country (natu) tobacco	Kg.	64%
2401 10 30	- - - Sun cured virginia tobacco	Kg.	64%
2401 10 40	- - - Burley tobacco	Kg.	64%
2401 10 50	- - - Tobacco for manufacture of biris, not stemmed	Kg.	64%
2401 10 60	- - - Tobacco for manufacture of chewing tobacco	Kg.	64%
2401 10 70	- - - Tobacco for manufacture of cigar and cheroot	Kg.	64%
2401 10 80	- - - Tobacco for manufacture of hookah tobacco	Kg.	64%
2401 10 90	- - - Other	Kg.	64%
2401 20	-2401 20 - *Tobacco, partly or wholly stemmed or stripped:*		

2401 20 10	- - Flue cured virginia tobacco	Kg.	64%
2401 20 20	- - - Sun cured country (natu) tobacco	Kg.	64%
Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2401 20 30	- - - Sun cured virginia tobacco	Kg.	64%
2401 20 40	- - - Burley tobacco	Kg.	64%
2401 20 50	- - - Tobacco for manufacture of biris	Kg.	64%
2401 20 60	- - - Tobacco for manufacture of chewing tobacco	Kg.	64%
2401 20 70	- - - Tobacco for manufacture of cigar and cheroot	Kg.	64%
2401 20 80	- - - Tobacco for manufacture of hookah tobacco	Kg.	64%
2401 20 90	- - - Other	Kg.	64%
2401 30 00	- Tobacco refuse	Kg.	50%
2402	**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes**		
2402 10	2402 10 - *Cigars, cheroots and cigarillos, containing tobacco:*		
2402 10 10	- - - Cigar and cheroots	Tu	12.5% or
			Rs 4006 per thousand,

Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
			whichever is higher
2402 10 20	- - Cigarillos	Tu	12.5% or
			Rs 4006 per thousand, whichever is higher
2402 20	- 2402 20 - *Cigarettes, containing tobacco:*		
2402 20 10	- - Other than filter cigarettes, of length not exceeding 65 millimetres	Tu	Rs 1280 per thousand
2402 20 20	- - Other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 70 millimetres	Tu	Rs 2335 per thousand
2402 20 30	- - Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	Tu	Rs 1280 per thousand
2402 20 40	- - Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	Tu	Rs 1740 per thousand
2402 20 50	- - Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	Rs 2335 per thousand
2402 20 90	- - Other	Tu	Rs 3375 per thousand
2402 90	- *Other:*		
2402 90 10	- - Cigarettes of tobacco substitutes	Tu	Rs 3375 per thousand
Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)

2402 90 20	- - - Cigarillos of tobacco substitutes	Tu	12.5% or Rs 4006 per thousand whichever is higher
2402 90 90	- - - Other	Tu	12.5% or Rs 4006 per thousand whichever is higher
2403	**Other manufactured tobacco and manufactured tobacco substitutes; "Homogenised" or "Reconstituted" tobacco; Tobacco extracts and essences**		
	- *Smoking tobacco, whether or not containing tobacco substitute in any proportion;*		
2403 11	- - *Water pipe tobacco specified in Sub-heading Note to this Chapter:*		
2403 11 10	- - - Hukkah or gudaku tobacco	Kg.	60%
2403 11 90	- - - Other	Kg.	60%
2403 19	- - *Other*		
2403 19 10	- - - Smoking mixtures for pipes and cigarettes	Kg.	360%
	- - - Biris:		
2403 19 21	- - - - Other than paper rolled biris, manufactured without the aid of machine	Tu	Rs 12 per thousand
Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2403 19 29	- - - - Other	Tu	Rs 80 per thousand

2403 19 90	--- Other	Kg.	40%
	-- *Other:*		
2403 91 00	--- “Homogenised” or “reconstituted” tobacco	Kg.	60%
2403 99	--- *Other:*		
2403 99 10	---- Chewing tobacco	Kg.	81%
2403 99 20	---- Preparations containing chewing tobacco	Kg.	60%
2403 99 30	---- Jarda scented tobacco	Kg.	81%
2403 99 40	---- Snuff	Kg.	60%
2403 99 50	---- Preparations containing snuff	Kg.	60%
2403 99 60	---- Tobacco extracts and essence	Kg.	60%
2403 99 70	---- Cuttobacco	Kg.	Rs 70 per Kg.
2403 99 90	---- Other	Kg.	81%

Tariff item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)

Section V

MINERAL PRODUCTS

Chapter 27

MINERAL FUELS, MINERAL OILS AND PRODUCTS OF THEIR DISTILLATION; BITUMINOUS SUBSTANCES; MINERAL WAXES

Notes

1. References in Heading 2710 to "petroleum oils and oils obtained from bituminous minerals" include not only petroleum oils and oils obtained from bituminous minerals, but also similar oils, as well as those consisting mainly of mixed unsaturated hydrocarbons, obtained by any process, provided that the weight of the non-aromatic constituents exceeds that of the aromatic constituents.

However, the references do not include liquid synthetic polyolefins of which less than 60% by volume distils at 300°C, after conversion to 1013 millibars when a reduced pressure distillation method is used.

2. In relation to lubricating oils and lubricating preparations of Heading 2710, labelling or relabelling of containers or repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

3. In relation to natural gas falling under Heading 2711, the process of compression of natural gas (even if it does not involve liquefaction), for the purpose of marketing it as Compressed Natural Gas (CNG), for use as a fuel or for any other purpose, shall amount to "manufacture".

Sub-Heading Note

For the purposes of sub-heading 2710 12, "light oils and preparations" are those of which 90% or more by volume (including losses) distil at 210°C (ASTM D 86 method).

Supplementary Notes

In this Chapter, the following expressions have the meanings hereby assigned to them—

(*1*) "motor spirit" means any hydrocarbon oil (excluding crude mineral oil) which has its flash point below 25°C and which either by itself or in admixture with any other substance, is suitable for use as fuel in spark ignition engines. "Special boiling point spirits (Tariff Items 2710 12 11, 2710 12 12 and 2710 12 13)" means light oils, as defined in sub-heading Note 4, not containing any anti-knock preparations, and with a difference of not more than 60°C between the temperatures at which 5% and 90% by volume (including losses) distil;

(*2*) "natural gasoline liquid (NGL)" is a low-boiling liquid petroleum product extracted from Natural Gas;

(*3*) "aviation turbine fuel (ATF)" means any hydrocarbon oil conforming to the Indian Standards Specification of Bureau of Indian Standards IS : 1571 : 1992 : 2000;

(*4*) "high speed diesel (HSD)" means any hydrocarbon oil conforming to the Indian Standards Specification of Bureau of Indian Standards IS : 1460 : 2000;

(*5*) for the purposes of these additional notes, the tests prescribed have the meaning hereby assigned to them—

(*a*) "Flash Point" shall be determined in accordance with the test prescribed in this behalf in the rules made under the Petroleum Act, 1934 (30 of 1934);

(*b*) "Smoke Point" shall be determined in the apparatus known as the Smoke Point Lamp in the manner indicated in the Indian Standards Institution Specification IS : 1448 (p. 31)-1967 for the time being in force;

(*c*) "Final Boiling Point" shall be determined in the manner indicated in the Indian Standards Institution Specification IS : 1448 (p. 18)-1967 for the time being in force;

(*d*) "Carbon Residue" shall be determined in the apparatus known as Ramsbottom Carbon Residue Apparatus in the manner indicated in the Indian Standards Institution Specification IS : 1448 (p. 8)-1967 for the time being in force;

(*e*) "Colour Comparison Test" shall be done in the following manner, namely—

(*i*) first prepare a five per cent weight by volume solution of Potassium Iodine (analytical reagent quality) in distilled water;

(*ii*) to this, add Iodine (analytical reagent quality) in requisite amount to prepare an exactly 0.04 normal Iodine solution;

(*iii*) thereafter, compare the colour of the mineral oil under test with the Iodine solution so prepared.

Tariff Item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2709	**Petroleum oils and oils obtained from bituminous minerals, crude.**	Kg.	…..
2709 10 00	-- Petroleum oils and oils obtained from bituminous minerals	Kg.	…..
2709 20 00	-- Petroleum crude		Nil
2710	**Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils**		
	- *Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oil*		
2710 12	- - *Light oils and preparations:*		
	- - - *Motor spirit (Commonly known as petrol):*		
2710 12 11	- - - - Special boiling point spirits (other than benzene, toluol) with nominal boiling point range 55-115 °C	Kg.	14%+Rs 15.00 per litre
2710 12 12	- - - - Special boiling point spirits (other than benzene, toluene and toluol) with nominal boiling point range 63-70 °C	Kg.	14%+Rs 15.00 per litre
2710 12 13	- - - - Other Special boiling points spirits (other than benzene, benzol, toluene and toluol)	Kg.	14%+Rs 15.00 per litre

Tariff Item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2710 12 19	- - - - Other	Kg.	14%+Rs 15.00 per litre
2710 12 20	- - - Natural Gasoline Liquid	Kg.	14%+Rs 15.00 per litre
[1][2710 12 39	- - - Solvent 145/205	Kg.	…
	- - - Motor Gasoline conforming to standard IS 2796, IS 17021, IS 17586 or IS 17076:		
2710 12 41	- - - Motor Gasoline conforming to standard IS 2796	Kg.	14%+Rs 15.00 per litre
2710 12 42	- - - E 20 Fuel conforming to standard IS 17021	Kg.	14%+Rs 15.00 per litre
2710 12 43	- - - E 12 Fuel conforming to standard IS 17586	Kg.	14%+Rs 15.00 per litre
2710 12 44	- - - E 15 Fuel conforming to standard IS 17586	Kg.	14%+Rs 15.00 per litre
2710 12 49	- - - M 15 Fuel conforming to standard IS 17076	Kg.	14%+Rs 15.00 per litre]
2710 12 90	- - - Other	Kg.	14%+Rs 15.00 per litre

1. Subs. by Act 6 of 2022, S. 99 and Sch. IV (w.e.f. 1-5-2022).

Tariff Item	Description of goods	Unit	Rate of Duty
(*1*)	(*2*)	(*3*)	(*4*)
2710 19	- - *Other:*		

2710 19 10	- - -	Superior Kerosene Oil (SKO)	Kg.	…..
2710 19 20	- - -	Aviation Turbine Fuel (ATF)	Kg.	14%
2710 19 30	- - -	High Speed Diesel (HSD)	Kg.	14%+Rs 15.00 per litre
2710 19 40	- - -	Light Diesel Oil (LDO)	Kg.	…..
2710 19 50	- - -	Fuel oil	Kg.	…..
2710 19 60	- - -	Base oil	Kg.	…..
2710 19 70	- - -	Jute batching oil and textile oil	Kg.	…..
2710 19 80	- - -	Lubricating oil	Kg.	…..
2710 19 90	- - -	Other	Kg.	…..
	- -	*Waste oil:*		…..
2710 20 00		Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70%	Kg.	…..

Tariff Item		Description of goods	Unit	Rate of Duty
(*1*)		(*2*)	(*3*)	(*4*)
		or more of petroleum oils or of oil obtained from bituminous minerals, these oils being the basic constituents of the preparations, containing biodiesel, other than waste oils		
2710 91 00	- -	Containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	Kg.	…..

2710 99 00	- -	Other	Kg.	…..
2711		**Petroleum gases and other gaseous hydrocarbons**		
	- -	*- Liquefied:*		
2711 11 00	- -	Natural gas	Kg.	14%
2711 12 00	- -	Propane	Kg.	…..
2711 13 00	- -	Butane	Kg.	…..
2711 14 00	- -	Ethylene, propylene, butylene and butadiene	Kg.	…..
2711 19 00	- -	Other	Kg.	…..
	- -	*- In gaseous state:*		
2711 21 00	- -	Natural gas	Kg.	14%
2711 29 00	- -	Other	Kg.	…..]