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Central Excise Act, 1944

Chapter 3 - Powers and Duties of Officers and Landholders

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1 [2 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 2 [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.]

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1. Section 12A inserted by Act 79 of 1985, section 4 (w.e.f. 27-12-1985).

2. Section 12A renumbered as section by 12E Act 40 of 1991, section 7 (w.e.f. 20-9-1991).

Section 13 - Power to arrest

1[13. Power to arrest

Any Central Excise Officer not below the rank of Inspector of Central Excise may, with the prior approval of the 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.]

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1. Substituted by Act 32 of 2003, section 141, for section 13 (w.e.f. 14-5-2003).

Section 14 - Power to summon persons to give evidence and produce documents in inquiries under this Act

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(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 summon 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 certain description in the possession or under the control of the persons 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 making 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 for 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).

Section 14A - Special audit in certain cases

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 Commissioner of Central Excise or Deputy 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 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 3[cost accountant or chartered accountant], nominated by the Chief Commissioner of Central Excise in this behalf.

(2) The 3[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.

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(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.

4[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).

5[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).]

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

2. Sub-section (4) omitted by Act 10 of 2000, section 104 (w.e.f. 12-5-2000).

3. Substituted by the Finance (No. 2) Act, 2009 for the words : -"cost accountant"

4. Renumbered by the Finance (No. 2) Act, 2009 for the words :- "Explanation"

5. Inserted by the Finance (No. 2) Act, 2009.

Section 14AA - Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc.

1**[14AA. Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc**

(1) If the 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 mis-statement 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 3[cost accountant or chartered accountant] nominated by him.

(2) The 3[cost accountant or chartered accountant] so nominated shall, within the period specified by the 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.

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(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.

4[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).]

5[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).]

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1. Inserted by Act 26 of 1997, section 83 (w.e.f. 14-5-1997).

2. Sub-section (4) omitted by Act 10 of 2000, section 105 (w.e.f. 12-5-2000).

3. Substituted by the Finance (No. 2) Act, 2009 for the words :- "cost accountant"

4. Renumbered by the Finance (No. 2) Act, 2009 for the words :- "Explanation"

5. Inserted by the Finance (No. 2) Act, 2009.

Section 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.

Section 16 - Owners or occupiers of land to report manufacture of contraband excisable goods [Repelaed]

[Rep. by the Finance Act, 2002, section 137].

Section 17 - Punishment for connivance at offences [Repealed]

[Rep. by the Finance Act, 2002, section 137].

Section 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)1, relating respectively to searches and arrests made under that Code.

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1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

Section 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.

Section 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 shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

Section 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)1 , 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 shall 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 no sufficient evidence or reasonable ground of suspicion against the accused person, 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.

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1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

Section 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;

(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.

Section 23 - Failure of Central Excise Officer in duty

Any Central Excise Officer who ceases or refuses toperform or withdraws himself from the duties of his office, unless he hasobtained the express written permission of the 1 [Commissioner of CentralExcise],or has given to his superior officer two months' notice in writing of hisintention or has other lawful excuse, shall on conviction before a Magistratebe punishable with imprisonment for a term which may extend to three months orwith fine which may extend to three months' pay, or with both.

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

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