

Central Excise Act, 1944

Section 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 [(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.]

(5) On the disposal of the appeal, the 1 [Commissioner (Appeals)] shall communicate the order passed by him to the appellant, 4 [the adjudicating authority and the Commissioner of Central Excise.]

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

2. Substituted by Act 14 of 2001, section 128, for certain words (w.e.f. 11-5-2001).

3. Inserted by Act 14 of 2001, section 128 (w.e.f. 11-5-2001).

4. Substituted by the Finance Act, 2005, section 78, for "and of the Commissioner of Central Excise".
