

Central Excise Act, 1944

Section 35H - Statement of Case to Supreme Court in Certain Cases

(1) The Commissioner of Central Excise or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under section 35C passed 1[before the 1st day of July 2003] (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of exercise or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the high court to direct to the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

(2) The Commissioner of Central Excise or the other party applying to the High Court under sub-section 1 shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Appellate Tribunal relevant to the question sought to be referred.

(3) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such application, file, within forty five days of the receipt of the notice, a memorandum of cross objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the High Court as if it were an application presented within the time specified in sub-section(1).

2[(3A) The High court may admit an application or permit the filling of a memorandum of cross-objection after the expiry of the relevant period referred to in sub-section (1) or sub-section (3), if it is satisfied that there was sufficient cause for no filing the same within that period.]

(4) If, on an application made under sub-section (1), the High Court directs the Appellate Tribunal to refer the question of law raised in the application, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such directions draw up a statement of the case and refer it to the High Court.

1. Substituted by the Finance Act, 2003 for the words : - "on or after the 1st day of July, 1999"

2. Inserted by the Finance (No. 2) Act, 2009 w.e.f. 1st July, 1999.