

Customs Act, 1962

Section 129A - Appeals to the Appellate Tribunal

(1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order--

- (a) a decision or order passed by the¹[Commissioner of Customs] as an adjudicating authority;
- (b) an order passed by the²[Commissioner (Appeals)] under section 128A;
- (c) an order passed by the Board or the Appellate¹[Commissioner of Customs] under section 128, as it stood immediately before the appointed day;
- (d) an order passed by the Board or the¹[Commissioner of Customs], either before or after the appointed day, under section 130, 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) any goods imported or exported as baggage;
- (b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India; or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at their destination;
- (c) payment of drawback as provided in Chapter X, and the rules made thereunder :

Provided further that] the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c) or clause (d) where-

- (i) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or
- (ii) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (iii) the amount of fine or penalty determined by such order, does not exceed⁴[fifty thousand rupees.]

⁵[(1A) Every appeal against any order of the nature referred to in the first proviso to sub-section (1), which

is pending immediately before the commencement of section 40 of the Finance Act, 1984, before the Appellate Tribunal and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on such commencement to the Central Government and the Central Government shall deal with such appeal or matter under section 129DD as if such appeal or matter were an application or a matter arising out of an application made to it under that section.]

⁶[(B) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be.]

⁷[(2)⁸[The Committee of Commissioner of Customs may, if it is] of opinion that an order passed by--

- (a) the Appellate⁷[Commissioner of Customs] under section 128, as it stood immediately before the appointed day, or
- (b) the²[Commissioner (Appeals)] under section 128A, is not legal or proper, direct the proper officer to appeal⁹[on his behalf] to the Appellate Tribunal 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, against such order.]

¹¹[Provided that where the Committee of Commissioners of Customs differs in its opinion regarding

the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner of Customs who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct the proper officer to appeal to the Appellate Tribunal against such order.

Explanation.--For the purposes of this sub-section, jurisdictional Chief Commissioner means the Chief Commissioner

of Customs having jurisdiction over the adjudicating authority in the matter.]

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the¹[Commissioner of Customs], or as the case may be,

the other party preferring the appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

¹⁰(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may

be specified by rules made in this behalf and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,--

(a) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(c) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in subsection (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 for grant of stay or for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees;

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

1. Substituted by Act 22 of 1995, section 50, for "Collector of Customs" (w.e.f. 26-5-1995).

2. Substituted by Act 22 of 1995, section 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).

3. Substituted by Act 21 of 1984, section 40, for "Provided that" (w.e.f. 11-5-1984).

4. Substituted by Act 38 of 1993, section 43, for "ten thousand rupees" (w.e.f. 13-5-1993).

5. Inserted by Act 21 of 1984, section 40 (w.e.f. 11-5-1984).

6. Inserted by Finance Act, 2005, section 70.

7. Substituted by Act 62 of 1986, section 34, for sub-section (2).

8. Substituted by the Finance Act, 2005, section 70, for "The Commissioner may, if he is".

9. Substituted the Finance Act, 2005, section 70, for "on his behalf".

10. Substituted by Act 23 of 2004, section 69, for "(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, in the case of an appeal made on or after the 1st day of June, 1993, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,--

(a) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal related is one lakh rupees or less, two hundred rupees;

(b) where the amount of duty and interest demanded and penlaty levied by any officer of customs in the case to which the appeal relates in more than one lakh rupees, one 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)." (w.e.f. 10-9-2004).

11. Inserted by the Finance Act, 2008.
