

Customs Act, 1962

Section 129D - Power of Board Commissioner of Customs to Pass Certain Orders

Power of Board ¹[Commissioner of Customs] to orpass certain orders

(1) The Board may, of its own motion, call for and examine the record of any proceedings in which a ¹

[Commissioner of Customs] 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 ²[Commissioner] ³[or any other Commissioner] to apply to the Appellate Tribunal ⁴[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 ⁵[Committee of Chief Commissioners of Customs] in its order.

¹²[Provided that where the Committee of Chief Commissioners of Customs differs in its opinion as to

the legality or propriety of the decision or order of the Commissioner of Customs, 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 passed by the Commissioner of Customs, if is of the opinion that the decision or order passed by the Commissioner of Customs 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 ¹[Commissioner of Customs] 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 ⁹[such authority or any officer of customs subordinate to him] to apply to the ⁶

[Commissioner (Appeals)] for the determination of such points arising out of the decision or order as may be specified by the ¹[Commissioner of Customs] in his order.

¹³[(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.]

(4) Where in pursuance of an order under sub-section (1) or sub-section (2), the adjudicating authority or any officer of customs authorised in this behalf by the ¹[Commissioner of Customs] makes an application to the Appellate Tribunal ⁴[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 ⁶[Commissioner (Appeals)] within a period of ¹¹[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 ⁴[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 ⁶

[Commissioner (Appeals)] as the case may be, as if such application 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 129A ⁴[or, as the case may be, the provisions of the Customs and

Excise Revenues Appellate Act, 1986] shall, so far as may be, apply to such application.

⁸[(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 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 for the time being in force, whether under the Customs Tariff Act, 1975 (51 of 1975), or under any other Central Act providing for the levy and collection of any duty of customs, 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 in cases where the assessment is made on or after the 28th day of February, 1986; or

(c) whether any goods fall under a particular heading or sub-heading of the First Schedule or the Second Schedule to the Customs Tariff Act, 1975 (51 of 1975), or that any goods are or not covered by a particular notification or order issued by the Central Government granting total or partial exemption from duty; or

(d) whether the value of any goods for the purposes of assessment of duty 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.]

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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" (w.e.f. 26-5-1995).
 3. Inserted by Act 14 of 2001, section 111 (w.e.f. 11-5-2001).
 4. Inserted by Act 62 of 1986, section 34.
 5. Substituted by the Finance Act, 2005, section 71, for "Board".
 6. Substituted by Act 22 of 1995, section 50, for "Collector (Appeals)" (w.e.f. 26-5-1995).
 7. Substituted by Act 20 of 2002, section 128, for sub-section (3) (w.e.f. 11-5-2002).
 8. Inserted by Act 29 of 1998, section 4 (w.e.f. 1-7-1988).
 9. Substituted for "such authority" by the Taxation Laws (Amendment) Act, 2006.
 10. Substituted by the Finance Act, 2007. Prior to substitution, it read as under:-

"⁷ (3) The ⁵[Committee of Chief Commissioners of Customs] or the Commissioners of Customs, as the case may be, shall, where it is possible to do so, make order under sub-section (1) or sub-section (2), within a period of six months, but not beyond a period of one year, from the date of the decision or order of the adjudicating authority."

11. Substituted the words " three months" by the Finance Act, 2007.
12. Inserted by the Finance Act, 2008.
13. Substituted by the Finance Act, 2008 for the following :-

"¹⁰[(3) The Committee of Chief Commissioners of Customs or Commissioner of Customs, as the case may be, shall make order under sub-section (1) or sub-section (2) within a period of three months from the date of communication of the decision or order of the adjudicating authority.]"
