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Finance Act 2007

Section 102 - Substitution of New Section for Section 127c

For section 127C of the Customs Act, with effect from the 1st day of June, 2007, the following section shall be substituted, namely:--

"127C. Procedure on receipt of an application under section 127B.--

(1) On receipt of an application under section 127B, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with or reject the application, as the Case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Customs having jurisdiction.

(3) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the Commissioner of Customs having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(4) Where a report of the Commissioner called for under sub-section (3) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

(5) After examination of the records and the report of the Commissioner of Customs received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (4), and after giving an opportunity to the applicant and to the Commissioner of Customs having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Customs and Commissioner (Investigation) under sub-section (3) or sub-section (4).

(6) An order under sub-section (5) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

(7) Subject to the provisions of section 32A of the Central Excise Act, 1944(1 of 1944), the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (5) and, in relation to the passing of such order, the provisions of section 32D of

the Central Excise Act, 1944 shall apply.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts:

Provided that the amount of settlement ordered by the Settlement Commission, shall not be less than the duty liability admitted by the applicant under section 127B.

(9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

(10) Where a settlement becomes void as provided under sub-section (8), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the proper officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.".