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Finance Act, 2002

Section 76N - Closure of a special economic zone

In the event of closure of a special economic zone by the Central Government, by notification in the Official Gazette, the goods admitted to, or produced or manufactured in, such zone shall be removed within such time and in such manner as may be specified in the rules made in this behalf."

Section 127 - Amendment of section 129B

In section 129B of the Customs Act,--

(i) in sub-section (2), for the words "four years", the words "six months" shall be substituted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed:

Provided that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 129A, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:

Provided further that if such appeal is not disposed of within the period specified in the first proviso, the stay order shall, on the expiry of that period, stand vacated."

Section 128 - Amendment of section 129D

In section 129D of the Customs Act, for sub-section (3), the following subsection shall be substituted, namely:--

"(3) The Board or the Commissioner 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."

Section 129 - Insertion of new section 8C

In the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), after section 8B, the following section shall be inserted, namely:-

'8C. Power of Central Government to impose transitional product specific safeguard duty on imports from the People's Republic of china.--

(1) Notwithstanding anything contained in section 8B, if the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the People's Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

Provided that the Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from the People's Republic of China into India, from payment of the whole or part of the safeguard duty leviable thereon.

(2) The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause market disruption to a domestic industry:

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause market disruption to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent, export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation.

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For the purposes of this section, the expressions "hundred per cent, export-oriented undertaking", "free trade zone" and "special economic zone" shall have the meanings respectively assigned to them in Explanation 1 to sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944).

(4) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(5) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that such article continues to be imported into India, from the People's Republic of China, in such increased quantities so as to cause or threatening to cause market disruption to domestic industry and the safeguard duty should continue to be imposed, it may extend the period of such imposition for a period not beyond the period often years from the date on which the safeguard duty was first imposed.

(6) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of market disruption or causes of threat of market disruption in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(7) For the purposes of this section,

(a) "domestic industry" means the producers-

(i) as a whole of a like article or a directly competitive article in India; or (ii) whose collective output of a like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(b) "market disruption" shall be caused whenever imports of a like article or a directly competitive article

produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry;

(c) "threat of market disruption" means a clear and imminent danger of market disruption.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.'

Section 130 - Refund of additional duty of customs in certain cases

(1) Notwithstanding anything contained in section 25 of the Customs Act, barge mounted power plants, falling under heading 98.01 of the First Schedule to the Customs Tariff Act, shall be deemed to have been exempted from the whole of the additional duty of customs leviable thereon under sub-section (1) of section 3 of the Customs Tariff Act, within the period commencing from the 8th December, 2000 and ending with the 28th February, 2002 (both dates inclusive) and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, barge mounted power plants shall be deemed to be, and always to have been, exempted from the said additional duty of customs as if the exemption given by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to exempt the goods referred to in the said sub-section with retrospective effect as if the Central Government had the power to exempt the said goods under sub-section (1) of section 25 of the Customs Act, retrospectively at all material times.

(3) Refund shall be made of all such additional duty of customs which have been collected but which would have not been so collected if the exemption referred to in subsection (1) had been in force at all material times.

(4) Notwithstanding anything contained in section 27 of the Customs Act, an application for the claim of refund of the additional duty of customs under sub-section (3) shall be made within six months from the date on which the Finance Bill, 2002 receives the assent of the President.

Section 131 - Amendment of First Schedule

In the Customs Tariff Act, the First Schedule shall be amended in the manner as specified in the Second Schedule.

Section 132 to 144 - Excise

Section 132 - Amendment of section 2

In the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), in section 2, in clause (f),-

(i) in sub-clause (ii), for the word "manufacture,", the words "manufacture; or" shall be substituted;

(ii) after sub-clause (ii), the following sub-clause shall be inserted, namely:-

"(iii) which is specified in relation to any goods by the Central Government, by notification in the Official Gazette, as amounting to manufacture,".

Section 133 - Amendment of section 3

In section 3 of the Central Excise Act, in sub-section (1),--

(i) in clauses (a) and (b), after the words "excisable goods" wherever they occur, the brackets and words "(excluding goods produced or manufactured in special economic zones)" shall, with effect from such date as may be appointed by the Central Government, by notification in the Official Gazette, be inserted;

(ii) in the proviso,--

(a) in clause (i), the words "or a special economic zone" shall, with effect from such date as may be appointed by the Central Government, by notification in the Official Gazette, be omitted;

(b) in Explanation 2, for clause (i), the following clause shall be substituted, namely:--

'(i) "free trade zone" means a zone which the Central Government may, by notification in the Official Gazette, specify in this behalf;'

Section 134 - Amendment of section 5A

In section 5A of the Central Excise Act,--

(i) in sub-section (1), in the proviso,--

(a) in clause (i), the words "or a special economic zone"; and

(b) In the Explanation, the words ", special economic zone",

shall, with effect from such dates as may be appointed by the Central Government, by notification in the Official Gazette, be omitted;

(ii) after sub-section (2) the following sub-section shall be inserted, namely:--

"(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.";

(iii) in sub-section (J), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted.

Section 135 - Amendment of section 11AA

In section 11AA of the Central Excise Act, in sub-section (1), for the words "eighteen per cent.", the words "ten per cent." shall be substituted.

Section 136 - Amendment of section 11AB

In section 11AB of the Central Excise Act, in sub-section (1), for the words "eighteen per cent.", the words "ten per cent." shall be substituted.

Section 137 - Omission of sections 16 and 17

Sections 16 and 17 of the Central Excise Act shall be omitted.

Section 138 - Amendment of section 23D

In section 23D of the Central Excise Act, in sub-section (2), in the first proviso, the words "except in the case of a resident applicant" shall be omitted.

Section 139 - Omission of Chapter IV

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