

Competition Act, 2002

Section 38 - Rectification of orders.—

1) With a view to rectifying any mistake apparent from the record, the Commission may amend any order passed by it under the provisions of this Act. (2) Subject to the other provisions of this Act, the Commission may make (a) an amendment under sub-section (1) of its own motion; (b) an amendment for rectifying any such mistake which has been brought to its notice by any party to the order. Explanation. For the removal of doubts, it is hereby declared that the Commission shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act. 1 [39. Execution of orders of Commission imposing monetary penalty. (1) If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty in such manner as may be specified by the regulations. (2) In a case where the Commission is of the opinion that it would be expedient to recover the penalty imposed under this Act in accordance with the provisions of the Income-tax Act, 1961 (43 of 1961), it may make a reference to this effect to the concerned income-tax authority under that Act for recovery of the penalty as tax due under the said Act. (3) Where a reference has been made by the Commission under sub-section (2) for recovery of penalty, the person upon whom the penalty has been imposed shall be deemed to be the assessee in default under the Income-tax Act, 1961 (43 of 1961) and the provisions contained in sections 221 to 227, 228A, 229, 231 and 232 of the said Act and the Second Schedule to that Act and any rules made thereunder shall, in so far as may be, apply as if the said provisions were the provisions of this Act and referred to sums by way of penalty imposed under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under the Income-tax Act, 1961 and to the Commission instead of the Assessing Officer. Explanation 1. Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act, 1961 (43 of 1961), in the said provisions of that Act or the rules made thereunder shall be construed as references to sections 43 to 45 of this Act. Explanation 2. The Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income-tax Act, 1961 (43 of 1961) shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer for the purposes of recovery of sums imposed by way of penalty under this Act and