

Customs Act, 1962

Section 28 - NOTICE FOR PAYMENT OF DUTIES, INTEREST, ETC

1) When any duty has not been levied or has been short-levied or erroneously refunded, or when any interest payable has not been paid, part paid or erroneously refunded, the proper officer may,- (a) in the case of any import made by any individual for his personal use or by government or by any educational, research or charitable institution or hospital, within one year; (b) in any other case, within six months, from the relevant date, serve notice on the person chargeable with the duty or interest which has not been levied or charged or which has been short-levied or part paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice: PROVIDED that where any duty has been levied or has been short-levied or the interest has not been charged or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any willful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "one year" and "six months", the words "five years" were substituted. Explanation: Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of one year or six months or five years, as the case may be. (2) The proper officer, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), shall determine the amount of duty or interest due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined. (3) For the purposes of sub-section (1), the expression "relevant date" means,- (a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of the goods; (b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof; (c) in a case where duty or interest has been erroneously refunded, the date of refund; (d) in any other case, the date of payment of duty or interest.] 31[28A. Power not to recover duties not levied or short-levied as a result of general practice 32[(1) Notwithstanding anything contained in this Act, if the Central Government is satisfied- (a) that a practice was, or is, generally prevalent regarding levy of duty (including non-levy thereof) on any goods imported into, or exported from India; and (b) that such goods were, or are, liable- (i) to duty, in cases where according to the said practice the duty was not, or is not being, levied, or (ii) to a higher amount of duty than what was, or is being , levied, according to the said practice, then the Central Government may, by notification in the Official Gazette, direct that the whole of the duty payable on such goods, or, as the case may be, the duty in excess of that payable on such goods, but for the said practice, shall not be required to be paid in respect of the goods on which the duty was not, or is not being, levied, or was, or is being, short-levied, in accordance with the said practice.] 33[(2) Where any notification under sub-section (1) in respect of any goods has been issued, the whole of the duty paid on such goods, or, as the case may be, the duty paid in excess of that payable on such goods, which would not have been paid if the said notification had been in force, shall be dealt with in accordance with the provisions of sub-section (2) of