

**Customs Act, 1962**

**Section 129D - POWERS OF BOARD OR 111[COMMISSIONER OF CUSTOMS] TO PASS CERTAIN ORDERS**

1) The Board may, of its own motion, call for and examine the record of any proceeding in which a 111[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 111 [Commissioner] to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Boards in its order. (2) The 111 [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 such authority to apply to the 111 [Commissioner (Appeals)] for the determination of such points arising out of the decision or order as may be specified by the 1 [ Committee of Chief Commissioners of Customs ] in his order. [(3) The 1 [ Committee of Chief Commissioners of Customs ] 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.] Subs by the finance Act 2005, S.7 for board 139 [(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 111 [Commissioner of Customs], makes an application to the Appellate Tribunal or the 111 [Commissioner (Appeals)] within a period of three months 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 or the 111 [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 shall, so far as may be, apply to such application.] 140 [(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.] 140[129DA. Powers of revision of Board or 111[Commissioner of Customs] in certain cases (1)

The Board may, of its own motion or on the application of any aggrieved person or otherwise, call for and examine the record of any proceeding in which a 111[Commissioner of Customs] has passed any decision or order not being a decision or order passed under sub-section (2) of this section of the nature referred to in sub-section (5) of section 129D for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit. (2) The 111[Commissioner of Customs] may, of his own motion or on the application of any aggrieved person or otherwise, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order of the nature referred to in sub-section (5) of section 129D for the purpose of satisfying

himself as to the correctness, legality of propriety of such decision or order and may pass such order thereon as he thinks fit. (3) (a) No decision or order under this section shall be made so as to prejudicially affect any person unless such person is given a reasonable opportunity of making representation and if, he so desires, of being heard in his defence. (b) Where the Board or, as the case may be, the 111[Commissioner of Customs] is of the opinion that any duty has not been levied or has been short-levied or short-paid or erroneously refunded, no order requiring the affected person to pay any duty not levied or paid, short-levied or short paid or erroneously refunded shall be passed under this section unless such person is given notice within the time limit specified in section 28 to show cause against the proposed order. (4) No proceedings shall be initiated under sub-section (1) or sub-section (2) in respect of any decision or order after the expiry of a period of six months from the date of communication of such decision or order: PROVIDED that in respect of any decision or order passed before the commencement of the Customs and Central Excises Laws (Amendment) Act, 1988, the provisions of this sub-section shall have effect as if for the words "six months", the words "one year" were substituted. (5) Any person aggrieved by any decision or order passed under sub-section (1) or sub-section (2) may appeal to the Customs and Excise Revenues Appellate Tribunal established under section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986 (62 of 1986), against such decision or order.] 131[129DD. Revision by Central Government (1) The Central Government may, on the application of any person aggrieved by any order passed under section 128A, where the order is of the nature referred to in the first proviso to sub-section (1) of section 129A, annul or modify such order. 122[PROVIDED that the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees. Explanation: For the purposes of this sub-section, "order passed under section 128A" includes an order passed under that section before the commencement of section 40 of the Finance Act, 1984, against which an appeal has not been preferred before such commencement and could have been, if the said section had not come into force, preferred after such commencement, to the Appellate Tribunal. 122[(1A) The Commissioner of Customs may, if he is of the opinion that an order passed by the Commissioner (Appeals) under section 128A is not legal or proper, direct the proper officer to make an application on his behalf to the Central Government for revision of such order.] (2) An application under sub-section (1) shall be made within three months from the date of the communication to the applicant of the order against which the application is being made: PROVIDED that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of three months, allow it to be presented within a further period of three months. 141[(3) An application under sub-section (1) shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall be accompanied by a fee of,- (a) two hundred rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is one lakh rupees or less; (b) one thousand rupees, where the amount of duty and interest demanded, fine or penalty levied by an officer of customs in the case to which the application relates is more than one lakh rupees: PROVIDED that no such fee shall be payable in the case of an application referred to in sub-section (1A).] (4) The Central Government may, of its own motion annul or modify any order referred to in sub-section (1). (5) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section,- (a) in any case in which an order passed under section 128A has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value, and (b) in any other case, unless the person affected by the proposed order has been given notice to show cause against it within one year from the date of the order sought to be annulled or modified. (6) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in section 128.]