Finance Act, 1995

Section 56 - SUBSTITUTION OF NEW SECTION FOR SECTION 28 " For section 28 of the Customs Act, the following section shall be

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 so 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 not 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 wilful misstatement 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.