Finance (No. 2) Act, 2004

Section 87 - Validation of Certain Actions Taken by Officers of Customs

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(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 38/2001-Central Excise (N.T.), dated the 26th June, 2001, published in the Official Gazette vide No. G.S.R. 467(E), dated the 26th June, 2001, (hereinafter referred to as the principal notification), as amended by the notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No. 32/2002-Central Excise (N.T.), dated the 17th September, 2002, published in the Official Gazette vide No. G.S.R. 655(E), dated the 17th September, 2002 Hereinafter referred to as the first amendment and the notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No. 1/2003-Central Excise (N.T.), dated the 13th January, 2003, published in the Official Gazette vide No. GS.R. 27(E), dated the 13th January, 2003 (hereinafter referred to as the second amendment) shall, for the purposes of hundred per cent. export-oriented undertakings, be deemed to be, and to have always been, for all purposes, in force retrospectively on and from the 11th day of May, 1982 and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority--

(a) any action taken or anything done by an officer of customs invested with the powers of a Central Excise Officer to discharge the duties of the Central Excise Officer in respect of hundred percent, export-oriented undertakings, on and from the 11th day of May, 1982 to 13th day of January, 2003, by the first amendment and the second amendment to the principal notification, shall, for all purposes, be deemed to be, and to have always been, validly taken or done as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times;

(b) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority against the Central Government or an officer of customs invested with powers of the Central Excise Officer, by the first amendment and the second amendment to the principal notification, for any action taken or anything done in good faith during the discharge of his duties as the Central Excise Officer in respect of hundred per cent. export-oriented undertakings during the period on and from the 11th day of May, 1982 to 13th day of January, 2003, as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times;

(c) recovery made of any amount of duty or interest or penalty or fine or other charges by or under the order or direction of an officer of customs invested with powers of the Central Excise Officer by the first amendment and the second amendment to the principal notification during the period on and from the 11th day of May, 1982 to 13th day of January, 2003 shall be deemed to be valid, and to have always been, for all purposes, as validly and effectively made as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times.

(2) For the purposes of sub-section (1), the Central Board of Excise and Customs shall have and shall be deemed to have always had the powers to bring into force the principal notification, the first amendment and the second amendment with retrospective effect as if the Central Board of Excise and Customs had the powers to bring into force the principal notification, the first amendment and the second amendment under clause (b) of section 2 of the Central Excise Act, 1944(1 of 1944), retrospectively, at all material times.

(3) For the purposes of this section, the designations of the officers of customs and the Central Excise Officers as existed before the commencement of the Finance Act, 1995(22 of 1995) shall be deemed to be the corresponding substituted designations as specified in the Tables respectively below section 50 and section 70 of the said Finance Act.

Explanation 1.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the principal notification as amended by the first amendment and the second amendment had not come retrospectively into force.

Explanation 2.--For the purposes of this section, "hundred per cent. export-oriented undertaking" shall have the meaning assigned to it in clause (ii) of Explanation 2 to the proviso to clause (b) of section 3 of the Central Excise Act, 1944(1 of 1944).
