

The Customs Act, 1962

Section 27 - Claim for refund of duty

¹[27. Claim for refund of duty.--²[(1) Any person claiming refund of any duty or interest, --

(a) paid by him; or

(b) borne by him,

may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest:

Provided that where an application for refund has been made before the date on which the Finance Bill, 2011 receives the assent of the President, such application shall be deemed to have been made under sub-section (1), as it stood before the date on which the Finance Bill, 2011 receives the assent of the President and the same shall be dealt with in accordance with the provisions of sub-section (2):

Provided further that the limitation of one year shall not apply where any duty or interest has been paid under protest.

³[Provided also that where the amount of refund claimed is less than rupees one hundred, the same shall not be refunded.]

*Explanation.--*For the purposes of this sub-section, "the date of payment of duty or interest" in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such person.

(1A) The application under sub-section (1) shall be accompanied by such documentary or other evidence (including the documents referred to in section 28C) as the applicant may furnish to establish that the amount of duty or interest, in relation to which such refund is claimed was collected from, or paid by him and the incidence of such duty or interest, has not been passed on by him to any other person.

(1B) Save as otherwise provided in this section, the period of limitation of one year shall be computed in the following manner, namely:--

(a) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 25, the limitation of one year shall be computed from the date of issue of such order;

(b) where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be computed from the date of such judgment, decree, order or direction;

(c) where any duty is paid provisionally under section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof or in case of re-assessment, from the date of such re-assessment.]

(2) If, on receipt of any such application, the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that the whole or any part of the ⁵[duty and interest, if any, paid on such duty] paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund:

Provided that the amount of ⁵[duty and interest, if any, paid on such duty] as determined by the ⁴[Assistant Commissioner of Customs or Deputy Commissioner of Customs] under the foregoing provisions of this sub-section shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to --

(a) the ⁵[duty and interest, if any, paid on such duty] paid by the importer, ⁶[or the exporter, as the case may be] if he had not passed on the incidence of such ⁵[duty and interest, if any, paid on such duty] to any other person;

(b) the ⁵[duty and interest, if any, paid on such duty] on imports made by an individual for his personal use;

(c) the ⁷[duty and interest, if any, paid on such duty] borne by the buyer, if he had not passed on the incidence of such ⁷[duty and interest, if any, paid on such duty] to any other person;

(d) the export duty as specified in section 26;

(e) drawback of duty payable under sections 74 and 75;

(f) the ⁷[duty and interest, if any, paid on such duty] borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette, specify;

⁸[(g) the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where--

(i) such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or

(ii) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment:]

Provided further that no notification under clause (f) of the first proviso shall be issued unless in the opinion of the Central Government the incidence of ⁷[duty and interest, if any, paid on such duty] has not been passed on by the persons concerned to any other person.

(3) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal, ⁹[National Tax Tribunal] or any Court or in any other provision of this Act or the regulations made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (2).

(4) Every notification under clause (f) of the first proviso to sub-section (2) shall be laid before each House of Parliament, if it is sitting, as soon as may be after the issue of the notification, and, if it is not sitting, within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

(5) For the removal of doubts, it is hereby declared that any notification issued under clause (f) of the first proviso to sub-section (2), including any such notification approved or modified under sub-section (4), may be rescinded by the Central Government at any time by notification in the Official Gazette.]

1. Subs. by Act 40 of 1991, s. 10, for section 27 (w.e.f. 20-9-1991).

2. Subs. by Act 8 of 2011, s. 41, for sub-section (1) (w.e.f. 8-4-2011).

3. Ins. by Act 17 of 2013, s. 65 (w.e.f. 10-5-2013).

4. Subs. by Act 27 of 1999, s. 100, for "Assistant Commissioner of Customs" (w.e.f. 11-5-1999).

5. Subs. by Act 55 of 1991, s. 2, for "duty" (w.e.f. 23-12-1991).

6. Ins. by Act 32 of 2003, s. 108, (w.e.f. 14-5-2003).

7. Subs. by Act 55 of 1991, s. 2, for "duty" (w.e.f. 23-12-1991).

8. Ins. by Act 7 of 2017, s. 92 (w.e.f. 31-3-2017).

9. Ins. by Act 49 of 2005, s. 30 and the Schedule, Part VI (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association Vs Union of India.