

The Customs Act, 1962

Section 28B - Duties collected from the buyer to be deposited with the Central Government

¹[28B. Duties collected from the buyer to be deposited with the Central Government.--

(1) Notwithstanding anything to the contrary contained in any order or direction of the Appellate Tribunal² [, National Tax Tribunal] or any Court or in any other provision of this Act or the regulations made thereunder, ³[every person who is liable to pay duty under this Act and has collected any amount in excess of the duty assessed or determined or paid on any goods under this Act from the buyer of such goods] in any manner as representing duty of customs, shall forthwith pay the amount so collected to the credit of the Central Government.

⁴[(1A) Every person who has collected any amount in excess of the duty assessed or determined or paid on any goods or has collected any amount as representing duty of customs on any goods which are wholly exempt or are chargeable to nil rate of duty from any person in any manner, shall forthwith pay the amount so collected to the credit of the Central Government.]

⁵[(2) Where any amount is required to be paid to the credit of the Central Government under ⁶[sub-section (1) or sub-section (1A), as the case may be,] and which has not been so paid, the proper officer may serve on the person liable to pay such amount, a notice requiring him to show cause why he should not pay the amount, as specified in the notice to the credit of the Central Government.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount 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.

(4) The amount paid to the credit of the Central Government under ⁷[sub-section (1) or sub-section (1A) or sub-section (3) as the case may be,] shall be adjusted against the duty payable by the person on finalisation of assessment or any other proceeding for determination of the duty relating to the goods referred to in ⁸[sub-section (1) and sub-section (1A)].

(5) Where any surplus is left after the adjustment made under sub-section (4), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of section 27 and such person may make an application under that section in such cases within six months from the date of the public notice to be issued by the Assistant Commissioner of Customs for the refund of such surplus amount.]

1. Ins. by Act 40 of 1991, s. 12 (w.e.f. 20-9-1991).

2. 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.

3. Subs. by Act 10 of 2000, s. 82 for "every person who has collected any amount from the buyer of any goods" (w.e.f. 20-9-1991).

4. Ins. by Act 18 of 2008, s. 68 (w.e.f. 10-5-2008)

5. Subs. by Act 10 of 2000, s. 82, for sub-section (2) (w.e.f. 20-9-1991).

6. Subs. Act 18 of 2008, s. 68, for "sub-section (1)" (w.e.f. 10-5-2008).

7. Subs. by s. 68, *ibid.*, for "sub-section (1) or sub-section (3)" (w.e.f. 10-5-2008)

8. Subs. by s. 68, *ibid.*, for "sub-section (1)" (w.e.f. 10-5-2008).