

## CHAPTER XV

### APPEALS AND REVISION

**SECTION 128. Appeals to <sup>2</sup>[Commissioner (Appeals)].** - (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a <sup>3</sup>[Principal Commissioner of Customs or Commissioner of Customs] may appeal to the <sup>2</sup>[Commissioner (Appeals)] <sup>4</sup>[within sixty days] from the date of the communication to him of such decision or order:

<sup>5</sup>**Provided** that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

<sup>6</sup>[(1A) The Commissioner (Appeals) may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

**Provided** that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]

(2) Every appeal under this section, shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf.

**SECTION 128A. Procedure in appeal.** - (1) The <sup>2</sup>[Commissioner (Appeals)] shall give an opportunity to the appellant to be heard if he so desires.

(2) The <sup>2</sup>[Commissioner (Appeals)] may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the <sup>7</sup>[Commissioner (Appeals)] is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(3) The <sup>8</sup>[Commissioner (Appeals)] shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

**Provided** that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order :

**Provided** further that where the <sup>7</sup>[Commissioner (Appeals)] is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

(4) The order of the <sup>7</sup>[Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

<sup>9</sup>[(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.]

(5) On the disposal of the appeal, the <sup>7</sup>[Commissioner (Appeals)] shall communicate the order passed by him to the appellant, the adjudicating authority <sup>10</sup>], the <sup>11</sup>[Principal Chief Commissioner of Customs or Chief Commissioner of Customs] and the <sup>12</sup>[Principal Commissioner of Customs or Commissioner of Customs]].

**SECTION 129. Appellate Tribunal.** - (1) The Central Government shall constitute an Appellate Tribunal to be called the Customs, Excise and <sup>13</sup>[Service Tax] Appellate Tribunal consisting of as many judicial and technical members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

<sup>14</sup>[(2) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the <sup>15</sup>[Indian Legal Service] and has held a post in Grade I of that service or any equivalent or higher post for at least three years, or who has been an advocate for at least ten years.

**Explanation.** - For the purposes of this sub-section, -

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held a judicial office, or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.]

<sup>16</sup>[(2A) A technical member shall be a person who has been a member of the Indian Customs and Central Excise Service, Group A, and has held the post of <sup>4</sup>[Principal Commissioner of Customs or Commissioner of Customs] or Central Excise or any equivalent or higher post for at least three years.]

<sup>18</sup>(3) The Central Government shall appoint -

- (a) a person who is or has been a Judge of a High Court; or
- (b) one of the members of the Appellate Tribunal,

to be the President thereof.]

(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President, or, as the case may be, Vice-Presidents, thereof.

<sup>19</sup>[(4A)] Omitted

(5) <sup>20</sup>[A Vice-President] shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing.

<sup>21</sup>[(6) On ceasing to hold office, the President, Vice-President or other Member shall not be entitled to appear, act or plead before the Appellate Tribunal.]

<sup>22</sup>[(7) Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President or other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

**SECTION 129A. Appeals to the Appellate Tribunal.** - (1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order -

- (a) a decision or order passed by the <sup>17</sup>[Principal Commissioner of Customs or Commissioner of Customs] as an adjudicating authority;
- (b) an order passed by the <sup>23</sup>[Commissioner (Appeals)] under section 128A;
- (c) an order passed by the Board or the Appellate Commissioner of Customs under Section 128, as it stood immediately before the appointed day;
- (d) an order passed by the Board or the <sup>24</sup>[Principal Commissioner of Customs or Commissioner of Customs], either before or after the appointed day, under section 130, as it stood immediately before that day :

<sup>25</sup>[**Provided** that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order referred to in clause (b) if such order relates to, -

- (a) any goods imported or exported as baggage;
- (b) any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India, or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination;
- (c) payment of drawback as provided in Chapter X, and the rules made thereunder :

**Provided** further that] the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (b) or clause (c) or clause (d) where -

- (i) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or
- (ii) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (iii) the amount of fine or penalty determined by such order, does not exceed <sup>26</sup>[two lakh rupees].

<sup>27</sup>[(1A) Every appeal against any order of the nature referred to in the first proviso to sub-section (1), which is pending immediately before the commencement of section 40 of the Finance Act, 1984, before the Appellate Tribunal and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on such commencement to the Central Government and the Central Government shall deal with such appeal or matter under section 129DD as if such appeal or matter were an application or a matter arising out of an application made to it under that section.]

<sup>28</sup>[(1B) (i) The Board may, <sup>29</sup>[by order], constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be.]

(2) <sup>30</sup>[The Committee of Commissioners of Customs may, if it is] of opinion that an order passed by the Appellate <sup>31</sup>[Principal Commissioner of Customs or Commissioner of Customs] under section 128, as it stood immediately before the appointed day, or by the <sup>32</sup>[Commissioner (Appeals)] under section 128A, is not legal or proper, direct the proper officer to appeal <sup>33</sup>[on its behalf] to the Appellate Tribunal against such order:

<sup>34</sup>[**Provided** that where the Committee of <sup>35</sup>[Principal Commissioners of Customs or Commissioners of Customs] differs in its opinion regarding the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional <sup>36</sup>[Principal Chief Commissioner of Customs or Chief Commissioner of Customs] who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct the proper officer to appeal to the Appellate Tribunal against such order.

**Explanation.**-For the purposes of this sub-section, "jurisdictional Chief Commissioner" means the <sup>36</sup>[Principal Chief Commissioner of Customs or Chief Commissioner of Customs] having jurisdiction over the adjudicating authority in the matter.]

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the <sup>37</sup>[Principal Commissioner of Customs or Commissioner of Customs], or as the case may be, the other party preferring the appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

<sup>38</sup>[(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, -

(a) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(c) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees :

**Provided** that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).]

(7) Every application made before the Appellate Tribunal, -

(a) in an appeal <sup>39</sup>[\* \* \*] for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees :

**Provided** that no such fee shall be payable in the case of an application filed by or on behalf of the <sup>40</sup>[Principal Commissioner of Customs or Commissioner of Customs] under this sub-section.

**SECTION 129B. Orders of Appellate Tribunal.**- (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

<sup>41</sup>[(1A) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing :

**Provided** that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]

(2) The Appellate Tribunal may, at any time within <sup>42</sup>[six months] from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendments if the mistake is brought to its notice by the <sup>43</sup>[Principal Commissioner of Customs or Commissioner of Customs] or the other party to the appeal:

**Provided** that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

<sup>44</sup>[(2A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed :

<sup>45</sup>[\* \* \* \* \*]

(3) The Appellate Tribunal shall send a copy of every order passed under this section to the <sup>46</sup>[Principal Commissioner of Customs or Commissioner of Customs] and the other party to the appeal.

(4) Save as otherwise provided in section 130 or section 130E, orders passed by the Appellate Tribunal on appeal shall be final.

**SECTION 129C. Procedure of Appellate Tribunal.** - (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.

(2) Subject to the provisions contained in <sup>47</sup>[sub-section (4)], a Bench shall consist of one judicial member and one technical member.

<sup>48</sup>[(3)] Omitted

(4) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where -

(a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(c) the amount of fine or penalty involved, does not exceed <sup>49</sup>[fifty lakh rupees].

<sup>50</sup>[(5) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.]

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(7) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :-

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) compelling the production of books of account and other documents; and

(d) issuing commissions.

(8) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

**SECTION 129D. Powers of <sup>51</sup>[Committee of <sup>52</sup>[Principal Chief Commissioner of Customs or Chief Commissioner of Customs]] or <sup>53</sup>[Principal Commissioner of Customs or Commissioner of Customs] to pass certain orders.**- (1) The <sup>51</sup>[Committee of <sup>52</sup>[Principal Chief Commissioner of Customs or Chief Commissioner of Customs]] may, of its own motion, call for and examine the record of any proceeding in which

a <sup>52</sup><sup>53</sup>[Principal Commissioner of Customs or 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 <sup>53</sup>[Commissioner] <sup>54</sup>[or any other 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 <sup>51</sup>[Committee of <sup>52</sup>[Principal Chief Commissioners of Customs or Chief Commissioners of Customs]] in its order.\*

<sup>55</sup>[**Provided** that where the Committee of <sup>56</sup>[Principal Chief Commissioners of Customs or Chief Commissioner of Customs] differs in its opinion as to the legality or propriety of the decision or order of the <sup>57</sup>[Principal Commissioner of Customs or Commissioner of Customs], it shall state the point or points on which it differs and make a reference to the Board which, after considering the facts of the decision or order passed by the <sup>57</sup>[Principal Commissioner of Customs or Commissioner of Customs], if is of the opinion that the decision or order passed by the <sup>57</sup>[Principal Commissioner of Customs or Commissioner of Customs] is not legal or proper, may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order, as may be specified in its order.]

(2) The <sup>57</sup>[Principal Commissioner of Customs or 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 <sup>58</sup>[such authority or any officer of Customs subordinate to him] to apply to the <sup>59</sup>[Commissioner (Appeals)] for the determination of such points arising out of the decision or order as may be specified by the <sup>57</sup>[Principal Commissioner of Customs or Commissioner of Customs] in his order.

<sup>60</sup>[(3) Every order under sub-section (1) or sub-section (2), as the case may be, shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.]

<sup>61</sup>[Provided that the Board may, on sufficient cause being shown, extend the said period by another thirty days.]

(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 <sup>62</sup>[Principal Commissioner of Customs or Commissioner of Customs], makes an application to the Appellate Tribunal or the <sup>63</sup>[Commissioner (Appeals)] within a period of <sup>64</sup>[one month] 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 <sup>63</sup>[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.\*

<sup>65</sup>[(5)] Omitted

<sup>66</sup>[**SECTION 129DA.**] Omitted

<sup>67</sup>[**SECTION 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.

<sup>68</sup>[**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.

<sup>69</sup>[(1A) The <sup>70</sup>[Principal Commissioner of Customs or 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.

<sup>71</sup>[(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 28.]

**<sup>72</sup>[SECTION 129E. Deposit of certain percentage of duty demanded or penalty imposed before filing appeal.** The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal,

(i) under sub-section (1) of section 128, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of customs lower in rank than the <sup>32</sup>[Principal Commissioner of Customs or Commissioner of Customs];

(ii) against the decision or order referred to in clause (a) of sub-section (1) of section 129A, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;

(iii) against the decision or order referred to in clause (b) of sub-section (1) of section 129A, unless the appellant has deposited ten per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against :

Provided that the amount required to be deposited under this section shall not exceed rupees ten crores :

Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No. 2) Act, 2014.]

**<sup>73</sup>[SECTION 129EE. Interest on delayed refund of amount deposited under section 129E.** Where an amount deposited by the appellant under section 129E is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till, the date of refund of such amount :

**Provided** that the amount deposited under section 129E, prior to the commencement of the Finance (No. 2) Act, 2014, shall continue to be governed by the provisions of section 129EE as it stood before the commencement of the said Act.]

**<sup>74</sup>[SECTION 130. Appeal to High Court.** - (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(2) The <sup>75</sup>[Principal Commissioner of Customs or Commissioner of Customs] or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be -

(a) filed within one hundred and eighty days from the date on which the order appealed against is received by the <sup>75</sup>[Principal Commissioner of Customs or Commissioner of Customs] or the other party;

(b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

<sup>76</sup>[(2A) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

**Provided** that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which -

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

(7) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(8) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.]

<sup>77</sup>**[SECTION 130A. Application to High Court.** - (1) The <sup>75</sup>[Principal Commissioner of Customs or Commissioner of Customs] or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under section 129B passed <sup>78</sup>[before the 1st day of July, 2003] (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.

(2) The <sup>75</sup>[Principal Commissioner of Customs or Commissioner of Customs] or the other party applying to the High Court under sub-section (1) shall clearly state the question of law which he seeks to be referred to the High Court and shall also specify the paragraph in the order of the Appellate Tribunal relevant to the question sought to be referred.

(3) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the High Court as if it were an application presented within the time specified in sub-section (1).

<sup>79</sup>[(3A) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period.]

(4) If, on an application made under sub-section (1), the High Court directs the Appellate Tribunal to refer the question of law raised in the application, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such direction, draw up a statement of the case and refer it to the High Court.]

<sup>80</sup>**[SECTION 130B. Power of High Court or Supreme Court to require statement to be amended.** - If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.]

<sup>81</sup>**[SECTION 130C. Case before High Court to be heard by not less than two judges.** - (1) When any case has been referred to the High Court <sup>82</sup>[under section 130 or section 130A] it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(2) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.]

<sup>83</sup>**SECTION 130D. Decision of High Court or Supreme Court on the case stated.** - (1) The High Court or the Supreme Court hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

(1A) Where the High Court delivers a judgment in an appeal filed before it under section 130, effect shall be given to the order passed on the appeal by the proper officer on the basis of a certified copy of the judgment.

(2) The costs of any reference to the High Court or an appeal to the High Court or the Supreme Court as the case may be which shall not include the fee for making the reference shall be in the discretion of the Court.]

**SECTION 130E. Appeal to Supreme Court.** - An appeal shall lie to the Supreme Court from -

<sup>84</sup>[(a) any judgment of the High Court delivered -

(i) in an appeal made under section 130; or

(ii) on a reference made under section 130 by the Appellate Tribunal before the 1st day of July, 2003;

(iii) on a reference made under section 130A,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or]

(b) any order passed <sup>85</sup>[before the establishment of the National Tax Tribunal] by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment.

**SECTION 130F. Hearing before Supreme Court.** - (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 130E as they apply in the case of appeals from decrees of a High Court:

**Provided** that nothing in this sub-section shall be deemed to affect the provisions of sub-section (1) of section 130D or section 131.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 130D in the case of a judgment of the High Court.

**SECTION 131. Sums due to be paid notwithstanding reference, etc.** - Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, <sup>86</sup>[under this Act before the commencement of the National Tax Tribunal Act, 2005] sums due to the Government as a result of an order passed under sub-section (1) of section 129B shall be payable in accordance with the order so passed.

**SECTION 131A. Exclusion of time taken for copy.** - In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

**SECTION 131B. Transfer of certain pending proceedings and transitional provisions.** - (1) Every appeal which is pending immediately before the appointed day before the Board under section 128, as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it was on that day:

**Provided** that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(2) Every proceeding which is pending immediately before the appointed day before the Central Government under section 131, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it :

**Provided** that if any such proceeding or matter relates to an order where -

(a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(c) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Central Government as if the said section 131 had not been substituted :

**Provided** further that the applicant or the other party may make a demand to the Appellate Tribunal that before proceeding further with that proceeding or matter, he may be re-heard.

(3) Every proceeding which is pending immediately before the appointed day before the Board or the <sup>87</sup>[Principal Commissioner of Customs or Commissioner of Customs] under section 130, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Board or the <sup>87</sup>[Principal Commissioner of Customs or Commissioner of Customs], as the case may be, as if the said section had not been substituted.

(4) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in section 146A, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

<sup>88</sup>**SECTION 131BA. Appeal not to be filed in certain cases,-** (1) The Board may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the <sup>89</sup>[Principal Commissioner of Customs or Commissioner of Customs] under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section (1), the <sup>89</sup>[Principal Commissioner of Customs or Commissioner of Customs] has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such <sup>89</sup>[Principal Commissioner of Customs or Commissioner of Customs] from filing any appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the <sup>90</sup>[Principal Commissioner of Customs or Commissioner of Customs] pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal, application, revision or reference shall contend that the <sup>90</sup>[Principal Commissioner of Customs or Commissioner of Customs] has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(4) <sup>91</sup>[The Commissioner (Appeal) or the Appellate Tribunal or the court] hearing an appeal, application, revision or reference shall have regard to the circumstances under which the appeal, application, revision or reference was not filed by the <sup>90</sup>[Principal Commissioner of Customs or Commissioner of Customs] in pursuance of orders or instructions or directions issued under sub-section (1).

(5) Every order or instruction or direction issued by the Board on or after the 20<sup>th</sup> day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing appeal, application, revision or reference shall be deemed to have been issued under sub-section (1), and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.]

**SECTION 131C. Definitions.** - In this Chapter -

(a) "appointed day" means the date of coming into force of the amendments to this Act specified in Part I of the Fifth Schedule to the Finance (No. 2) Act, 1980 (44 of 1980) ;

<sup>92</sup>(b) High Court means,-

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court of a State has been extended by law, that High Court;

(iii) in relation to the Union territories of Dadra and Nagar Haveli and Daman and Diu, the High Court at Bombay;

(iv) in relation to any other Union territory, the highest court of civil appeal for that territory other than the Supreme Court of India;]

(c) "President" means the President of the Appellate Tribunal.

1. Chapter XV (containing sections 128, 128A, 129, 129A, 129B, 129C, 129D, 129E, 130, 130A, 130B, 130C, 130D, 130E, 130F, 131, 131A, 131B, 131C) substituted by Act 44 of 1980, section 50 and the Fifth schedule, Pt. 1-4, for Chapter XV (containing sections 128, 129, 130, 131) (w.e.f. 11.10.1982). Earlier section 128 was amended, section 130 was substituted and section 131 was amended by Act 25 of 1978, section 13, 14, and 15 (w.e.f. 01.07.1978 and 01.08.1978). Section 129A and section 129D

were amended by Act 62 of 1986, section 34(b)(i) and (ii) but Act 62 of 1986 was repealed by Act 25 of 2004, section 2 and Schedule (w.e.f. 21.12.2004).

2. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).
  3. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).
  4. Substituted by Act 14 of 2001, section 109(a), for within three months (w.e.f. 11.05.2001).
  5. Substituted by Act 14 of 2001, section 109(b), for the proviso (w.e.f. 11.05.2001).
  6. Inserted by Act 23 of 2004, section 68 (w.e.f. 10.09.2004).
  7. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).
  8. Substituted by Act 14 of 2001, section 110(a), for certain words (w.e.f. 11.05.2001).
  9. Inserted by Act 14 of 2001, section 110(b) (w.e.f. 11.05.2001).
  
  10. Substituted by Act 18 of 2005, section 69, for and the Commissioner of Customs (w.e.f. 13.05.2005).
  11. Substituted by Act 25 of 2014, section 78, for Chief Commissioner of Customs (w.e.f. 06.08.2014).
  12. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).
  13. Substituted by Act 32 of 2003, section 119(a), for Gold (Control) (w.e.f. 14.05.2003).
  14. Substituted by Act 21 of 1984, section 39(a), for sub-section (2) (w.e.f. 11.05.1984).
  15. Substituted by Act 32 of 2003, section 119(b), for Central Legal Service (w.e.f. 14.05.2003).
  16. Substituted by Act 21 of 1984, section 39(a), for sub-section (2) (w.e.f. 11.05.1984).
  17. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995)
  18. Substituted by Act 33 of 1996, section 65, for sub-section (3) (w.e.f. 28.09.1996).
  19. Sub-section (4A) omitted by Act 32 of 2003, section 119(c) (w.e.f. 14.05.2003). Earlier sub-section (4A) was inserted by Act 21 of 1984, section 39(b) (w.e.f. 11.05.1984)
  20. Substituted by Act 32 of 2003, section 119(d), for The Senior Vice-President or a Vice-President (w.e.f. 14.05.2003). Earlier the words The Senior Vice-President or a Vice-President were substituted by Act 21 of 1984, section 39 (c), for the words The Vice-President (w.e.f. 11.05.1984).
  21. Inserted by Act 22 of 2007, section 110 (w.e.f. 11.05.2007).
  22. Inserted by the Finance Act, 2017, section 175.
  23. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).
  24. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).
  25. Substituted by Act 21 of 1984, section 40(a), for Provided that (w.e.f. 11.05.1984).
  26. Substituted by Act 25 of 2014, section 86(i), for fifty thousand rupees (w.e.f. 06.08.2014). Earlier the words fifty thousand rupees were substituted by Act 38 of 1993, section 43(1)(a), for the words ten thousand rupees (w.e.f. 13.05.1993).
  27. Inserted by Act 21 of 1984, section 40(b) (w.e.f. 11.05.1984).
  28. Inserted by Act 18 of 2005, section 70(a) (w.e.f. 13.05.2005).
  29. Substituted by Act 25 of 2014, section 86(ii), for by notification in the Official Gazette (w.e.f. 06.08.2014).
  30. Substituted by Act 18 of 2005, section 70(b)(i), for The Commissioner of Customs may, if he is (w.e.f. 13.05.2005).
  31. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).
  32. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).
  33. Substituted by Act 18 of 2005, section 70(b)(ii), for on his behalf (w.e.f. 13.05.2005).
- \*Sub-section (2) was earlier substituted by Act 62 of 1986, section 34(b)(i). Act 62 of 1986 has been repealed by Act 25 of 2014, section 2 and Schedule (w.e.f. 21.12.2004).
34. Inserted by Act 18 of 2008, section 71 (w.e.f. 10.05.2008).
  35. Substituted by Act 25 of 2014, section 78, for Commissioners of Customs (w.e.f. 06.08.2014).

36. Substituted by Act 25 of 2014, section 78, for Chief Commissioner of Customs (w.e.f. 06.08.2014).

37. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector (Appeals) (w.e.f. 26.05.1995).

38. Substituted by Act 23 of 2004, section 69, for sub-section (6) (w.e.f. 01.11.2004). Earlier sub-section (6) was substituted by Act 38 of 1993, section 43(1)(b) (w.e.f. 13.05.1993). Sub-section (6), before substitution by Act 23 of 2004, stood as under:

(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, in the case of an appeal made on or after the 1st day of June, 1993, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, -

(a) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is one lakh rupees or less, two thousand rupees;

(b) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than one lakh rupees, one thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross objections referred to in sub-section (4).

39. The words for grant of stay or omitted by Act 25 of 2014, section 86(iii) (w.e.f. 06.08.2014).

40. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).

41. Inserted by Act 23 of 2004, section 70 (w.e.f. 10.09.2014).

42. Substituted by Act 20 of 2002, section 127(i), for four years (w.e.f. 11.05.2002).

43. Substituted by Act 25 of 2014, section 72, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).

44. Inserted by Act 20 of 2002, section 127(ii) (w.e.f. 11.05.2002).

45. The first, second and third proviso omitted by Act 25 of 2014, section 87 (w.e.f. 06.08.2014). Earlier the third proviso was inserted by Act 17 of 2013, section 76 (w.e.f. 10.05.2013). The first, second and third provisos, before omission by Act 25 of 2014, stood as under:

Provided that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 129A, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:

Provided further that if such appeal is not disposed of within the period specified in the first proviso, the stay order shall, on the expiry of that period, stand vacated:

Provided also that where such appeal is not disposed of within the period specified in the first proviso, the Appellate Tribunal may, on an application made in this behalf by a party and on being satisfied that the delay in disposing of the appeal is not attributable to such party, extend the period of stay to such further period, as it thinks fit, not exceeding one hundred and eighty-five days, and in case the appeal is not so disposed of within the total period of three hundred and sixty-five days from the date of order referred to in the first proviso, the stay order shall, on the expiry of the said period, stand vacated.

46. Substituted by Act 25 of 2014, section 72, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).

47. Substituted by Act 22 of 1995, section 65(a), for sub-section (3) and (4) (w.e.f. 26.05.1995).

48. Sub-section (3) omitted by Act 22 of 1995, section 65 (b) (w.e.f. 26.05.1995). Earlier sub-section (3) was amended by Act 80 of 1985, section 10(a) (w.e.f. 27.12.1985).

49. Substituted by Act 17 of 2013, section 77, for ten lakh rupees (w.e.f. 10.05.2013). Earlier the words ten lakh rupees were substituted by Act 33 of 1996, section 66, for the words one lakh rupees (w.e.f. 28.09.1996); the words one lakh rupees were substituted by Act 38 of 1993, section 43(2), for the words fifty thousand rupees (w.e.f. 13.05.1993); the words fifty thousand rupees were substituted by Act 21 of 1984, section 41, for the words ten thousand rupees (w.e.f. 11.05.1984).

50. Substituted by Act 12 of 1990, section 62(a), for sub-section (5) (w.e.f. 31.05.1990). Earlier sub-section (5) was amended by Act 80 of 1985, section 10(b) (w.e.f. 27.12.1985).

51. Substituted by Act 18 of 2005, section 71, for Board (w.e.f. 13.05.2005).

52. Substituted by Act 25 of 2014, section 78, for Chief Commissioner of Customs (w.e.f. 06.08.2014).  
53. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).

54. Inserted by Act 14 of 2001, section 111 (w.e.f. 11.05.2001).

\* Earlier sub-section (1) was amended by Act 62 of 1986, section 34(b)(ii)(A). Act 62 of 1986 has been repealed by Act 25 of 2004, section 2 and Schedule (w.e.f. 21.12.2004).

55. Inserted by Act 18 of 2008, section 72(i) (w.e.f. 10.05.2008).

56. Substituted by Act 25 of 2014, section 78, for Chief Commissioner of Customs (w.e.f. 06.08.2014).

57. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector (w.e.f. 26.05.1995).

58. Substituted by Act 29 of 2006, section 29, for such authority (w.e.f. 13.07.2006).

59. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).

60. Substituted by Act 18 of 2008, section 72(ii), for sub-section (3) (w.e.f. 10.05.2008). Earlier sub-section (3) was amended by Act 21 of 1984, section 42 (w.e.f. 11.05.1984) and was substituted by Act 20 of 2002, section 128 (w.e.f. 11.05.2002) and was amended by Act 18 of 2005, section 71 (w.e.f. 13.05.2005) and was again substituted by Act 22 of 2007, section 111(i) (w.e.f. 11.05.2007). Sub-section (3), before substitution by Act 18 of 2008, stood as under:

(3) The Committee of Chief Commissioners of Customs or the Commissioner of Customs, as the case may be, shall make order under sub-section (1) or sub-section (2) within a period of three months from the date of communication of the decision or order of the adjudicating authority.

61. Inserted by Act 25 of 2014, section 88 (w.e.f. 06.08.2014).

62. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).

63. Substituted by Act 22 of 1995, section 50, for Collector (Appeals) (w.e.f. 26.05.1995).

64. Substituted by Act 22 of 2007, section 111(ii), for three months (w.e.f. 11.05.2007).

\* Earlier sub-section (4) was amended by Act 62 of 1986, section 34(b)(ii)(A) and (B). Act 62 of 1986 has been repealed by Act 25 of 2014, section 2 and Schedule (w.e.f. 21.12.2004).

65. Earlier sub-section (5) was inserted by Act 29 of 1988, section 4. Act 29 of 1988 has been repealed by Act 25 of 2014, section 2 and Schedule (w.e.f. 21.12.2004).

66. Earlier section 129DA was inserted by Act 29 of 1988, section 5 (w.e.f. 01.07.1988).

67. Inserted by Act 21 of 1984, section 43 (w.e.f. 11.05.1984).

68. Inserted by Act 27 of 1999, section 110(a) (w.e.f. 11.05.1999).

\*\* Ed. Date of commencement of section 40 of the Finance Act, 1984 is 11<sup>th</sup> May, 1984.

69. Inserted by Act 27 of 1999, section 110(b) (w.e.f. 11.05.1999).

70. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).

71. Substituted by Act 27 of 1999, section 110(c), for sub-section (3) (w.e.f. 11.05.1999).

72. Substituted by Act 25 of 2014, section 89, for section 129E (w.e.f. 06.08.2014). Earlier section 129E was amended by Act 55 of 1991, section 10 (w.e.f. 23.12.1991), by Act 22 of 1995, section 50 (w.e.f. 26.05.1995), by Act 27 of 1999, section 110(c) (w.e.f. 11.05.1999) and by Act 14 of 2001, section 112 (w.e.f. 11.05.2001). Section 129E, before substitution by Act 25 of 2014, stood as under:

**129E. Deposit, pending appeal, of duty and interest, demanded or penalty levied.-** Where in any appeal under this Chapter, the decision or order appealed against relates to any duty and interest demanded in respect of goods which are not under the control of the customs authorities or any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer duty and interest demanded or the penalty levied:

Provided that where in any particular case, the Commissioner (Appeals) or the Appellate Tribunal is of opinion that the deposit of duty and interest demanded or penalty levied would cause undue hardship to such person, the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal may dispense with such deposit subject to such conditions as he or it may deem fit to impose so as to safeguard the interests of revenue:

Provided further that where an application is filed before the Commissioner (Appeals) for dispensing with the deposit of duty and interest demanded or penalty levied under the first proviso, the Commissioner (Appeals) shall, where it is possible to do so, decide such application within thirty days from the date of its filing.

73. Substituted by Act 25 of 2014, section 90, for section 129EE (w.e.f. 06.08.2014). Earlier section 129EE was inserted by Act 18 of 2008, section 73 (w.e.f. 10.05.2008). Section 129EE, before substitution by Act 25 of 2014, stood as under:

**129EE. Interest on delayed refund of amount deposited under the proviso to section 129E.-** Where an amount deposited by the appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal (hereinafter referred to as appellate authority), under the first proviso to section 129E, is required to be refunded consequent upon the order of the appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority, unless the operation of the order of the appellate authority is stayed by a superior court or tribunal, there shall be paid to the appellant interest at the rate specified in section 27A after the expiry of three months from the date of communication of the order of the appellate authority, till the date of refund of such amount.

74. Section 130 was earlier amended by Act 27 of 1999, section 111 (w.e.f. 11.05.1999) and was substituted by Act 32 of 2003, section 120 (w.e.f. 14.05.2003). This section to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).

75. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).

76. Inserted by Act 33 of 2009, section 87 (w.e.f. 01.07.2003).

77. Section 130A was earlier substituted by Act 27 of 1999, sec. 112 (w.e.f. 11-5-1999) and was amended by Act 32 of 2003, sec. 121 (w.e.f. 14-5-2003). This section to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).

78. Substituted by Act 32 of 2003, section 121 (w.e.f.14.05.2003).

79. Inserted by Act 33 of 2009, section 88 (w.e.f. 01.07.1999).

80. This section to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).

81. Section 130C was earlier amended by Act 27 of 1999, section 113 (w.e.f. 11.05.1999). This section to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).

82. Substituted by Act 27 of 1999, section 113.

83. Section 130D was earlier amended by Act 32 of 2003, section 122 (w.e.f. 14.05.2003). This section to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).

84. Substituted by Act 32 of 2003, section 123, for clause (a) (w.e.f. 14.05.2003). Earlier it was amended by Act 27 of 1999, section 114 (w.e.f. 11.05.1999).

85. Inserted by Act 49 of 2005, section 30 and Schedule, Pt. VI-8 (w.e.f. 28.12.2005).

86. Inserted by Act 49 of 2005, section 30 and Schedule, Pt. VI-9 (w.e.f. 28.12.2005).

87. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014). Earlier the words Commissioner of Customs were substituted by Act 22 of 1995, section 50, for the words Collector of Customs (w.e.f. 26.05.1995).

88. Inserted by Act 8 of 2011, section 50 (w.e.f. 20.10.2010).

89. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).

90. Substituted by Act 25 of 2014, section 78, for Commissioner of Customs (w.e.f. 06.08.2014).

91. Substituted by Act 25 of 2014, section 91, for The Appellate Tribunal or court (w.e.f. 06.08.2014).

92. Clause (b), to be omitted (from a date to be notified) by section 30 read with Schedule to the National Tax Tribunal Act, 2005 (49 of 2005).