



सीमा शुल्क (निवारक) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS
(PREVENTIVE COMMISSIONERATE)
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C.No.VIII/09/01/2019-Cus.TFC.

Date: 07 .11.2019

Standing Order No. 07/2019-Cus

Subject: *Time limits for adjudication and Procedure to be adopted for processing adjudication files consequent to amendment in Section 28 of the Customs Act, 1962-Reg.*

Attention of all the Customs Officers of Hqrs.Office, CPC, Vijayawada and the officers working in field formations i.e., Krishnapatoem Custom House, ICD Marripalem, Kakinada Custom House, Customs Divisions, CFSs and Customs Preventive Units, is invited to the amendment made in Section 28 of the Customs Act, 1962 under the Finance Act, 2018 (No 13 of 2018) and published in Gazette of India on 29.03.2018..

2. The following amendments have been made under Section 28 of the Customs Act, 1962:

(i) In sub-section (1) clause (a) the following provision has been inserted;

“Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed;”

(ii) After sub-section (7) the following sub-section has been inserted;

“(7A) Save as otherwise provided in clause (a) of sub-section (1) or in sub-section (4), the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed, and the provisions of this section shall apply to such supplementary notice as if it was issued under the said sub section (1) or sub-section (4).”

(iii) In sub-section (9) of Section 28,

(a) The words “*where it is possible to do so*” at both the places where they occur, have been omitted;

(b) The following provisos have been inserted, namely;-

“Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section(8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year.

Provided further that where the proper officer fails to determine within such extended period, such proceeding, shall be deemed to have concluded as if no notice had been issued”

3. Procedure to be followed to ensure that aforesaid time lines are observed;
 - i. *After receipt of the Show Cause Notice, if reply to the show cause notice is received within 30 days of the issue of show cause notice, file shall be put up before adjudicating authority (immediately after receipt of reply) for fixing date of “Personal Hearing” and notice for “Personal Hearing” shall be issued to the notices immediately.*
 - ii. *If no reply to the show cause notice is received within 30 days of the issue of show cause notice, file shall be put up before adjudicating authority within next 3 days after expiry of stipulated 30 days period for fixing date of “Personal Hearing” and notice for “Personal Hearing” shall be issued to the noticees immediately and also the notices may be advised that the “written reply had not been received and should be submitted immediately”.*
 - iii. *Section 122A of the Customs Act, 1962 provides that “the Adjudicating authority may, if sufficient cause is shown at any stage of proceeding, grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing. However proviso to said sub-section (2) further provides that no such adjournment shall be granted more than three times to a party during the proceeding.*
 - iv. *Therefore, dates of personal hearing should be fixed by keeping a time space in such a manner that even if there is need to grant three adjournments, the personal hearings should be concluded within 90 days of issue of show cause notice so that adjudication proceedings can be completed within six months in cases of notices issued under section 28(1).*
 - v. *However, there may be cases where Noticee may seek extension of time for submitting reply to the show cause notice. In such cases, all such letters should be put up before adjudicating authorities (as and when received) for taking decision about such requests.*
4. While sending letters fixing personal hearing modes of service as provided under Section 153 of the Customs Act, 1962 should be used specially sending PH intimation through email **(to email address as provided by the person, to whom it is issued or email address as available in any official correspondence of such person).**
5. cases where there are justifiable grounds to seek extension as provided under second proviso to sub-section (9) of Section 28, **file should be put up**

before officer authorized to grant such extension at least 30 days prior to time limit of six months or one year, as the case may be (time limits provided for adjudication of cases).

6. Since in the cases of notices issued under Section 28(1) pre-show cause notice consultation has to be made, the draft SCNs shall be received before the notice issuing authority **at least 3 months before the last date of serving the notice.**
9. Any difficulty, experienced in the implementation, may be brought to the notice of the undersigned.


(एस. फहीम अहमद/S.FAHEEM AHMED)
प्रधान आयुक्त /
PRINCIPAL COMMISSIONER

To

1. Copy submitted to the Chief Commissioner of Customs and Central Tax, Visakhapatnam zone, GST Bhavan, Port Area, Visakhapatnam – 530035 for information.

Copy to :

1. The Additional Commissioner of Customs, Krishnapatnam Custom House, KAPS Building, CVR Complex, Krishnapatnam Port Area, Gopalapuram, Muthukuru-524344 S.P.S.R Nellore District for information.
2. The Additional Commissioner of Customs, Kakinada Custom House, Port Road, Kakinada – 533007, East Godavari District for information.
3. The Deputy/ Assistant Commissioner of Customs, ICD Marrisalem – 522233, Guntur District for information.
4. The Deputy / Assistant Commissioner of Customs, Customs Division, Visakhapatnam / Kakinada / Vijayawada / Tirupati for information.
5. The Deputy / Assistant Commissioner of Customs, Hqrs. Trade Facilitation Centre, Hqrs.office, CC(P), Vijayawada for information.
6. Copy to Superintendent (Computers), CPC, Hqrs.office, Vijayawada for display on CPC, Vijayawada website www.apcustoms.gov.in
7. Copy to the Superintendent [Adjudication], Hqrs. Office, Vijaywada for information
8. Copy to the Notice Board.