
CUSTOMS AND CENTRAL EXCISE SETTLEMENT COMMISSION PROCEDURE, 1999

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CUSTOMS AND CENTRAL EXCISE SETTLEMENT COMMISSION PROCEDURE, 1999

In exercise of the powers conferred by sub-section (4) of Section 321 of the Central Excise Act, 1944 and sub-section (4) of Section 127-F of the Customs Act, 1962 the Customs and Central Excise Settlement Commission hereby makes the following procedure, namely:-

1. Short title and commencement :-

(1) This procedure may be called the Customs and Central Excise Settlement Commission Procedure, 1999 .

(2) It shall come into force on the date of publication in the Official Gazette.

2. Definitions :-

Unless the context otherwise requires-

(i) "Central Excise Act" means the Central Excise Act, 1944 (1 of 1944);

(ii) "Customs Act" means the Customs Act, 1962 (52 of 1962);

(iii) "applicant means" a person who makes an application to the Commission under sub-section (1) of Section 32E of Central Excise Act or under sub-section (1) of Section 127-B of the Customs Act to have a case relating to him settled;

(iv) "authorized representative" means-

(a) in relation to an applicant, except where such applicant is required by the Commission to attend in person, a person who would be entitled to represent him before any Central Excise and Customs authority or under Section 35Q of the Central Excise Act or Section 146-A of the Customs Act.

(b) in relation to a Commissioner, a person-

(1) authorized in writing by the Commissioner or the Chief Commissioner; or

(2) appointed by the Central Government as authorized representative or authorized by the Central Board of Excise and Customs to appear, plead and act for the Commissioner in any proceeding before the Commission.

(v) "Commission" means the Customs and Central Excise Settlement Commission instituted under Section 32 of Central Excise Act and includes, where the context so requires, any Bench exercising or discharging the powers or functions of the Commission.

(vi) "Secretary" means the Secretary of the Commission and includes an Administrative Officer.

(vii) "settlement application" means an application made by a person to the Commission under sub-section (1) of Section 32E of Central Excise or under sub-section (1) of Section 127-B of the Custom Act, as the case may be, to have a case relating to him settled:

(viii) all other words and expressions used herein and not defined but defined in the Central Excise Act and the Customs Act, shall have the same meaning respectively assigned to them in the said Acts.

3. Language of the Commission :-

(1) All pleadings before the Commission may, at the option of the applicant, be in Hindi or in English.

(2) All orders and other proceedings of the Commission may, at the option of the Commission, be in Hindi or in English.

4. Signing of notices, etc. :-

(1) Any requisition, direction, letter, authorisation, order or written notice to be issued by the Commission shall be signed by the Chairman or a Vice- Chairman or any other Member of the Commission or by the Secretary.

(2) Nothing in sub-rule (1) shall apply to any requisition or direction which the Commission may, in the course of the hearing, issue to an applicant or a Commissioner or an authorised representative personally.

5. Procedure for filing settlement application :-

(1) A settlement application shall be presented by the applicant in person to the Secretary at the headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction his case falls or to any officer authorised in this behalf by the Secretary, or shall be sent by registered post addressed to the Secretary.

(2) A settlement application sent by post under sub-rule (1) shall be deemed to have been presented to the Secretary on the day on which it is received in the office of the Commission.

6. Preparation of paper books, etc :-

(1) If the applicant or the Commissioner, as the case may be, proposes to refer or rely upon any documents or statements or other papers, he may submit six copies of a paper book containing such papers duly indexed and paged at least two weeks before the date of hearing under sub-section (1) of Section 32-F of the Central Excise Act or sub-section (1) of Section 127-C of the Customs Act, as the case may be: Provided that the Commission may in an appropriate case condone the delay and admit the paper book.

(2) If the applicant proposes to refer to or rely upon any documents or statements/or other papers, during the course of hearing under sub-section (7) of Section 32-F of the Central Excise Act or sub-section (7) of Section 127-C of Customs Act, as the case may be, he may submit six copies of a paper book containing such

papers duly indexed and paged, within thirty days or within such extended period as may be allowed by the Commission of the receipt of an order under sub-section (1) of Section 32-F of the Central Excise Act or sub-section (1) of Section 127-C of the Customs Act.

(3) If the Commissioner proposes to refer to or rely upon any documents or statements or other papers during the course of hearing under sub-section (7) of Section 32-F of the Central Excise Act, or sub-section (7) of Section 127-C of the Customs Act, as the case may be, he may submit six copies of a paper book containing such papers duly indexed and paged within thirty days or within such extended period as may be allowed by the Commission, of the receipt of an order under sub-section (1) of Section 32-F of the Central Act or sub-section (1) of Section 127-C of the Customs Act.

(4) The Commission may, suo-motu, direct the preparation of six copies of a paper book by and at the cost of the applicant or the Commissioner, containing copies of such statements, documents and papers, as it may consider necessary for the proper disposal of the settlement applicant on or matters arising therefrom,

(5) The papers referred to in sub-rules (1), (2), (3) and (4) must be legibly written or type-written in double space or printed. If xerox copy of the document is filed, then the same should be legible. Each paper should be certified as a true copy by the party filing the same and indexed in such a manner as to give a brief description of the documents, with page numbers and the authority before whom it was filed.

7. Filing of affidavit :-

Where a fact, which is not borne out by or is contrary to the record relating to the case, is alleged in the settlement application, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

8. Date and place of hearing of application to be notified :-

The Commission shall notify to the applicant and the Commissioner the date and place of hearing of the application.

9. Sitting of Bench :-

A Bench shall hold its sittings at its headquarters. The Bench may, however, at the discretion of the Presiding Officer, hold its sittings

at any place in its jurisdiction notified by the Commission.

10. Powers of a Bench :-

A Bench shall dispose of such settlement applications or matters arising therefrom as the Chairman may by general or special order direct.

11. Constitution of Special Bench :-

(1) The Chairman may, for the disposal of a particular case, constitute a Special Bench consisting of at least five Members drawn from all the Benches of the Commission.

(2) The Special Bench shall be presided over by the Chairman or a Vice-Chairman.

(3) If the Members of the Special Bench are equally divided, they shall state the point or points on which they differ and make a reference to the Chairman who shall refer the case for hearing on such point or points by one or more of other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case.

(4) Notwithstanding anything contained in the foregoing provisions of this rule, if one or more persons constituting the Special Bench (whether such person is the Presiding Officer or another Member of the Special Bench) are unable to function in the Special Bench owing to illness or any other cause or in the event of occurrence of a vacancy either in the office of the Presiding Officer or in the office of one or other Members of the Special Bench, the remaining Members, if more than three may function as the Special Bench, and the senior-most of the remaining Members shall act as the Presiding Officer of the Special Bench.

12. Filing of authorisation :-

An authorised representative appearing for the applicant at the hearing of an application shall file before the commencement of the hearing a document authorising him to appear for the applicant and if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant, or if he is a person regularly employed by the applicant, the capacity in which he is at the time employed.

13. Verification of additional facts :-

Where in the course of any proceedings before the Commission any facts not contained in the settlement application (including the annexure and the statements and other documents accompanying such annexure) are sought to be relied upon, they shall be submitted to the Commission in writing and shall be verified in the manner as provided for in the settlement application.

14. Proceedings not open to the public :-

The proceedings before the Commission shall not be open to the public and no person (other than the applicant, his employee, the concerned officers of the Commission or the Custom and Central Excise Department or the authorised representatives) shall, without the permission of the Commission, remain present during such proceedings.

15. Publication of orders of the Special Bench :-

The Chairman may, at his discretion, direct the publication of orders or portions containing the rulings of the Special Bench with such modifications as to names and other particulars therein, as he may deem fit.

16. Adjournment of hearing :-

The Commission may, on such terms as it thinks fit and at any stage of the proceedings, adjourn the hearing of the application or any matters arising therefrom.