



**OFFICE OF THE COMMISSIONER OF CUSTOMS
CENTRALISED ADJUDICATION CELL, NS-II,
JAWAHARLAL NEHRU CUSTOM HOUSE
NHAVA-SHEVA, TAL-URAN
DIST. RAIGAD, MAHARASHTRA-400707.
E-Mail Id:- cac@jawaharcustoms.gov.in**

F. No. S/26-Misc-82/2017-18/CAC/JNCH

Date:15.06.2018

STANDING ORDER NO. : 22/2018

STANDARD OPERATION PROCEDURE (SOP)

Subject:- Processing of adjudication files consequent to amendment in Section 28 of the Customs Act, 1962, prescribing time limit for adjudication – regarding.

Reference is invited to the Standing Order NO. 12/2018 dated 25.04.2018 and amendment made in Section 28 of the Customs Act, 1962 prescribing time limit for adjudication cases. In pursuance of the aforesaid amendment in the Customs Act and following the spirit of the proposed amendment viz. to expeditiously complete the adjudication process at the original stage, it has been decided to take up the adjudication cases on priority and complete them in time bound manner.

2. In order to meet the legal requirements and imbibe the spirit of the said amendment, the following guidelines shall be followed:

3. Cases where show cause notice has been issued on or after 29.03.2018:

- (i) After the receipt of the Show Cause Notice (SCN), if written reply is received within 30 days of the issue of show cause notice, the file shall be put up before adjudicating authority immediately for fixing a Personal Hearing.
- (ii) In case no written reply to the SCN 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 for Personal Hearing and the said PH notice shall also advise 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 SCN and adjudication proceedings may be completed within six months from the date of notice, where it is possible to do so, in respect of cases falling under clause (a) of sub- section (1) of section 28 of customs act 1962;
- (v) However, in the 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 authorised to grant such extension at least 15 days prior to time limit of six months or one year, as the case may be (time limits provided for adjudication of cases).

4. Cases where show cause notice have been issued before 14.05.2015:

Though the amendment to section 28 of the Customs Act, 1962 doesn't specifically cover the SCNs issued before 14.05.2015, the spirit of the said amendment should be the guide for efficient

and expeditious disposal of such cases as well, and therefore, following procedure is advised in respect of such SCNs:

- (i) The pending cases as on date, adjudicating authority wise, may be categorised in terms of applicability of Section 25(1) and 28(4).
- (ii) In all cases covered by Section 28(1) wherein written reply and PH have been completed, adjudication order may be issued by June 30, 2018.
- (iii) In all cases covered by Section 28(4) wherein written reply and PH have been completed, adjudication order may be issued by July 31, 2018.
- (iv) In all cases covered either by Section 28(1) or 28(4), wherein PH opportunities have not been exhausted, next date(s) of PH should be given during June-July, 2018 and adjudication orders in cases relating to Section 28(1) should be issued by September 28, 2018 and by March 28, 2019 in cases relating to Section 28(4).
- (v) However, in the cases where it would not be possible to issue the adjudication order within the time specified in sub-para (iv) above for justifiable reasons, file should be put up before officer authorised to grant such extension at least 15 days prior to time limit, as a matter of abundant caution.
- (vi) It must be ensured that the adjudication orders in all such pending cases are completed within the time limit specified in sub-para (iv) above or extended period approved by the competent authority in terms of sub-para (v) above.

5. In cases where show cause notice was issued during the period 14.05.2015 to 28.03.2018:

Explanation 4 to Section 28 excludes the applicability of the aforesaid time limit for completion of the adjudication process at the first level. Notwithstanding the same and following the spirit of the legislation, it is advised that the procedure prescribed in para 4 above should guide the cases wherein SCN was issued during the period between 14.05.2015 to 28.03.2018 also.

6. Sub-section 9A of Section 28 has created a carve out from sub-section 9 for cases, wherein the proper officer is unable to adjudicate the case for the following reasons:

- (a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or
- (b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or
- (c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or
- (d) the Settlement Commission has admitted an application made by the person concerned.

6.1 In such cases, it has been prescribed that the adjudicating authority shall inform the person concerned the reason for non-adjudication of the case under sub-section 8 and in such case, the time limit of six months or one year, as applicable shall apply not from the date of notice but from date when such reason ceases to exist.

6.2 Therefore, all cases which are presently pending in the Callbook shall be reviewed before June 30, 2018 and thereafter at the end of every month so as to carefully monitor the applicability of the prescribed time limits.

7. In case of any difficulty, the specific issue may be brought to the notice of Deputy/Assistant Commissioner in charge of CAC, NS-V.

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(VIJAY SINGH CHAUHAN)
Commissioner of Customs (NS-V)
Email<chauhan@nic.in>

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH.
2. The Commissioner of Customs, NS-G/ NS-I/ NS-II / NS-III / NS-V, JNCH.
3. All Additional / Joint Commissioners of Customs, JNCH.
4. All Deputy / Assistant Commissioner of Customs, JNCH.
5. All Sections / Groups of NS-G, NS-I, NS-II / NS-III/ NS-IV / NS-V, JNCH.
6. All Terminal operators, Representative of BCBA / FIEO for information and circulation among their members for information.
7. AC/DC, EDI for uploading on JNCH website immediately