Customs (Appeals) Rules, 1982

[Notification No. 212-Cus., dated 10-9-1982 as amended by Notifications No. 248-Cus., dated 10-11-1982; No. 15/85-Cus., dated 30-1-1985 and No. 252/86-Cus., dated 16-4-1986.]

In exercise of the powers conferred by sub-section (1) of section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :

Chapter I
PRELIMINARY

1. Short title and commencement.-

(1) These rules may be called the Customs (Appeals) Rules, 1982.

(2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.-

In these rules, unless the context otherwise requires, -

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

(b) "Form" means a form appended to these rules;

(c) "Section" means a section of the Act.

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Chapter II
APPEALS TO [COMMISSIONER] (APPEALS)

3. Form of appeal to [Commissioner] (Appeals).-

(1) An appeal under sub-section (1) of section 128 to the [Commissioner (Appeals)] shall be made in Form No. C.A.-1.

(2) The grounds of appeal and the form of verification as contained in Form No. C.A.-1 shall be signed :-

(a) in the case of an individual, by the individual himself or where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the *Karta* and, where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or some person competent to act on his behalf.

(3) The form of appeal in Form No. C.A.-1 shall be filed in duplicate and shall be accompanied by a copy of the decision or order appealed against.

4. Form of application to the [Commissioner] (Appeals).-

(1) An application under sub-section (4) of Section 129D to the [Commissioner] (Appeals) shall be made in Form No. C.A.-2.

(2) The form of application in Form No. C.A.-2 shall be filed in duplicate and shall be accompanied by two copies of the decision or order passed by the adjudicating authority (one of which at least shall be a certified appeal copy) and a copy of the order passed by the [Commissioner] of Customs directing such authority to apply to the [Commissioner] (Appeals).

5. Production of additional evidence before the [Commissioner] (Appeals).-

(1) The appellant shall not be entitled to produce before the [Commissioner] (Appeals) any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the adjudicating authority, except in the following circumstances, namely :-

(a) where the adjudicating authority has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by that authority; or

(c) where the appellant was prevented by sufficient cause from producing before the authority any evidence which is relevant to any ground of appeal; or

(d) where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the [Commissioner] (Appeals) records in writing the reasons for its admission.

(3) The [Commissioner] (Appeals) shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -

(a) to examine the evidence or documents or to cross-examine any witness produced by the appellant; or

(b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).

(4) Nothing contained in this rule shall affect the powers of the [Commissioner] (Appeals) to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal.

CHAPTER III
APPEALS TO APPELLATE TRIBUNAL

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6. Form of Appeals, etc., to the Appellate Tribunal.-

(1) An appeal under sub-section (1) of section 129A to the Appellate Tribunal shall be made in Form No. C.A.-3.

(2) A memorandum of cross-objections to the Appellate Tribunal under sub-section (4) of section 129A shall be made in Form No. C.A.-4.

(3) Where an appeal under sub-section (1) of section 129A or a memorandum of cross-objections under sub-section (4) of that section is made by any person other than the [Commissioner] of Customs, the grounds of appeal, the grounds of cross-objections and the forms of verification as contained in Form Nos. C.A.-3 and C.A.-4, as the case may be, respectively shall be signed by the person specified in sub-rule (2) of rule 3.

(4) The form of appeal in Form No. C.A.-3 and the form of memorandum of cross-objections in Form No. C.A.-4 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).

7. Form of application to the Appellate Tribunal.-

(1) An application under sub-section (4) of section 129D to the Appellate Tribunal shall be made in Form No. C.A.-5.

(2) The form of application in Form No. C.A.-5 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the decision or order passed by the [Commissioner] of Customs (one of which at least shall be a certified copy) and a copy of the order passed by the Board directing such [Commissioner] to apply to the Appellate Tribunal.

[8. Form of application to the High Court.-

(1) An application under sub-section (1) of section 130A requiring the High Court to direct the Appellate Tribunal to refer to the High Court any question of law shall be made in Form No. C.A.-6 and such application shall be filed in quadruplicate.

(2) A memorandum of cross-objections under sub-section (3) of section 130A to the High Court shall be made in Form No. C.A.-7 and such memorandum shall be filed in quadruplicate.

(3) Where an application under sub-section (1) of section 130A or a memorandum of cross-objections under sub-section (3) of that section is made by any person other than the Commissioner of Customs, the application, the memorandum or form of verification, as the case may be, contained in Form No. C.A.-6 or Form No. C.A.-7 shall be signed by the person specified in sub-rule (2) of rule 3.]

CHAPTER III A
REVISION BY CENTRAL GOVERNMENT

8A. Form of revision application to the Central Government. -

1. (1) A revision application under sub-section (1) of section 129DD to the Central Government shall be in Form No. C.A.-8.

(2) The grounds of revision application and the form of verification, as contained in Form C.A.-8, shall be signed by the person specified in sub-rule (2) of rule 3.

2. Where the revision application is signed by the authorised representative of the applicant, the document authorising such representative to sign and appear on behalf of the applicant shall be appended to such revision application.

3. The revision application in Form No. C.A.-8 shall be filed in duplicate and shall be accompanied by an equal number of copies of the following documents, namely :-

(i) order passed by the [Commissioner] of Customs (Appeals) under section 128A; and

(ii) decision or order passed by the Customs Officer which was the subject-matter of the order referred to in clause (i).

8B. Procedure for filing revision application.-

(1) The revision application in Form No. C.A.-8 shall be presented in person to the Under Secretary, Revision Applications, Ministry of Finance, Department of Revenue, Central Secretariat, New Delhi-1, or sent by registered post addressed to said Under Secretary.

(2) The revision application sent by registered post under sub-rule (1), shall be deemed to have been submitted on the date on which it is received in the office of the said Under Secretary.]

CHAPTER IV
AUTHORISED REPRESENTATIVES

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9. Qualifications for authorised representatives.-

For the purposes of section 146A, an authorised representative shall include a person who has acquired any of the following qualifications, being the qualifications specified under clause (d) of sub-section (2) of the said section 146A, namely :-

(a) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or

(b) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959); or

(c) a Company Secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980), who has obtained a certificate of practice under section 6 of that Act; or

(d) a post-graduate or an Honours degree holder in Commerce or a post-graduate degree or diploma holder in Business Administration from any recognised University; or

(e) a person formerly employed in the Departments of Customs or Central Excise or Narcotics and has retired or resigned from such employment after having rendered service in any capacity in one or more of the said Departments for not less than ten years in the aggregate.

Explanation. - In this rule, "Recognised University" means any of the Universities specified below, namely :-

I. *Indian Universities*

Any Indian University incorporated under any law for the time being in force in India;

II. Rangoon University

III. English and Welsh Universities

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales;

IV. Scottish Universities

The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews;

V. Irish Universities

The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin;

VI. Pakistan Universities

Any Pakistan University incorporated under any law for the time being in force;

VII. Bangladesh Universities

Any Bangladesh University incorporated under any law for the time being in force.

10. Authority under section 146A(5)(b).-

The [Commissioner] of Customs having jurisdiction in the proceedings in which a person who is not a legal practitioner is found guilty of misconduct in connection with that proceeding under the Act shall be the authority for the purposes of clause (b) of sub-section (5) of section 146A.

Chapter V

MISCELLANEOUS 11 to 17. [* * * * *]

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