Circular No. 23/2009-Customs

F. No.450/117/2009-Cus.IV
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

North Block, New Delhi
1st September, 2009

To

All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs (Appeals).
All Commissioners of Customs & Central Excise.
All Commissioners of Customs & Central Excise (Appeals).

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Subject : Powers of adjudication of the officers of Customs.

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Sir / Madam,

I am directed to invite your attention to the Board's Circular No.87/2002-Customs dated 17.12.2002 regarding the powers of adjudication of officers of Customs. Board has reviewed the monetary limits prescribed for adjudication of cases by Additional / Joint Commissioners of Customs and it has been decided to enhance the powers of adjudication of these officers.

1. Accordingly, it has been decided that, under Section 28 of the Customs Act, 1962, the powers of adjudication of various categories of officers shall be as follows.

Level of Adjudication Officer	**Nature of cases**	**Monetary leve (Rs. in lakh)**
Customs:		
Commissioner	All cases.	Without any lim
ADC/JC	SCN in cases involving collusion, willful mis-statement or suppression of facts etc.	Duty involved upto 50 lakhs.
ADC/JC	Other cases	Value of goods upt 50 lakhs.
AC / DC	SCN with / without invoking extended period.	Value of goods upt lakh.

3. In the case of Baggage, the Additional Commissioner or Joint Commissioner shall continue to adjudicate the cases without limit, since such cases are covered by the offences under Chapter XIV and it is necessary to expeditiously dispose off the cases in respect of passengers at the airport. In other cases, such as short landing, drawback etc., the adjudication powers shall be continue to the same as provided under the Customs Act, 1962 or the Rules/Regulations made thereunder.

4. As per definition under section 2 (8) of the Customs Act, 1962, Commissioner of Customs includes an Additional Commissioner of Customs except for the purpose of appeal and revision. Therefore, respective Commissioners may review the status of cases pending for adjudication, which fall within the powers of Commissioners only, and depending on the workload may consider allocating some of these cases to Additional Commissioners working under their charge to ensure speedier disposal. An appeal against the Order-In-Original passed by an Additional Commissioner shall lie before Commissioner of Customs (Appeal) and not before the CESTAT.

5. In so far as the issuance of Show Cause Notice for demand of duty under Section 28 is concerned, the same can be issued by the respective adjudicating officers depending upon the powers of adjudication.

6. It is clarified that notwithstanding this revision, in all cases where the personal hearing has been completed, orders will be passed by the Adjudicating Authority before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

7. In all cases where personal hearing is yet to be commenced, the adjudications should be done by the appropriate level of officers as per the revised instructions. An immediate exercise should be undertaken to take stock of the present pendency and the transfer of relevant files and records to respective adjudicating authorities and the exercise of transfer of case records should be completed by 30th September 2009, under proper receipt. The recast figures should be reflected in the Monthly Technical Report of September, 2009, which is to be submitted in October, 2009.

8. The Chief Commissioners are requested to report to the Board about the number of cases and the amount involved, which will go out of the jurisdiction of officers of different levels as a result of these modifications, pertaining to their respective jurisdiction.

9. All previous Board's Circulars and instructions such as instruction F.No. 437/8/91-Cus.IV dated 13.5.1992, Circular No.47/97-Cus dated 6/10/97 and Circular No.87/2002- Cus dated 17/12/2002 relating to adjudication of Show Cause Notices are hereby rescinded/ modified to the above extent.

10. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice / Standing Order.

11. Difficulties, if any, in implementation of the Circular may be brought immediately to the notice of the Board.

Yours sincerely,

(Navraj Goyal)
Under Secretary (Customs Policy)

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