Circular No. 58/95
dated 31/5/95

F.No. 438/7/95- CUS. IV

Government of India
Ministry of Finance
Department of Revenue, New Delhi

Subject : Finance Act, 1995 - Interest on arrears of confirmed demands - Regarding.

I am directed to invited your attention to the provisions of the Finance Bill, 1995, which sought to introduce a new section 28AA in the Customs Act. 1962 for the purposes of levy of interest on delayed payments of confirmed demands by the assesses, and to say that the said section 28AA has become a part of the Customs Act, 1962 with the enactment of the Finance Bill, 1995 with effect from 26.5.1995. Consequently, a notification has been issued by the Central Board of Excise & Customs [Notification No. 33/95-(NT) - Customs dated 26.5.1995] prescribing a rate of 20% per annum as the interest on such delayed recoveries of confirmed demands.

2. In this context your attention is also invited to the Budget instruction forwarded by the TRU on 16.3.1995 wherein detailed guidelines had been given regarding the manner of calculation of interest and the period for which interest would be leviable in different circumstances. As may be observed, the interest liability will start only from the date immediately after the expiry of a period of three months from the date of determination of duty under sub-section (2) of section 28 i.e. the date of the order confirming the duty not levied, short levied or erroneously refunded. For this reason it becomes very important that the process of adjudication involving recovery of duties is expedited. Any delay in adjudication of a demand which is ultimately confirmed may lead to a loss of revenue in terms of loss of interest income. It is, therefore, essential and desirable that supervisory officers review the pendencies of cases where show cause notice have been issued demanding duties not levied, short levied or erroneously refunded. The Custom Houses already maintain registers for monitoring the "unconfirmed" demands. It may please be ensured that these registers are properly maintained and that individual cases are monitored at regular intervals. It may be clarified here that the intention is not that the unconfirmed demands should mechanically be confirmed but that the adjudication process are expedited after following due process of law and just and correct decisions are taken.

3. It has been further noticed that there is a large time gap between the decision taken in respect of show cause notices demanding recovery of duties and the formal communication of the order. Since every delay in this process is detrimental to revenue, the adjudication officers have to ensure that there is no delay between taking the decision and its communication. The Board desires that this particular aspect should be monitored by the supervisory officers. The director General of Inspection should also keep these points in view while inspecting the field formations and comment on delays, if any, in the adjudication process.

4. There may be many cases where demand-cum-show cause notices may have been issued on receipt of an audit objection with a view to protect the revenue interest, it is desirable that the audit objections are expeditiously settled so that the demand-cum-show cause notices can also be accordingly finalised. The internal audit objections should be settled within three months in the Custom House by discussions between the Assistant Commissioners, Deputy / Additional Commissioners and the Commissioner. Commissioner should hold regular

meetings with the C & AG's Audit to settle the CRA objections. Efforts will have to be made to complete the adjudication process expeditiously even in cases where a demand- cum show cause notice may have been issued pursuant to the audit objections.

5. All cases of confirmation of demands which may have been kept in the "Call Book" should also be reviewed and action taken to complete the adjudication unless there has been a stay in terms of any order of a Tribunal or Court.

6. These instructions may be brought to the notice of assessing officers/ adjudicating officers in the form of a standing order, under intimation of the Board, and should be strictly adhered to by all concerned. A copy to the standing order should be endorsed to DGIACCE, New Delhi and its regional unit.

Sd/-
(S.M. Bhatnagar)
Under Secretary of the Government of India

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