CBEC - Circular No. 56/96-Cus.
dated 14/11/96

F.No. 450/72/96- CUS- IV

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs, New Delhi

Subject: Recovery of arrears of Revenue under amended Section 142(1) of the Customs Act 1962 read with Customs (Attachment of Property of Defaulters for Recovery of Government of Dues) Rules, 1995.

I am directed to refer to amended section 142(1) of the Customs Act, 1962 read with Customs (Attachment of Property of Defaulters for Recovery of Government Dues) Rules 1995, which enable the Department to create a legal framework to realise dues of the Government by attaching, distraining movable and immovable property of the person and then disposing the said property to recover the dues. These provisions are in addition to the existing other modes of recovery. The scope of these instructions is to prescribe a procedure for implementing the amended provisions. Board's existing instructions regarding implementation of certificate action etc. remain unchanged.

2. It would be noted that recovery through District Collector has been retained under sub-clause 9i) of Section 142(1) of the Act while empowering the Proper Officer to recover dues through Customs officers. However, the Board has already issued appropriate directions vide its letter F.No. 495/15/94-CUS.VI dated 30/5/95 to the effect that simultaneous action for recovery of Government dues should not be taken through district authorities and through Customs Officers. It has further been laid down in the aforesaid communication that even action under clause (c) of Section 142(1) of the Act should be taken only when Government dues have not been recovered under Clause (a) or (b) of the aforesaid Section 142(1) of the Act.

3. You are further aware that the Board has already laid down guidelines to initiate recovery action directly through the concerned Commissioners of Customs/ Central Excise under Sub-clause (ii) of Clause (C) of Section 142(1) of the Act only in cases where the recoverable amount exceeds Rs. one lakh or where the District collector to whom a Certificate stipulated under sub-clause (i) of Clause (C) of Section 142(1) of the act had been sent, has not been able to effect the recovery within 3 months. In such cases the District Collector should be informed by a letter through Regd. Post to discontinue recovery and action should be initiated for recovery under sub-clause (ii) clause (C) of Section 142(1) of the Act.

4. Where the Government dues have not been paid by the defaulters, the Asstt. Commissioner of Customs should under Rule 3 of the Rules prepare a certificate in the endorsed form i.e. as Appendix-I [2] specifying therein the amount due from such person and should send the same to the Commissioner having jurisdiction over the place in which the defaulter owns any movable or immovable property or resides or carries on his own business or has his bank accounts.

5. To have ready access to the information about the defaulter's movable or immovable property, his residence and details about his business or bank accounts, it would be necessary to build a date base from the information available in appropriate quarter such as the DGFT's office, (where applications for grant of an importer exporter code number are filed.) The

Customs House should also develop such date base from other sources such as Income Tax, Sales Tax etc.

6. The Commissioners of Customs or Commissioner of Central Excise would direct the concerned Authorised Officer not below Asstt. Commissioner to cause a Notice (Appendix - II)[1] to be served upon the defaulter requiring to pay the amount specified in the Certificate within 7 days of the Notice. The Authorised Officer should thereafter take steps to realise the amount mentioned in the Certificate in terms of the rules after expiry of stipulated period of seven days.

7. If the amount mentioned in the certificate (Appendix-I)[1] / notice (Appendix-II)[1] is not paid within seven days from the date of the service of the notice, the Authorised Officer should proceed to realise the amount by attachment and sale of the defaulters property in accordance with the procedure of attachment and proclamation and sale explained in the Annexures A[1], B[1] respectively.

8. One of the Assistant Commissioner of Customs may be authorised as proper officer under the rules and special cell may be created in the Customs House/ Central Excise Headquarters for implementing the provisions of these rules.

9. The Commissioner may issue suitable Standing Order on the subject endorsing a copy to the Board and the Directorate General of Inspection, Customs & Central Excise, New Delhi. With the issuance of these instructions it is expected that speedy action would be initiated for the recovery of pending Government dues under the provisions of the Customs Act, 1962. This procedure should be reviewed after one year. The Commissioners are requested to bring the difficulties faced to the Board's notice within 6 months.

Sd/-
(Vijay Kumar)
Under Secretary to the Govt. of India

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