

OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-IV
MUMBAI CUSTOMS ZONE-II
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,
TAL:- URAN, DIST : RAIGAD. PIN – 400 707.

F.No. S/26-Gen-Misc.-07/2018-19 AM(X)

Date : 25th April, 2018

STANDING ORDER NO. 12/2018

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

Attention of all the Officers and Staff members is invited to the amendment made in Section 28 of the Customs Act, 1962 prescribing time limit for adjudication cases. Accordingly, there is need to provide procedure for expeditious processing of adjudication case files by Central Adjudication Section(CAC) so that such cases can be adjudicated within the prescribed time limits.

2. In the Customs Act, 1962 in sub-section (9) of Section 28, the following amendment has been made by Finance Act, 2018 (No 13 of 2018):

(a)The words "*where it is possible to do so*" at both the places where they occur, have been omitted;

(b)The following provisos has been inserted, namely;-

"Provided that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year.

Provided further that where the proper officer fails to determine within such extended period, such proceeding shall be deemed to have concluded as if no notice had been issued."

3. Procedure to be followed to ensure that aforesaid time lines are observed:

- i. After receipt of the Show Cause Notice, if reply to the show cause notice is received within 30 days of the issue of show cause notice, file shall be put up before adjudicating authority (immediately after receipt of reply) for fixing date of "Personal Hearing" and notice for "Personal Hearing" shall be issued to the noticees immediately.
- ii. If no reply to the show cause notice 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 of "Personal Hearing" and notice for "Personal Hearing" shall be issued to the noticees 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 show cause notice**.
- v. However, there may be cases where Noticee may seek extension of time for submitting reply to the show cause notice. In such cases, all such letters should be put up before Adjudicating Authorities (as and when received) for taking decision about such requests.

4. While sending letters fixing personal hearing modes of service as provided under Section 153 of the Customs Act, 1962 should be used specially sending PH intimation through email (*to email address as provided by the person, to whom it is issued or email address as available in any official correspondence of such person*).

5. 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 **30 days** prior to time limit of six months or one year, as the case may be (time limits provided for adjudication of cases).

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

Sd/-

(SUBHASH AGRAWAL)

Commissioner of Customs (NS-IV).

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