

CHAPTER IV
INDIRECT TAXES
Customs 15

Amendment of section 2.	114. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 2, in clause (10), after the words "to be a customs airport", the words, brackets and letters "and includes a place appointed under clause (aa) of that section to be an air freight station" shall be inserted.	52 of 1962.
Amendment of section 7.	115. In section 7 of the Customs Act, in sub-section (1), in clause (aa), for the words "container depots", the words "container depots or air freight stations" shall be substituted.	20
Insertion of new section 28AAA.	116. After section 28AA of the Customs Act, the following section shall be inserted, namely:—	
Recovery of duties in certain cases.	<p>'28AAA. (1) Where an instrument issued to a person has been obtained by him by means of—</p> <p>(a) collusion; or</p> <p>(b) wilful misstatement; or</p> <p>(c) suppression of facts,</p> <p>for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992, by such person or his agent or employee and such instrument is utilised under the provisions of this Act or the rules made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:</p> <p>Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.</p> <p><i>Explanation 1.</i>— For the purposes of this sub-section, "instrument" means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992, with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilised under the provisions of this Act or the rules made or notifications issued thereunder.</p> <p><i>Explanation 2.</i>—The provisions of this sub-section shall apply to any utilisation of instrument so obtained by the person referred to in this sub-section on or after the date on which the Finance Bill, 2012 receives the assent of the President, whether or not such instrument is issued to him prior to the date of the assent.</p> <p>(2) Where the duty becomes recoverable in accordance with the provisions of sub-section (1), the person from whom such duty is to be recovered, shall, in addition to such duty, be liable to pay interest at the rate fixed by the Central Government under section 28 AA and the amount of such interest shall be calculated for the period beginning from the date of utilisation of the instrument till the date of recovery of such duty.</p> <p>(3) For the purposes of recovery under sub-section (2), the proper officer shall serve notice on the person to whom the instrument was issued requiring him to show cause, within a period of thirty days from the date of receipt of the notice, as to why the amount specified in the notice (excluding the interest) should not be recovered from him, and after giving that person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty or interest or both to be recovered from such person, not being in excess of the amount specified in the notice, and pass order to recover the amount of duty or interest or both and the person to whom the instrument was issued shall repay the amount so specified in the notice within a period of thirty days from the date of receipt of the said order, along with the interest due on such amount, whether or not the amount of interest is specified separately.</p>	<p>25</p> <p>22 of 1992.</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>

(4) Where an order determining the duty has been passed under section 28, no order to recover that duty shall be passed under this section.

(5) Where the person referred to in sub-section (3) fails to repay the amount within the period of thirty days specified therein, it shall be recovered in the manner laid down in sub-section (1) of section 142.'.

117. In section 28BA of the Customs Act, in sub-section (1),—

Amendment of section 28BA.

(a) for the words, figures and letter "or section 28B", the words, figures and letters "or section 28AAA or section 28B" shall be substituted;

(b) for the words, brackets, figures and letter "or sub-section (2) of section 28B", the words, brackets, figures and letters "or sub-section (3) of section 28AAA or sub-section (2) of section 28B" shall be substituted.

118. In section 47 of the Customs Act, in sub-section (2),—

Amendment of section 47.

(a) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically:

Provided further that";

(b) in the second proviso, for the words "Provided further that", the words "Provided also that" shall be substituted.

119. In section 75A of the Customs Act, in sub-section (2), for the word, figures and letters "section 28AB", the word, figures and letters "section 28AA" shall be substituted and shall be deemed to have been substituted with effect from the 8th day of April, 2011.

Amendment of section 75A.

120. In section 104 of the Customs Act, for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

Amendment of section 104.

"(3) Where an officer of customs has arrested any person under sub-section (1), for any offence (other than an offence punishable for a term of imprisonment of three years or more under section 135), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has, and is subject to, under the Code of Criminal Procedure, 1973.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act (except an offence punishable for a term of imprisonment of three years or more under section 135) shall be bailable.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act (except an offence punishable for a term of imprisonment of three years or more under section 135) shall, be non-cognizable.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences punishable for a term of imprisonment of three years or more under section 135 shall be cognizable.".

121. After section 104 of the Customs Act, the following section shall be inserted, namely:—

Insertion of new section 104A.

"104A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable for a term of imprisonment of three years or more under section 135 shall be released on bail or on his own bond unless—

(i) the public prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the public prosecutor opposes the application, the Magistrate is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person who is under the age of eighteen years or is a woman or is sick or infirm, may be released on bail if the Magistrate so directs.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer shall, save as otherwise provided under this Act, investigate into an offence under this Act unless specifically authorised by the Central Government by a general or special order, and subject to such conditions as may be specified in the order.".

Bail for offence punishable for a term of imprisonment of three years or more under section 135 not to be granted without hearing public prosecutor.

Amendment of section 122.	122. In section 122 of the Customs Act,— (i) in clause (b), for the words "two lakh", the words "five lakh" shall be substituted; (ii) in clause (c), for the words "ten thousand", the words "fifty thousand" shall be substituted.		
Substitution of new section for section 138.	123. For section 138 of the Customs Act, the following section shall be substituted, namely:—		
Offences to be tried summarily.	"138. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this Chapter (other than the offence punishable for a term of imprisonment of three years or more under section 135) may be tried summarily by a Magistrate."	5	2 of 1974.
Amendment of section 153.	124. In section 153 of the Customs Act, in clause (a), for the words "registered post to the person for whom it is intended or to his agent", the words "registered post or by such courier as may be approved by the Commissioner of Customs" shall be substituted.	10	
Special provisions exempting additional duty of customs on import of foreign-going vessels into India.	125. Notwithstanding anything contained in sub-section (1) of section 25 of the Customs Act, the item and its description specified under column (1) of the Second Schedule, falling under Chapter 89 of the First Schedule to the Customs Tariff Act, 1975, shall be and shall be deemed to have been exempted from the whole of the additional duty of customs leviable thereon under sub-section (1) of section 3 of the said Customs Tariff Act, on and from and up to the corresponding date specified in column (2) thereof.	15	51 of 1975.
<i>Customs Tariff</i>			
Amendment of section 8C.	126. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 8C, in sub-section (5), for the proviso, the following proviso shall be substituted, namely:— "Provided that if the Central Government is of the opinion that such article continues to be imported into India from the People's Republic of China so as to cause or threatening to cause market disruption to domestic industry, the Central Government may, notwithstanding the measures taken by the domestic industry towards adjustment to such market disruption or any threat arising thereof, if considers necessary that such duty should continue, extend the period of imposition of such safeguard duty for a period not beyond the period of ten years from the date on which the safeguard duty was first imposed."	20	51 of 1975.
Amendment of First Schedule.	127. The First Schedule to the Customs Tariff Act shall be amended in the manner specified in the Third Schedule.		
Amendment of Second Schedule.	128. The Second Schedule to the Customs Tariff Act shall be amended in the manner specified in the Fourth Schedule.	30	