STANDING ORDER No. 05 /2018

Subject:- Processing of adjudication files consequent to amendment in Section 28 of the Customs Act, 1962, prescribing time limit for adjudication – reg.

Attention of all Customs Officers and Staff posted in Air Cargo Import Commissionerate, specially in the Adjudication branch of this Commissionerate is invited to the amendment made under Section 28 of the Customs Act, 1962 vide the Finance Act 2018, which got assent of the President of India on 29.03.2018. The spirit of the amendment made under Section 28 of the Customs Act, 1962 is to expeditiously complete the adjudication process at the original stage, for which a time limit for disposal of adjudication cases has been drawn. Hence, it has been decided to take up the adjudication cases on priority and complete them in time bound manner.

2. In the Customs Act, 1962 in sub-section (9) of Section 28, the following amendment has been made by Finance Act, 2018 (No. 63 of 2018):

(a) The words “where it is possible to do so”, at both the places where they occur, shall be omitted;

(b) The following provisos shall be 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 subsection (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. In order to meet the legal requirements and absorb the spirit of the said amendment, the following guidelines shall be followed in those cases where Show Cause Notice has been issued on or after 29.03.2018:
(i) After the receipt of the Show Cause Notice (SCN), if written reply is received within 30 days of the issue of Show Cause Notice, the file shall be put up before adjudicating authority immediately for fixing a Personal Hearing.

(ii) In case no written reply to the SCN is received within 30 days of the issue of Show Cause Notice, the file shall be put up before adjudicating authority within next 3 days of expiry of stipulated 30 days period for fixing date for Personal Hearing and the said PH notice shall also advise that the written reply had not been received and should be submitted 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 SCN and adjudication proceedings may be completed within 6 months from the date of notice, where it is possible to do so, in respect of cases falling under clause (a) of sub-section (1) of section 28 of Customs Act, 1962.

(v) While sending letters fixing personal hearing, modes of service as provided under Section 153 of the Customs Act, 1962 should be used.

(vi) However, in the 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 authorized to grant such extension at least 15 days prior to time limit of 6 months or one year, as the case may be (time limits provided for adjudication of cases).

4. In case of any difficulty, the specific issue may be brought to the notice of undersigned. Further, all adjudication cell officers are directed to put up the details of cases covered under para 3 above by 15.01.2019 and submit compliance to JC (Tech.).

This issues with the approval of the Commissioner of Customs, ACC-Import, New Delhi.

(S. Vijayarani)
Joint Commissioner of Customs
ACC-Import
Copy to:-

1) P. S to the Principal Chief Commissioner of Customs, Delhi Zone, NCH, New Delhi.
2) P. S to the Commissioner of Customs, ACC-Import, NCH, New Delhi
3) The Joint Commissioner of Customs, ACC-Import, NCH, New Delhi.
5) Notice board/ Guard File

(S. Hansdah)
Asst. Commissioner (Tech.)
ACC-Import