

## Chapter XVII - Miscellaneous

### **SECTION 141. Conveyances and goods in a customs area subject to control of officers of**

**customs.** –1[(1)] All conveyances and goods in a customs area shall, for the purpose of enforcing the provisions of this Act, be subject to the control of officers of customs.

2[(2) The imported or export goods may be received, stored, delivered, despatched or otherwise handled in a customs area in such manner as may be prescribed and the responsibilities of persons engaged in the aforesaid activities shall be such as may be prescribed.]

**SECTION 142. Recovery of sums due to Government.** –3[(1) Where any sum payable by any person] under this Act 4[including the amount required to be paid to the credit of the Central Government under section 28B] is not paid, -

(a) the proper officer may deduct or may require any other officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs; or

(b) the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] or such other officer of customs; or

6(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b) -

(i) the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue; or

(ii) the proper officer may, on an authorisation by 7[Principal Commissioner of Customs or Commissioner of Customs] and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus, if any, to such person.]

8[Provided that where the person (hereinafter referred to as predecessor), by whom any sum payable under this Act including the amount required to be paid to the credit of the Central Government under section 28B is not paid, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, materials, preparations, plants, machineries, vessels, utensils,

implements and articles in the custody or possession of the person so succeeding may also be attached and sold by the proper officer, after obtaining written approval from the 7[Principal Commissioner of Customs or Commissioner of Customs], for the purposes of recovering the amount so payable by such predecessor at the time of such transfer or otherwise disposal or change.]

9[(d) (i) the proper officer may, by a notice in writing, require any other person from whom money is due to such person or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before the payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Chapter shall follow.]

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

SECTION 10[142A. Liability under Act to be first charge .- Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest or any other sum payable by an assessee or any other person under this Act, shall, save as otherwise provided in section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person, as the case may be.]

**SECTION 143. Power to allow import or export on execution of bonds in certain cases. -**

(1) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person,

the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it; and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

#### **SECTION 11[143A. \*\*\*]**

#### **12[SECTION 143AA. Power to simplify or provide different procedure, etc., to facilitate trade.-**

143AA. Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to,—

- (a) maintain transparency in the import and export documentation; or
- (b) expedite clearance or release of goods entered for import or export; or
- (c) reduce the transaction cost of clearance of importing or exporting goods; or
- (d) maintain balance between customs control and facilitation of legitimate trade.]

**SECTION 144. Power to take samples.** - (1) The proper officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs area, take samples of such goods in the presence of the owner thereof, for examination or testing, or for ascertaining the value thereof, or for any other purposes of this Act.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within three months of the date on which the sample was taken, it may be disposed of in such manner as the 7[Principal Commissioner of Customs or Commissioner of Customs] may direct.

(3) No duty shall be chargeable on any sample of goods taken under this section which is consumed or destroyed during the course of any test or examination thereof, 13[\* \* \*].

#### **SECTION 145. Owner, etc., to perform operations incidental to compliance with customs law. -**

All operations necessary for making any goods available for examination by the proper officer or for facilitating such examination shall be performed by, or at the expense of, the owner, importer or exporter

of the goods, as the case may be.

**SECTION 14[146. Licence for customs brokers—** (1) No person shall carry on business as a customs broker relating to the entry or departure of a conveyance or the import or export of goods at any customs station unless such person holds a licence granted in this behalf in accordance with the regulations.

(2) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for —

- (a) the authority by which a licence may be granted under this section and the period of validity of such licence;
- (b) the form of the licence and the fees payable therefor;
- (c) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as a customs broker;
- (d) the manner of conducting the examination;
- (e) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;
- (f) the circumstances in which a licence may be suspended or revoked; and
- (g) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeal may be filed.]

**SECTION 15[146A. Appearance by authorised representative. -** (1) Any person who is entitled or required to appear before an officer of customs or the Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under section 108 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, appear by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being -

- (a) his relative or regular employee; or
- (b) a 16[custom broker] licensed under section 146; or
- (c) any legal practitioner who is entitled to practise in any civil court in India; or
- (d) any person who has acquired such qualifications as the Central Government may specify by rules made in this behalf.

(3) Notwithstanding anything contained in this section, no person who was a member of the Indian Customs and Central Excise Service - Group A and has retired or resigned from such Service after having served for not less than three years in any capacity in that Service shall be entitled to appear as an authorised representative in any proceedings before an officer of customs for a period of two years from the date of his retirement or resignation, as the case may be.

(4) No person, -

- (a) who has been dismissed or removed from Government service; or
- 17[(b) who is convicted of an offence connected with any proceeding under this Act, the Central Excise

and Salt Act, 1944 (1 of 1944), or the Gold (Control) Act, 1968 (45 of 1968) or the Finance Act, 1994 (32 of 1994); or]

(c) who has become an insolvent,

shall be qualified to represent any person under sub-section (1), for all times in the case of a person referred to in clause (a), and for such time as the 7[Principal Commissioner of Customs or Commissioner of Customs] or the competent authority under the 18[Central Excise and Salt Act, 1944 (1 of 1944), or the Gold (Control) Act, 1968 (45 of 1968) or the Finance Act, 1994 (32 of 1994)], as the case may be, may, by order, determine in the case of a person referred to in clause (b), and for the period during which the insolvency continues in the case of a person referred to in clause (c).

(5) If any person, -

(a) who is a legal practitioner, is found guilty of misconduct in his professional capacity by any authority entitled to institute proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before an officer of customs or the Appellate Tribunal as it has in relation to his right to practice as a legal practitioner;

(b) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by such authority as may be specified by rules made in this behalf, that authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely:-

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.]

**SECTION 147. Liability of principal and agent.** - (1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent.

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes 19[including liability therefor under this Act] :

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered

from the agent unless in the opinion of 5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] the same cannot be recovered from the owner, importer or exporter.

**SECTION 148. Liability of agent appointed by the person in charge of a conveyance.**- (1) Where this Act requires anything to be done by the person in charge of a conveyance, it may be done on his behalf by his agent.

(2) An agent appointed by the person in charge of a conveyance and any person who represents himself to any officer of customs as an agent of any such person in charge, and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person in charge by or under this Act or any law for the time being in force, and to penalties and confiscations which may be incurred in respect of that matter.

SECTION 149. Amendment of documents. - Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

**SECTION 150. Procedure for sale of goods and application of sale proceeds.** - (1) Where any goods not being confiscated goods are to be sold under any provisions of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner.

(2)The proceeds of any such sale shall be applied -

- (a) firstly to the payment of the expenses of the sale,
  - (b) next to the payment of the freight and other charges, if any, payable in respect of the goods sold, to the carrier, if notice of such charges has been given to the person having custody of the goods,
  - (c) next to the payment of the duty, if any, on the goods sold,
  - (d) next to the payment of the charges in respect of the goods sold due to the person having the custody of the goods,
  - (e) next to the payment of any amount due from the owner of the goods to the Central Government under the provisions of this Act or any other law relating to customs,
- and the balance, if any, shall be paid to the owner of the goods.

20[Provided that where it is not possible to pay the balance of sale proceeds, if any, to the owner of the goods within a period of six months from the date of sale of such goods or such further period as the 7[Principal Commissioner of Customs or Commissioner of Customs] may allow, such balance of sale proceeds shall be paid to the Central Government.]

**SECTION 151. Certain officers required to assist officers of customs.** - The following officers are

hereby empowered and required to assist officers of customs in the execution of this Act, namely :-

- (a) officers of the Central Excise Department;
- (b) officers of the Navy;
- (c) officers of Police;
- (d) officers of the Central or State Governments employed at any port or airport;
- (e) such other officers of the Central or State Governments or a local authority as are specified by the Central Government in this behalf by notification in the Official Gazette.

**21[SECTION 151A. Instructions to officers of customs.** - The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of goods or with respect to the levy of duty thereon, 22[or for the implementation of any other provisions of this Act or of any other law for the time being in force, insofar as they relate to any prohibition, restriction or procedure for import or export of goods] issue such orders, instructions and directions to officers of customs as it may deem fit and such officers of customs and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued –

- (a) so as to require any such officer of customs to make a particular assessment or to dispose of a particular case in a particular manner; or
- (b) so as to interfere with the discretion of the 23[Commissioner of Customs (Appeals) in the exercise of his appellate functions.]

**24[ SECTION 151 B. Reciprocal arrangement for exchange of information facilitating trade.-** (1) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.

(2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.

(3) Subject to the provisions of sub-section (2), the information received under sub-section (1) may also be used as evidence in investigations and proceedings under this Act.

(4) Where the Central Government has entered into a multilateral agreement for exchange of information

or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date\* on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.

Explanation.—For the purposes of this section, the expressions,—

(i) “contracting State” means any country outside India in respect of which agreement or arrangements have been made by the Central Government with the Government or authority of such country through an agreement or otherwise;

(ii) “corresponding law” means any law in force in the contracting State corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the offences under this Act.]

**SECTION 152. Delegation of powers.** - The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification -

(a) any power exercisable by the Board under this Act shall be exercisable also by 25[a 26[Principal Chief Commissioner of Customs or Chief Commissioner of Customs] or a 7[Principal Commissioner of Customs or Commissioner of Customs]] empowered in this behalf by the Central Government;

(b) any power exercisable by a 7[Principal Commissioner of Customs or Commissioner of Customs] under this Act may be exercisable also by a 27[Joint Commissioner of Customs] or an5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] empowered in this behalf by the Central Government;

(c) any power exercisable by a 27[Joint Commissioner of Customs] under this Act may be exercisable also by an5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] empowered in this behalf by the Central Government;

(d) any power exercisable by an5[Assistant Commissioner of Customs or Deputy Commissioner of Customs] under this Act may be exercisable also by a Gazetted Officer of Customs empowered in this behalf by the Board.

**SECTION 28[153. Modes for service of notice, order, etc.-**(1) An order, decision, summons, notice or



any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely:—

(a) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

(b) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;

(c) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;

(d) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or

(e) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.

(2) Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the manner provided in sub-section (1). (3) When such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.]

**SECTION 154. Correction of clerical errors, etc.** - Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be.

**SECTION 29[154A. Rounding off of duty, etc.** - The amount of duty, interest, penalty, fine or any other sum payable, and the amount of refund, drawback or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.]

**SECTION 30[154B. Publication of information respecting persons in certain cases.** - (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under this Act in respect of such person, it may cause to be published such names and particulars in such manners as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Commissioner (Appeals) under section 128 or the Appellate Tribunal under section 129A, as the case may be, has expired without an appeal having been presented or the appeal, if presented, has been disposal of.

Explanation. - In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasures or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, circumstances of the case justify it.]

**SECTION 155. Protection of action taken under the Act.** - (1) No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Government or a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act or the rules or regulations.

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

**SECTION 156. General power to make rules.** - (1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

31[(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;]

(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing

implements for, any article shall be chargeable at the same rate of duty as that article;

32[(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.]

(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;

(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;

(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;

33[(g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.]

34[(h) the amount to be paid 35[for compounding and the manner of compounding] under sub-section (3) of section 137.]

**SECTION 157. General power to make regulations.** - (1) Without prejudice to any power to make regulations contained elsewhere in this Act, the Board may make regulations consistent with this Act and the rules, generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-

(a) the form 36[and manner to deliver or present] of a bill of entry, shipping bill, bill of export, 37[arrival manifest or import manifest], import report, 38[departure manifest or export manifest], export report, 39[bill of transshipment, declaration for transshipment] boat note and bill of coastal goods;

40[(ai) the manner of export of goods, relinquishment of title to the goods and abandoning them to customs and destruction or rendering of goods commercially valueless in the presence of the proper officer under clause (d) of sub-section (1) of section 26A;

(a ii) the form and manner of making application for refund of duty under sub-section (2) of section 26A;]

41[(aa) the 42[form and manner] in which an application for refund shall be made under section 27;]

43[(ab) the form, the particulars, the manner and the time of delivering the passenger and crew manifest for arrival and departure and passenger name record information and the penalty for delay in delivering such information under sections 30A and 41A;]

(b) the conditions subject to which the transshipment of all or any goods under sub-section (3) of section 54, the transportation of all or any goods under section 56 and the removal of warehoused goods from

one warehouse to another under section 67, may be allowed without payment of duty;

(c) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65.

44[(d) the time and manner of finalisation of provisional assessment;

(e) the manner of conducting pre-notice consultation;

(f) the circumstances under which, and the manner in which, supplementary notice may be issued;

(g) the form and manner in which an application for advance ruling or appeal shall be made, and the procedure for the Authority, under Chapter VB;

(h) the manner of clearance or removal of imported or export goods;

(i) the documents to be furnished in relation to imported goods;

(j) the conditions, restrictions and the manner of making deposits in electronic cash ledger, the utilisation and refund therefrom and the manner of maintaining such ledger;

(k) the manner of conducting audit;

(l) the goods for controlled delivery and the manner thereof;

(m) the measures and separate procedure or documentation for a class of importers or exporters or categories of goods or on the basis of the modes of transport of goods.]

**SECTION 158. Provisions with respect to rules and regulations.** - (1) All rules and regulations made under this Act shall be published in the Official Gazette.

(2) Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide -

(i) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics, and for rendering of any services by officers of customs under this Act;

45[(ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable to a penalty which may extend to fifty thousand rupees.]

**SECTION 46[159. Rules, certain notifications and orders to be laid before Parliament.**- Every rule or regulation made under this Act, every notification issued under sections 11, 11B, 11H, 11-I, 11K, 11N, 14, 25, 28A, 43, 66, 69, 70, 74, 75, 76, 98, 98A, 101 and 123 and every order made under sub-section (2) of section 25, other than an order relating to goods of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or order, or both Houses agree that the rule or regulation should not be made or notification or

order should not be issued or made, the rule or regulation or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification or order.]

**SECTION 47[159A. Effect of amendments, etc., of rules, regulations, notifications or orders. -**

Where any rule, regulation, notification or order made or issued under this Act or any notification or order issued under such rule or regulation, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not-

- (a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or
  - (b) affect the previous operation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or
  - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or
  - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or
  - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,
- and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, regulation, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.]

SECTION 160. Repeal and savings. - (1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) In the Indian Tariff Act, 1934 (32 of 1934) -

(a) for section 2, the following section shall be substituted, namely :-

"2. Duties specified in the Schedules to be levied. - The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules.

(b) sections 5 and 6 shall stand repealed.

(3) Notwithstanding the repeal of any enactment by this section, -

(a) any notification, rule, regulation, order or notice issued or any appointment or declaration made or any licence, permission or exemption granted for any assessment made, confiscation adjudged or any duty levied or any penalty or fine imposed or any forfeiture, cancellation or discharge of any bond ordered or any other thing done or any other action taken under any repealed enactment shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(b) any document referring to any enactment hereby repealed shall be construed as referring to this Act or to the corresponding provision of this Act.

(4) This Act shall apply to all goods which are subject to the control of customs at the commencement of this Act notwithstanding that the goods were imported before such commencement.

(5) Where the period prescribed for any application, appeal, revision or other proceeding under any repealed enactment had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal or revision to be made or a proceeding to be instituted under this Act by reason only of the fact that a longer period therefore is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

(6) The provisions of section 65 shall apply to goods warehoused before the commencement of this Act if the operations permissible under that section were carried on after such commencement.

(7) Any duty or penalty payable under any repealed enactment may be recovered in a manner provided under this Act but without prejudice to any action already taken for the recovery of such duty or penalty under the repealed enactment.

(8) The mention of particular matters in sub-sections (4), (5), (6) and (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.

(9) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of any Port authority in a major port as defined in the Indian Ports Act, 1908 (15 of 1908).

**SECTION 161. Removal of difficulties.** - If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to be necessary or expedient for the purpose of removing the difficulty.

## THE SCHEDULE

(See section 160)

| Year | No. | Short Title                     | Extent of Repeal |
|------|-----|---------------------------------|------------------|
| 1878 | 8   | The Sea Customs Act             | The whole        |
| 1896 | 8   | The Inland Bonded Warehouse Act | The whole        |
| 1924 | 19  | The Land Customs Act            | The whole        |
| 1934 | 22  | The Aircraft Act                | Section 16       |

1. Section 141 re-numbered as sub-section (1) thereof by Act 18 of 2008, sec. 74 (w.e.f. 10.5.2008).
2. Ins. By Act 18 of 2008, sec. 74 (w.e.f. 10.5.2008).
3. Sub. By Act 22 of 1995, sec. 66(a), for certain words (w.e.f. 26.5.1995). Earlier those words were amended by Act 49 of 1991, sec. 120(3) (w.e.f. 27.9.1991).
4. Ins. by Act 10 of 2000, sec. 88 (w.e.f. 12.5.2000).
5. Sub. by Act 27 of 1999, sec. 100, for "Assistant Commissioner of Customs" (w.e.f. 11.5.1999). Earlier the words "Assistant Commissioner of Customs" were substituted by Act 22 of 1995, sec. 50, for the words "Assistant Collector of Customs" (w.e.f. 26.5.1995).
6. Subs. by Act 22 of 1995, sec. 66(b), for clause (c) (w.e.f. 26.5.1995).
7. Substituted by Act 25 of 2014, sec. 78, for "Commissioner of Customs" (w.e.f. 6.8.2014). Earlier the words "Commissioner of Customs" were substituted by Act 22 of 1995, sec. 50, for the words "Collector of Customs" (w.e.f. 26.5.1995).
8. Ins. by Act 23 of 2004, sec. 72 (w.e.f. 10.9.2004).
9. Ins. by Act 17 of 2013, sec. 79 (w.e.f. 10.5.2013).
10. Ins. by Act 8 of 2011, sec. 51 (w.e.f. 8.4.2011).
11. Section 143A omitted by Act 17 of 2013, sec. 80 (w.e.f. 10.5.2013). Earlier section 143A was inserted by Act 23 of 1978, sec. 17 (w.e.f. 1.7.1978). Section 143A, before omissions by Act 17 of 2013, stood as under:  
"143A. Duty deferment. – (1) When any material is imported under an import licence belonging to the category of Advance Licence granted under the Imports and Exports (Control) Act, 1947 (18 of 1947), subject to an obligation to export the goods as are specified in the said Licence within the period specified

therein, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, notwithstanding anything contained in this Act, permit clearance of such material without payment of duty leviable thereon.

(2) The permission for clearance without payment of duty under sub-section (1) shall be subject to the following conditions, that is to say –

(a) the duty payable on the material imported shall be adjusted against the drawback of the duty payable under this Act or under any other law for the time being in force on the export of goods specified in the said Advance Licence; and

(b) where the duty is not so adjusted either for the reason that the goods are not exported within the period specified in the said Advance Licence, or within such extended period not exceeding six months as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, on sufficient cause being shown, allow, or for any other sufficient reason, the importer shall, notwithstanding anything contained in section 28, be liable to pay the amount of duty not so adjusted together with simple interest thereon at the rate of twelve per cent. Per annum from the date the said permission for clearance is given to the date of payment.

(3) While permitting clearance under sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may require the importer to execute a bond with such surety or security as he thinks fit for complying with the conditions specified in sub-section (2).”

12. Inserted by section 97 (w.e.f. 29-3-2018) of Finance Act, 2018 (13 of 2018).

13. The words “, if such duty amounts to five rupees or more” omitted by Finance Act, 2013, sec. 81 (w.e.f. 10.5.2013).

14. Sub. by Act 17 of 2013, sec. 82, for section 146 (w.e.f. 10.5.2013). Section 146, before substitution, stood as under:

“146. Customs house agents to be licensed. — (1) No person shall carry on business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs station unless such person holds a licence granted in this behalf in accordance with the regulations.

(2) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for —

(a) the authority by which a licence may be granted under this section and the period of validity of any such licence;

(b) the form of the licence and the fee payable therefor;

(c) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as an agent;

(d) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted;

(e) the circumstances in which a licence may be suspended or revoked; and

(f) the appeals, if any, against an order of suspension or revocation of a licence, and the period within



which such appeal shall be filed.”

15. Ins. by Act 44 of 1980, sec. 50 and Fifth Sch., Pt. 1-5, (w.e.f. 11.10.1982).

16. Sub. by Act 17 of 2013, sec. 83(a), for “customs house agent” (w.e.f. 10.5.2013).

17. Sub. by Act 17 of 2013, sec. 83(b)(i), for clause (b) (w.e.f. 10.5.2013). Clause (b), before substitution, stood as under:

“(b) who is convicted of an offence connected with any proceeding under this Act, the Central Excises and Salt Act, 1944 (1 of 1944), or the Gold (Control) Act, 1968 (45 of 1968); or”.

18. Sub. by Act 17 of 2013, sec. 83(b)(ii), for “Central Excise and Salt Act, 1944 (1 of 1944) or the Gold (Control) Act, 1968 (45 of 1968)” (w.e.f. 10.5.2013).

19. Ins. by Act 17 of 2013, sec. 84(a) (w.e.f. 10.5.2013).

20. Ins. by Act 8 of 2011, sec. 52(a) (w.e.f. 8.4.2011).

21. Ins. by Act 80 of 1985, sec. 12 (w.e.f. 27.12.1985).

22. Ins. by Act 8 of 2011, sec. 53 (w.e.f. 8.4.2011).

23. Sub. by Act 22 of 1995, sec. 50, for “Collector of Customs” (w.e.f. 26.5.1995).

24. Inserted by section 98 (w.e.f. 29-3-2018) of Finance Act, 2018 (13 of 2018).

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25. The words “a Principal Collector of Customs or a Collector of Customs” sub. by Act 29 of 1988, sec. 7, for “a Collector of Customs” (w.e.f. 1.7.1988).

26. Sub. by Act 25 of 2014, sec. 78, for “Chief Commissioner of Customs” (w.e.f. 6.8.2014). Earlier the words “Chief Commissioner of Customs” were substituted by Act 22 of 1995, sec. 50, for the words “Principal Collector of Customs” (w.e.f. 26.5.1995).

27. Sub. by Act 27 of 1999, sec. 100, for “Deputy Commissioner of Customs” (w.e.f. 11.5.1999). Earlier the words “Deputy Commissioner of Customs” were substituted by Act 22 of 1995, sec. 50, for the words “Deputy Collector of Customs” (w.e.f. 26.5.1995).

28. Substituted by section 99 (w.e.f. 29-3-2018) of Finance Act, 2018 (13 of 2018). Before substitution section 153 stood as under:

“153. Service of order, decision, etc. - Any order or decision passed or any summons or notice issued under this Act, shall be served –

(a) by tendering the order, decision, summons or notice or sending it 27[by registered post or by such courier as may be approved by the 25[Principal Commissioner of Customs or Commissioner of Customs]]

(b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.”

Earlier, the words “by registered post or by such courier as may be approved by the Principal Commissioner of Customs or Commissioner of Customs” was substituted by Act 23 of 2012, sec. 128, for “registered post to the person for whom it is intended or to his agent” (w.e.f. 28.5.2012).

29. Ins. by Act 12 of 1990, sec. 62(b) (w.e.f. 13.5.1990).

30. Ins. by Act 29 of 2006, sec. 33 (w.e.f. 13.7.2006).

31. Sub. by Act 22 of 2007, sec. 113, for clause (a) (w.e.f. 10.10.2007). Earlier clause (a) was substituted by Act 27 of 1988, sec. 3 (w.e.f.16.8.1988). Clause (a) before substitution by Act 22 of 2007, stood as under:

“ (a) the manner of determining the price of imported goods under sub-section (1A) of section 14;”.

32. Ins. by Finance Act, 2016 (28 of 2016), sec. 138 (w.e.f. 14.5.2016). Earlier clause (c) was omitted by Act 26 of 1988, sec. 80 (w.e.f. 13.5.1988).

33. Added by Act 36 of 1973, sec. 12 (w.e.f. 1.9.1973).

34. Ins. by Act 23 of 2004, sec. 73 (w.e.f. 10.9.2004).

35. Subs. by Act 33 of 2009, sec. 90, for “for compounding” (w.e.f. 19.8.2009).

36. Inserted by section 100(i) (w.e.f. 29-3-2018) of Finance Act, 2018 (13 of 2018).

37. Substituted by section 56 (w.e.f.29.03.2018), by Finance Act, 2018 (13 of 2018), for “import manifest”.

38. Substituted by section 56 (w.e.f.29.03.2018), by Finance Act, 2018 (13 of 2018), for “export manifest”.

39. Subs. by Act 27 of 1999, sec. 115, for “bill of transshipment” (w.e.f. 11.5.1999).

40. Ins. by Act 33 of 2009, sec. 91 (w.e.f. 19.8.2009).

41. Ins. by Act 40 of 1991, sec. 14 (w.e.f. 20.9.1991).

42. Subs. by Act 22 of 1995, sec. 67, for “form” (w.e.f. 26.5.1995).

43. Ins. by the Finance Act, 2017, sec. 108 (w.e.f. 31.3.2017).

44. Substituted by section 100(ii) (w.e.f.29.03.2018), by Finance Act, 2018 (13 of 2018), for clause (d).

Before substitution clause (d) stood as under:

“(d) The manner of conducting audit of the assessment of duty of the imported or export goods at the office of the proper officer or the premises of the importer or exporter , as the case may be.”

45. Sub. by Act 18 of 2008, sec. 75, for clause (ii) (w.e.f. 10.5.2008). Clause (ii), before substitution, stood as under:

“ (ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or any person who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable, -

(a) in the case of contravention or failure to comply with a rule, to a penalty which may extend to five hundred rupees;

(b) in the case of contravention or failure to comply with a regulation, to a penalty which may extend to two hundred rupees.”

46. Sub. by Act 22 of 1995, sec. 68, for section 159 (w.e.f. 26.5.1995). Earlier section 159 was amended by Act 12 of 1969, sec. 6 (w.e.f. 3.1.1969), by Act 25 of 1978, sec. 18 (w.e.f. 1.7.1978), by Act 29 of 1988, sec. 8 (w.e.f. 13.5.1988) and by Act 40 of 1991, sec. 15 (w.e.f. 20.9.1991).

47. Ins. by Act 14 of 2001, sec. 113 (w.e.f. 11.5.2001).