

Updated up to March 2022

[Training Material for Departmental Use]

E-BOOK

On

*Classes, Appointment of officers  
of  
Customs & Central Excise Officer  
under Indirect Tax Laws*

**Note:**

1. In this E-book, attempts have been made to explain about *Classes, Appointment of officers of Customs & Central Excise Officer under Indirect Tax Laws*. It is expected that it will help departmental officers in their day-to-day work.
2. Though all efforts have been made to make this document error free, but it is possible that some errors might have crept into the document. If you notice any errors, the same may be brought to the notice to the NACEN, RTI, Kanpur on the Email address: [nacin.kanpur@gov.in](mailto:nacin.kanpur@gov.in). This may not be a perfect E-book. If you have any suggestion to improve this book, you are requested to forward the same to us.
3. This e-book has been prepared by **Shri C. P. Goyal, the then Additional Director General of NACIN, ZC, Kanpur and has further been updated by Shri R.S.Chandel, Additional Assistant Director, NACIN, ZC, Kanpur**. I appreciate their participation and willingness to prepare e-books and to help fellow departmental officers in capacity building and upgrading their knowledge.
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## 1. Introduction

- 1.1. It is essential that officers working in various wings of Customs, Central Excise and Service tax department remain aware of legal provisions relating to their appointment, powers and functions under three main tax laws dealing with in-direct taxes, namely, Customs Act, 1962; Central Excise Act, 1944 and the Finance Act, 1994.
- 1.2. In addition to exercising powers under three indirect tax statutes, they also derive powers given to them under various other allied laws such as NDPS Act,1985; PITNDPS Act, Chemical Weapons Convention Act,2000 etc.in which certain powers for specific purposes have been given to our departmental officers for implementation in the field.
- 1.3. As the officers of our department have been given powers under various allied Acts, similarly the officers of various other departments have also been empowered under Customs Act,1962 to exercise power of Custom officers subject to such limitation as have been specified in such empowering notification.
- 1.4. Therefore, to understand the topic, it would be appropriate to divide this topic into three parts:
  - (a). Legal provisions (including notifications)providing for appointment, powers of officers of Customs, Central Excise and Service Tax department under three indirect tax statutes:
  - (b). Powers given to the officers of other departments under the indirect tax statutes.
  - (c). Legal provisions under various other allied Acts empowering officers of Customs, Central Excise and Service Tax department to exercise powers under these Acts.
- 1.5. Further, at the end of this e-book, provisions relating to delegation of powers and notification issued have also been discussed and explained.

## 2. Classes of Officers:

### Under Customs Act, 1962:

- 2.1 The section 3 of the Customs Act, 1962 deals with Classes of officers of Customs and reads as under:-

**Section 3: Classes of officers of customs:-**

*There shall be the following classes of officers of customs, namely:-*

- (a) *Principal Chief Commissioners of Customs;*
- (b) *Chief Commissioners of Customs;*
- (c) *Principal Commissioners of Customs;*
- (d) *Commissioners of Customs;*
- (e) *Commissioners of Customs (Appeals);*
- (f) *Joint Commissioners of Customs;*

- (g) *Deputy Commissioners of Customs;*
- (h) *Assistant Commissioners of Customs;*
- (i) *such other class of officers of customs as may be appointed for the purposes of this Act.*

2.2 Under Central Excise Act, 1944, the term “Central Excise Officer” has been defined under clause (b) of Section 2. In the definition itself, various classes of the officers have been mentioned. It reads as under:-

*“Central Excise Officer” means the Principal Chief Commissioner of Central Excise, Chief Commissioner of Central Excise, Principal Commissioner of Central Excise, Commissioner of Central Excise, Commissioner of Central Excise (Appeals), Additional Commissioner of Central Excise, Joint Commissioner of Central Excise, Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or any other officer of the Central Excise Department, or any person (including an officer of the State Government) invested by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) with any of the powers of a Central Excise Officer under this Act.*

2.3 Under the Finance Act, 1994, vide Rule 3 of the Service Tax Rules, 1994, the CBEC has been empowered to appoint such Central Excise officer as it thinks fit for exercise of powers under Chapter V of the Finance Act, 1994. It may also specify the jurisdiction of such officer as well as specify taxable service in respect of which these officers shall exercise such powers.

2.4 Since there is no concept of specific category of ‘Service Tax officers’, certain officers who exclusively deal with Service Tax matters such as Principal Chief Commissioner of Service Tax, Chief Commissioners of Service Tax, Principal Commissioners of Service Tax, Commissioners of Service Tax, Commissioners of Service Tax (Audit), and Commissioners of Service Tax (Appeals) , and all the officers subordinate to such officers has been appointed as Central Excise Officers by issuing notification under Rule 3 of the Service Tax Rules, 1994.

2.5 Further, they are large number of officers of Central Excise Commissionerates, Commissioner of Central Excise (Appeals), officers of various Directorates such as Audit/ DGGI, officer of Large Taxpayer Units, who also attend to service tax works in addition to Central Excise work, have also been appointed as ‘Central Excise Officers’ for the purpose of Chapter V of the Finance Act, 1994 by issuing a notification under the Rule 3 of the Service Tax Rules, 1994.

### ***3. Appointment of officers of Customs/Central Excise Officer***

3.1 The legal provisions dealing with appointment and powers of officer of Customs / Central Excise Officer under Customs, Central excise and Service Tax laws have been mentioned in the following paragraphs.

3.2 Under Custom Act, 1962, the provisions relating to Appointment of Officer of Customs and Power of officers of Customs are contained in Section 4 and Section 5, respectively. The Section 4 and 5 of the Customs Act, 1962, as amended vide Finance Act, 2014, read as under:-

**Section 4:- Appointment of officers of customs.**

- (1) *The Board* may appoint such persons as it thinks fit to be officers of customs.
- (2) Without prejudice to the provisions of sub-section (1), *the Board* may authorise a Principal Chief Commissioner of Customs, Chief Commissioner of Customs or Principal Commissioner of Customs or a Commissioner of Customs or a Joint or Assistant Commissioner of Customs or Deputy Commissioner of Customs to appoint officers of customs below the rank of Assistant Commissioner of Customs.

**Section 5 of the Customs Act, 1962:- Powers of officers of customs. –**

- (1) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (2) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.
- (3) Notwithstanding anything contained in this section, a Commissioner (Appeals) shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108.

3.3 In exercise of powers under section 4 of the Custom Act, 1962, several notifications have been issued by CBEC. The details of important notifications issued under Section 4 or under Section 4 read with Section 5 of Customs Act, 1962 are given in Table below.

**Table 1**

Sr. No.	Notification No and date	Impact of notification
1.	82/2017-Customs (NT), dated 24.08.2017 (w.e.f. from 15.01.2018) by mentioning Table-1 & Table-2	The CBIC appointed: <ul style="list-style-type: none"> <li>(i) the officers mentioned in column (2) of the Table-1 to be the Principal Chief Commissioners of Customs or Chief Commissioners of Customs, for the areas falling within the jurisdiction of the Principal Commissioner of Customs or Commissioner of Customs, or as the case may be, and the Commissioner of Customs (Appeals), mentioned in the corresponding entry in column (3) of the said Table-1; and</li> <li>(ii) the officers mentioned in column (3) of the Table-2 below to be the Principal Commissioners of Customs or Commissioners of Customs and the officers mentioned in column (4) of the said Table-2 thereof to be the Additional Commissioners of Customs or Joint Commissioners of Customs or Deputy Commissioners of Customs or Assistant Commissioners of Customs, for the areas mentioned in the corresponding entry in</li> </ul>

Sr. No.	Notification No and date	Impact of notification
		column (2) of the said Table-2.
2.	92/2017-Customs (NT), dated 28.09.2017 (w.e.f. from 15.01.2018)	It appoints Commissioner of Customs (Appeals) and defines their area of jurisdiction.
3.	80/2014-Customs (NT), dated 16.09.2014 (w.e.f. from 15.10.2014)	It appoints officers of DGGI as the officers of Customs for whole of India.
4.	81/2014-Customs (NT), dated 16.09.2014 (w.e.f. from 15.10.2014)	It appoints officers of Directorate of Vigilance as officer of Customs for whole of India.
5.	17/2002-Customs (NT), dated 7.3.2002 as amended by notification No. 82/2014-Customs (NT), dated 16.9.2014	It appoints officers of DRI as officer of Customs
6.	83/2014-Customs (NT), dated 16.09.2014 (w.e.f from 15.10.2014)	It appoints officers of Directorate General of Audit as officers of Customs for the purposes of conducting audit under the On-site Post Clearance Audit at the Premises of Importers and Exporters under Importers & Exporters Regulations, 2011 for whole of India.
7.	84/2014-Customs (NT), dated 16.09.2014 (w.e.f from 15.10.2014)	It appoints officers of Commissioner of Central Excise (Audit) and Commissionerate of Service Tax (Audit) as officers of Customs for the purposes of conducting audit under the On-site Post Clearance Audit at the Premises of Importers and Exporters under Importers & Exporters Regulations, 2011 and their jurisdiction.
8.	83/2004-Customs(NT), dated 30.6.2004 as amended from time to time	<p>It appoints:</p> <p>(1) the Principal Director General of Revenue Intelligence, New Delhi or Director General of Revenue Intelligence to be the Principal Chief Commissioner of Customs or Chief Commissioner of Customs, who shall have jurisdiction over the whole of India;]</p> <p>(1A) the Director General of Inspection, Customs and Central Excise, New Delhi to be the Chief Commissioner of Customs who shall have jurisdiction</p>

Sr. No.	Notification No and date	Impact of notification
		<p>over the whole of India;]</p> <p>(2) the Commissioners of Central Excise to be Commissioners of Customs within their respective jurisdiction as specified under rule 3 of the Central Excise Rules, 2002;</p> <p>(3) the Commissioners of Central Excise (Appeals) to be Commissioners of Customs (Appeals) within their respective jurisdiction as specified under rule 3 of the Central Excise Rules, 2002;</p> <p>(4) the Additional Commissioners of Central Excise and Joint Commissioners of Central Excise to be Additional Commissioners of Customs and Joint Commissioners of Customs, respectively, within their respective jurisdictions;</p> <p>(5) the Deputy Commissioners of Central Excise and Assistant Commissioners of Central Excise to be the Deputy Commissioner of Customs and Assistant Commissioners of Customs, respectively, within their respective jurisdictions.</p>
9.	110/2003-Customs (NT), dated 8.12.2003	It appoints officers posted at SEZ as Customs Officers.
11.	97/98-Customs (NT), dated 21.12.1998	It appoints various officers of Directorate General of Valuation as officers of Customs with all India jurisdiction.
12.	31/97-Customs(NT), dated 7.7.1997	It appoints officers (Group B, C, and D) of CEIB, NCB, DRI, Central Excise Department, Custom Port, Airport and Land Custom Station, Customs Preventive Officer of Customs Department as Officer of Custom.
13.	87-Customs, dated 19.09.1970	It appoints officers of and above the rank of head constable in charge of Intelligence bureau check posts in the areas adjoining the foreign frontier separating Tibet from India in the states of J &K, Punjab, Up, Himachal Pradesh.
14.	236/86-Customs, dated 4.4.1986	It appoints DG, CEIB as Principal Commissioner or Commissioner of Customs with all India jurisdiction.
15.	384/86-Customs dated	It appoints the Officers of CEIB of the rank of Deputy Directors, Additional/Joint Directors and all Additional



Sr. No.	Notification No and date	Impact of notification
	23.7.1986 as amended	Director Generals posted at HQ in Delhi as officers of Customs with all India jurisdiction.
16.	Miscellaneous notifications for adjudication of DRI cases.	Case specific notifications are issued in DRI cases, particularly those cases which are answerable to multiple adjudicating authorities. Large number of notifications has been issued under this category.

- 3.4 In the various sections of the Customs Act, 1962, the term “**Proper officer**” is used very frequently. The term “Proper Officer” has been defined under clause (34) of Section 2 of the Customs Act, 1962 and it reads as under:-

*“proper officer”, in relation to any functions to be performed under this Act, means the officer of Customs who is assigned those functions by the **Board or the Principal Commissioner of Customs or Commissioner of Customs.***

- 3.5 The provision of this section came under scrutiny of the Hon’ble Supreme Court in the case of the Commissioner of Customs vs Syed Ali and another. In this case, Hon’ble Supreme Court examined the question of validity of the demands raised by virtue of re-assessment orders passed by the Collector of Customs (Preventive) Mumbai, pursuant to the issue of show cause notices under Section 17 and 28 of the Act, 1962.
- 3.6 While dismissing the appeal filed by the Revenue Department, Hon’ble Supreme Court held as under: -

*“that the Collector of Customs (Preventive), not being a “proper officer” within the meaning of Section 2(34) of the Act, was not competent to issue show cause notice for re-assessment under Section 28 of the Act. Nothing has been brought on record to show that the Collector of Customs (Preventive), who had issued the show cause notices was assigned the functions under Section 28 of the Act as “proper officer” either by the Board or the Collector/Commissioner of Customs. We are convinced that Notifications No. 250-Cus and 251-Cus., both dated 27th August, 1983, issued by the Central Government in exercise of the powers conferred by sub-section (1) of the Section 4 of the Act, appointing Collector of Customs (Preventive) etc. to be the Collector of Customs for Bombay, Thane and Kolaba Districts in the State of Maharashtra did not ipso facto confer jurisdiction on him to exercise power entrusted to the “proper officers” for the purpose of Section 28 of the Act.*

- 3.7 The implication of the above said judgment had a serious revenue implication as all the SCN issued by the DRI/Commissioner of Customs (Preventive) under Section 28 of the Customs Act, 1962 became legally unsustainable. Consequent to this judgment, the Board issued an Instruction F.No.437/143/2009-Cus.IV(pt) dated 15.04.2011 directing the field formations to examine pending Show Cause Notices and wherever these are not hit by time limitation to get these issued afresh by the jurisdictional Commissionerates.

- 3.8 Further, as a prospective remedial measure, in terms of Section 2(34) of the Customs Act, 1962, the Board issued Notification No.44/2011-Customs (N.T.), dated 06.07.2011. By virtue of this Notification, officers of Directorate General of Revenue Intelligence (DRI), Commissionerates of Customs (Preventive), Directorate General of Central Excise Intelligence (DGCEI) and Central Excise Commissionerates were assigned the functions of the ‘proper officer’ for the purposes of Sections 17 and 28 of the said Act.
- 3.9 To address the issue of validity of Show Cause Notices issued prior to 06.07.2011, which was likely to have adversely impacted by the said judgment of the Hon’ble Supreme Court, a suitable legislative change was made vide the Customs (Amendment and Validation) Act, 2011 on 16.09.2011 (Act No.14 of 2011). The said Act amended Section 28 of the Customs Act, 1962 by inserting clause (11), which reads as follows:  
*“(11) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court of law, tribunal or other authority, all persons appointed as officers of Customs under sub-section (1) of section 4 before the sixth day of July, 2011 shall be deemed to have and always had the power of assessment under section 17 and shall be deemed to have been and always had been the proper officers for the purposes of this section.”*
- 3.10 Accordingly, as per the amended Section 28 of the Customs Act, 1962, Show Cause Notices issued prior to 06.07.2011 by officers of Customs, which would include officers of Commissionerates of Customs (Preventive), Directorate General of Revenue Intelligence (DRI), Directorate General of Central Excise Intelligence and similarly placed officers stand validated since these officers are retrospectively recognized as ‘proper officers’ for the purpose of Sections 17 and 28 of the said Act.
- 3.11 Later by issuing the notification No. 40/2012-Customs (NT), dated 2.5.2012, the Board specified proper officers for each section wherever the word “proper officer” was used in the Customs Act, 1962. The details of notification issued in terms of section 2 (34) are detailed in the Table 2 below.

**Table 2**

<b>Sr. No.</b>	<b>Notification No. and date</b>	<b>Subject</b>
1.	Notification No. 40/2012-Customs (NT), dated 2.5.2012 as amended as amended from time to time.	It may be noted that in the various sections of the Customs Act, 1962, the term “ <i>proper officer</i> ” has been used. Vide this notification, the designation of ‘Proper officer’ has been notified under different Section of Customs Act, 1962.
2.	Notification No. 44/2011-Customs (NT), dated 6.7.2011 as amended by notification No. 53/2012-Customs (NT), dated 21.06.2012.	The officers of DRI, DGGI, Customs (Preventive) and all Commissionerates of Central Excise have been notified as proper officers for the purposes of section 17, 28 and 28AAA of the Customs Act, 1962.
3.	Notification No. 40/2018-Customs (NT), dated 11.05.2018	The Principal Commissioners, Commissioners, Additional commissioners, Joint commissioners, Deputy commissioners and Assistant Commissioner of Customs audit assigned functions of proper officer for the purposes of Section 17 and 28 for assessment and recovery of Customs duties.

3.12 The proper officer notified vide notification No. 40/2012-Custom (NT), dated 2.5.2012, as amended by notification No. 53/2012-Customs (NT), dated 21.06.2012; No. 76/2012-Customs (NT), dated 27.08.2012 and No. 12/2014-Customs (NT), dated 17.02.2014, is as given in Table under:-

**Table 2 A**

<b>Sl. No.</b>	<b>Designation of the officers</b>	<b>Functions under Section of the Customs Act, 1962</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Principal Commissioner or Commissioner of Customs.	(i) Section 33.
2.	Additional Commissioner or Joint Commissioner of Customs.	(i) Second proviso to Sub-section (3) and (5) of section 46
3.	Deputy Commissioner or Assistant Commissioner of Customs and Central Excise.	(i) Sub-section (5) of section 17; (ii) Section 18; (iii) Section 21; (iv) Section 22; (v) Section 26A; (vi) Section 28; (via) Section 28 AAA (vii) Section 28B; (viii) Section 28BA; (ix) Section 30; (x) Sub-section (2) of section 31; (xi) Section 32; (xii) Proviso to section 34; (xiii) Section 35; (xiv) Section 42; (xv) Sub-section (3) of section 45; (xvi) Second Proviso to sub-section (1) and sub-section(2) of section 46; (xvii) Section 48; (xviii) Sub-section (3) of section 54; (xix) Section 59; (xx) Section 60; (xxi) Section 61; (xxii) Section 63; (xxiii) Clause (f) of section 64; (xxiv) Section 67; (xxv) Section 72; (xxvi) Section 73; (xxvii) Section 80; (xxviii) Section 85; (xxix) Section 89; (xxx) Section 97;

<b>Sl. No.</b>	<b>Designation of the officers</b>	<b>Functions under Section of the Customs Act, 1962</b>
		(xxxxa) Section 99A (xxxi) Sub-section (1A) of section 110; (xxxii) Section 129A; (xxxiii) Section 129DD; (xxxiv) Section 129E; (xxxv) Section 130D. (xxxvi) Section 142. (xxxvii) Section 149 (After grant of order for clearance of goods under Section 47 or Section 51 of the Customs Act, 1962 as the case may be.
4.	Deputy Director or Assistant Director in the Directorate General of Revenue Intelligence and DGGI.	(i) sub-section (3) of Section 28AAA (ia) Section 28B. (ii) Section 72 and (iii) Section 108B
5.	Superintendent of Customs and Central Excise or Appraiser	(i) Section 13; (ii) Section 14; (iii) Sub-sections (2), (3), (4) and (6) of section 17; (iv) Section 19; (iva) Section 30 (v) Section 40; (vi) Section 41; (vii) Clause (b) of sub-section (2) of section 45; (viii) Sub-sections (1) and (4) of section 46; (ix) Section 47; (x) Section 50; (xi) Section 51; (xii) Section 54; (xiii) Section 62; (xiv) Clause (a) to (e) of section 64; (xv) Section 68; (xvi) Section 69; (xvii) Section 79; (xviii) Section 83; (xix) Section 86; (xx) Section 92; and (xxi) Section 93 and (xxii) Section 149 (After grant of order for clearance of goods under Section 47 or Section 51 of the Customs Act, 1962 as the case may be.
6.	Intelligence Officer in the Directorate General of Revenue Intelligence and DGGI.	(i) Section 37; (ii) Section 100; (iii) Section 103; (iv) Section 106;

<b>Sl. No.</b>	<b>Designation of the officers</b>	<b>Functions under Section of the Customs Act, 1962</b>
		(v) Section 106A; (Sub-sections (1) and (3) of section 110; (viii) Section 144; and (ix) Section 145.
7.	Inspector of Customs and Central Excise or Preventive Officer or Examining Officer.	(i) Sub-section (1) of section 31; (ii) Section 34 excluding proviso to the section; (iii) Section 37; (iv) Section 38; (v) Section 39; (vi) Clause (a) of sub-section (2) of section 45; (vii) Section 77; (viii) Section 94; (ix) Section 95; (x) Section 100; (xi) Section 103; (xii) Section 106; (xiii) Section 106A; (xiv) Sub-sections (1) and (3) of section 110; (xv) Section 144; and (xvi) Section 145.
8.	Principal ADG or ADG, DRI (HQ)	(i) Section 108A

3.13 vide notification No. 44/2011-Customs (N.T.), dated 6.7.2011, as amended vide notification No. 53/2012-Customs (NT), dated 21.06.2012, the Board has assigned the functions of the proper officer to the following officers of DRI/DGCEI/Customs preventive Commissionerates /Central Excise Commissionerates for the purposes of section 17 and section 28, and Section 28 AAA of the Custom Act, 1962.

**Table 2 B**

<b>Sl.No.</b>	<b>Designation of the officers</b>
(1)	(2)
1.	Additional Director Generals, Additional Directors or Joint Directors, Deputy Directors or Assistant Directors in the Directorate General of Revenue Intelligence.
2.	Commissioners of Customs (Preventive), Additional Commissioners or Joint Commissioners of Customs (Preventive), Deputy Commissioners or Assistant Commissioners of Customs (Preventive).
3.	Additional Director Generals, Additional Directors or Joint Directors, Deputy Directors or Assistant Directors in the Directorate General of Central Excise Intelligence.
4.	Commissioners of Central Excise, Additional Commissioners or Joint Commissioners of Central Excise, Deputy Commissioners or Assistant Commissioners of Central Excise.

However, this issue of appointing various proper officers by issuing the Notifications under Section 2(34) of the Customs Act, 1962 has once again got unsettled due to recent judgment of

Hon'ble Supreme Court in the case of the **Canon India judgment 2021-TIOL-123-SC-CUS-LB** by stating that **these notifications do not make ADG, DRI the 'proper officer' for the purposes of Sec 28, as the above notifications, which have been issued in exercise of the powers under Sec 2(34), a definition clause defining the term 'proper officer', does not confer any powers on any authority to entrust any functions to any officers; and that the above notifications entrusting functions as proper officer under the Customs Act has been issued by the Board in exercise of non-existing powers under Sec 2(34). The Apex Court has observed that the notification is invalid having been issued by an authority, which had no power to do so in view of the fact that said Section does not confer such power. Therefore, the ADG, DRI is of now has been held as 'not the proper officer' for the purposes of Section 28.**

It appears that the amendment made to Sec 28 vide Sub-section (11) (*supra*) in September, 2011 by The Customs (Amendment and Validation) Act, 2011 (No. 14 of 2011,) whose stated objective was to neutralize the Apex Court's judgement in Sayed Ali case (*supra*), has also been held as redundant.

The effect of aforementioned inserted Sub-section (11) is that (i) all the persons viz., the officers in various Directorates; the officers in the Central Excise Commissionerates and the officers in the Customs (Preventive) Commissionerates, who were appointed as officers of Customs with all-India jurisdiction under various notifications viz., Notification No(s). 17/2002-Cus(NT) dated 07.03.2002; 27/2009-Cus(NT) dated 17.03.2009; 97/98-Cus(NT) dated 21.12.1998; 36/2009-Cus(NT) dated 17.03.2009; 384/86-Cus(NT) dated 23.07.1986, as amended by Customs Notification No 19/2017-Cus (NT) dated 03.03.2017; 83/2004-Cus(NT) dated 30.06.2004 and 15/2002-Cus (NT) dated 07.03.2002, as amended from time to time, issued under Sec 4(1) prior to 06.07.2011, shall be deemed to have the power of assessment under Sec 17 and shall also be deemed to be the proper officer for the purpose of this Section and (b) this amendment is retrospective and it validates the SCNs issued under Sec 28(1) and 28(4) by the DRI officers, DGGI officers, the officers of Customs (Preventive) Commissionerates and the officers of Central Excise Commissionerates during period prior to 16.09.2011. In short, the above said retrospective amendment simply provides that the persons appointed as officers of customs under Sec 4(1) were the proper officers for the purposes of Sec 28 in past and are still the proper officers for the purposes of Sec 28.

From analysis of aforementioned judgement of the Apex Court, it can be understood that the Notification No. 44/2011-Cus (NT) dated 06.07.2011 and the subsequent Notification No 40/2012-cus(NT) dated 02.05.2012, both issued under Section 2(34), have been held invalid for the reason that the same have been issued by an authority, which had no power to do so, as the said Section did not confer any power to such authority. However, the powers extended under the sub-section (11) still appear to be in existence (**since not commented upon or interpreted by the Apex Court**) and for this very reason, all the persons appointed as officers of Customs by the Notifications issued under Section 4(1), prior to 06.07.2011, still remain the proper officers, for the purpose of Section 28. From the reading of the judgment, it can be seen that the aforementioned retrospective amendment made to Section 28 w.e.f. 16.09.2011 by The Customs (Amendment & Validation) Act, 2011 was never placed before the Hon'ble Supreme Court at the time of hearing, so as to seek clarity.

Thus, to great extent, it can still be argued that due to abovementioned retrospective amendment to Section 28, the assessment finalized at the time of import by the jurisdictional Customs officer at the port of importation, can be re-opened by issue of SCN under Sec 28 by either of the officers of DRI, DGCI, DGCEIB, a Customs (Preventive) Commissionerate having concurrent jurisdiction, the Central Excise Commissionerate in whose jurisdiction the imported goods have gone after clearance, the Directorate of Valuation, as all these officers appointed as officers of Customs under Section 4(1), by virtue of the provisions of Sub-section (11) of Sec 28, have deemed powers of assessment under Section 17 and also are deemed Proper Officer for the purpose of Section 28.

But, as per the interpretation of the Apex Court in this judgement, the provisions of sub-section (11) of Sec 28 are contrary to the provisions of sub-section (1) and sub-section (4) of Section 28, and due to this very reason, it has restricted the scope of the term "the proper officer" to the officer, who had assessed the goods at the time of clearance or the successor of that officer or any other officer authorized to exercise the power of assessment within the same office contrary to the provisions of the Sub-section (11), which expands the scope of this term so as to include the officers of DRI, DGCI, DGCEIB, DG(Vigilance), DG(Valuation), Customs (Preventive) Commissionerates and Central Excise Commissionerates by making all of them "*the proper officer*" for the purpose of Sec 28.

Thus, from above discussion, the only conclusion that can be drawn is that unless any revision is filed or any fresh petition reaches to the Apex Court for clarification by bringing to its notice the provisions of Sub-section (11) inserted w.e.f. 16.09.2011 by The Customs (Amendment and Validation) Act, 2011 to neutralize the Apex Court's judgment in Sayed Ali case (supra), the state of confusion, as to whether the officers DRI, DGCI, DGCEIB, DG(Vigilance), DG(Valuation), Customs (Preventive) Commissionerates and Central Excise Commissionerates are the "*proper officer*" for the purpose of Sec 28 or not, shall remain in being.

### Under Central Excise Act, 1944

- 3.14 As discussed in Para 3.2 above, in the Central Excise Act, 1944, in Section 2(b), the term "Central Excise Officer" has been defined. This provision empowers Board to entrust any other officer of the Central Excise Department or any person (including an officer of the State Government) with any of the power of the Central Excise officer under Central Excise Act, 1944. The section 2(b) of the Central Excise Act, 1962 reads as under: -

*"Central Excise Officer" means the Principal Chief Commissioner of Central Excise, Chief Commissioner of Central Excise, Principal Commissioner of Central Excise, Commissioner of Central Excise, Commissioner of Central Excise (Appeals), Additional Commissioner of Central Excise, Joint Commissioner of Central Excise, Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or any other officer of the Central Excise Department, or any person (including an officer of the State Government) invested by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) with any of the powers of a Central Excise Officer under this Act.*

- 3.15 Further, Rule 3 of the Central Excise Rules, 2002 empower Board to appoint any person to be Central Excise officer as well as specify power to be exercised by such officer. Further,

it also empowers Board to specify jurisdiction. The Rule 3 of the Central Excise Rules, 2002 reads as under: -

**RULE 3. Appointment and jurisdiction of Central Excise Officers. —**

(1) The Board may, by notification, appoint such person as it thinks fit to be Central Excise Officer to exercise all or any of the powers conferred by or under the Act and these rules.

(2) The Board may, by notification, specify the jurisdiction of a Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be, Principal Commissioner of Central Excise or Commissioner of Central Excise as the case may be, or Commissioner of Central Excise (Appeals) for the purposes of the Act and the rules made thereunder.

(3) Any Central Excise Officer may exercise the powers and discharge the duties conferred or imposed by or under the Act or these rules on any other Central Excise Officer who is subordinate to him.

3.16 In term of section 2(b) of the Central Excise Act, 1944 and rule 3 of the Central Excise Rules, 2002, several notifications have been issued by the Board. The details of the important notifications issued by the Board are given in Table-3 below.

**Table-3**

<b>Sr. No.</b>	<b>Notification No. and date</b>	<b>Impact of notification</b>
1.	27/2014-CE (NT), dated 16.09.2014 (w.e.f 15.10.2014) as amended	Defines jurisdiction of Principal chief Commissioner of CE, Chief Commissioner of CE; Principal commissioner of CE, Commissioner of CE, Commissioner of Central Excise (appeals); and Commissioner of Central Excise (Audit). It also appoints the above said officers as Central Excise officers.
2.	38/2001-CE (NT), dated 26.06.2001 as amended	Appoints officers of various directorates such as DGGI, DGOV, DGRI, DGCEIB, DG (Inspection) of Customs and Central Excise, Directorate of Statistics and intelligence, officer of Customs in SEZ and 100% EOU, AD (Cost) in CEX Commissionerate, certain officers of LTU and officer of Customs having jurisdiction upon the godowns and retail outlets of duty free shops at the International Airport, as Central Excise Officer.
3.	28/2008-CE (NT), dated 5.6.2008 as amended	Appointment of officers of Directorate General of Audit as Central Excise Officers.

**Under Chapter V of the Finance Act, 1994**

3.17 In respect of Service Tax, the Rule 3 of the Service Tax Rules, 1994 deals with appointment of officers for the purpose of exercise of powers under Chapter V of the Finance Act, 1994. There is no special category of Service tax officer as it exists in case of Customs or Central Excise. The Rule 3 of the Service Tax Rules, 1994 reads as under:-

**Rule 3 of Service Tax Rules, 1994. Appointment of officers –**



*The Central Board of Excise and Customs may appoint such Central Excise Officers as it thinks fit for exercising the powers under Chapter V of the Act within such local limits as it may assign to them as also specify the taxable service in relation to which any such Central Excise Officers shall exercise his powers.*

- 3.18 The term “**Central Excise Officers**” has not been defined under the Finance Act, 1994 (Chapter V) or under Service Tax Rules,1994. However, under Clause (55) of the Section 65B of the Finance Act, 1994, there is provision which provides that “**words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to Service Tax as they apply in relation to a duty of excise**”. Therefore, the meaning of term “Central Excise Officer” has to be seen in terms of section 2(b) of the Central Excise Act, 1944.
- 3.19 In exercise of powers under section 2(b) of the Central Excise Act, 1944read with section 65B (55) of the Finance Act, 1994, Rule 3 of the Central Excise Rules, 2002 and Rule 3 of the Service Tax Rules, 1994, the Board has issued two notificationsmentioned in Table-4 below.

**Table-4**

<b>Sr. No.</b>	<b>Notification Number and date</b>	<b>Subject</b>
1	20/2014-ST, dated 16.09.2014 (w.e.f. 15.10.2014)as amended by notification No. 1/2015-ST, dated 20.01.2015	Appoints Principal Chief/ Chief Commissioners of Service Tax, Principal Commissioners / Commissioners of Service Tax, Commissioners of Service Tax (Audit), Commissioners of Central Excise (Audit), Commissioners Large Taxpayer Unit, Commissioners Large Taxpayer Unit (Audit), Commissioner of Central Excise (Appeals) and Commissioners of Service Tax (Appeals), and all the officers subordinate to such officers, as Central Excise Officers and lays down their jurisdiction.
2	22/2014-ST, dated 16.09.2014 (w.e.f. 15.10.2014)	Appoint specified officers in the Directorate General of Audit (DGA), Directorate General of GST Intelligence (DGGI) and Directorate General of Service Tax (DGST) as Central Excise officers.
3.	2/2015-ST, dated 10.02.2015	Appoint the Principal Director General of GST Intelligence to have jurisdiction over the Principal Commissioners of Service Tax or the Principal Commissioners of Central Excise or the Commissioners of Service Tax or the Commissioners of Central Excise, as the case may be, for the purpose of assigning show cause notices issued by the Directorate General of GST Intelligence, for adjudication, by such Principal Commissioners of Service Tax or the Principal Commissioners of Central Excise or the Commissioners of Service Tax or the Commissioners of Central Excise, as the case may be.

**4. Legal provisions for empowering officers of Central Government or State Government or a local authority to exercise powers under the Customs Act, 1962/Central Excise Act, 1944/Finance Act, 1994**

4.1 Under Section 6 of the Customs Act, 1962, the Board has power to entrust any officer of the Central or the State Government or a local authority any function of the Board or any officer of Customs. This can be done by issuing a notification. The section 6 of the Customs Act, 1962 reads as under: -

**Section 6 of the Customs Act, 1962: -Entrustment of functions of Board and customs officers on certain other officers. –**

The **Central Government** may, **by notification in the Official Gazette**, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

4.2 Under Section 6 of the Customs Act, 1962, Central Government has issued several notifications empowering officers of police of states having International Border, paramilitary organization such as BSF, ITBP, CRPF etc. at border as officers of Custom and giving them power to search, seizure and arrest under the Customs Act, 1962. The details of notifications issued under Section 6 of the Customs Act, 1962 are given in Table-5 below.

**Table-5**

<b>Sr. No.</b>	<b>Notification Number and date issued.</b>	<b>Impact of notification.</b>
1.	No.161-Customs dated 22.6.1963	Officers of DRI of rank JD/AD/DD given powers of AC/DC of Customs to search premises under section 105 (1) of CA, 62
2.	No.42-Customs dated 27.03.1965	Certain police officers in Madras city and districts of Chingleput, South Arcot, Thanjavur, QAUID-E-Milleth, Tirunelveli, Ramanathapuram and Kanyakumari entrusted with functions of Customs Officers under Section 100, 101,102,104,106 and 110.
3.	No.24-Customs dated 5.1.1966	Specified Tehsildar and police officers at Lakshdweep islands given powers under section 100 to 108 and 110 of CA, 62
4.	No.122-Customs, dated 18.06.1966	Specified Police officers of Nagaland given powers under section 110 to 110 of CA, 62
5.	195-Customs, dated 29.10.1966	Police officers in the state of Kerala given power of officers of Customs under sections 100, 101, 102, 104, 106, and 110 of the Customs Act, 1962, within their respective jurisdiction but excluding the customs area within.
6.	130-Customs, dated 21.09.1968	Revenue Inspector and Police officers at specified islands of Lakshadweep administration, given power of officers of Customs under sections 92, 93, 94, 95, 97 and 98 of the Customs Act, 1962.
7.	33-Customs, dated 27.04.1974	Certain Officers of Central Reserve Police Force posted in Tripura given power of officers of Customs under sections 100 to 110 of the Customs Act, 1962, within the local limits of his jurisdiction.
8.	63-Customs, dated 3.08.1974	Certain Officers of Border Security Force given power of officers of Customs under sections 100 to 104, 106, 107 and 110 of the Customs Act, 1962, within the local limits of his jurisdiction.

<b>Sr. No.</b>	<b>Notification Number and date issued.</b>	<b>Impact of notification.</b>
9.	187-Customs, dated 30.9.1978	Joint Director, OSD, Investigating officer (Police) and Investigating officer (Income Tax), working in DRI given power of AC/DC of Customs under section 105(1) of Customs Act, 1962.
10.	12-Customs, dated 14.2.1981	Officers of Coast Guard given power of officers of Customs under sections 37, 38, 100 to 104, 106, 107 and 110 of the Customs Act, 1962, within the Indian Customs waters.
11.	190-Customs, dated 13.08.1982	Police officers of specified rank posted at Mizoram given power of officers of Customs under sections 100 to 104, 106, 107 and 110 of the Customs Act, 1962, within the limits of their respective jurisdiction.
12.	194/84-Customs, dated 6.7.1984	Indo-Tibetan Border Police (ITBP) officers of specified rank given power of officers of Customs under sections 100 to 110 of the Customs Act, 1962, within local limits of his jurisdiction subject to condition mentioned in the notification.
13.	20/88-Customs (NT), dated 12.04.1988	Police officers of specified rank posted in the states of Mizoram, Manipur, Nagaland and Arunachal Pradesh given power of officers of Customs under sections 100 to 110 of the Customs Act, 1962, within local limits of his jurisdiction only for the purposes of provisions of Chapter IVB of the Customs Act, 1962
14.	23/88-Customs (NT), dated 12.4.1988	Police officers of specified rank posted at Andaman and Nicobar Islands given power of officers of Customs under sections 100 to 104, 106, 107 and 110 of the Customs Act, 1962, throughout their jurisdiction except in Port Blair.
15.	99/14-Customs (NT), dated 27.10.2014	SSB officers to exercise certain functions of Customs officers within local limits specified area (15 KM) in the states of Uttrakhand, UP, Bihar, West Bengal, Sikkim, Assam and Arunachal Pradesh running along the Indo-Nepal and Indo-Bhutan Border and in any area of its operation under Section 100 to 103, 106, 107, 109 and 110 of the Customs Act, 1962.

**Note:** As the Government publications or CBEC website does not contains the details of the above said notification, the above said details have been collected from available private publication.

- 4.3 Under Central Excise Act, 1944, under Section 2(b), the Board has power to invest any person (including an officer of the State Government) with any of the power of Central Excise officer under this Act. The detail of a notification issued so far is given in Table below.

**Table-6**

<b>Sr. No.</b>	<b>Notification Number and date issued.</b>	<b>Impact of notification.</b>
1.	20/2008-CE (NT), dated 27.3.2008	Chief Commissioner of Income Tax, LTU has been specified as Central Excise officer and has been given power of the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be, throughout the territory of India.

## 5. *Legal provisions under various other allied Acts empowering officers of Customs, Central Excise and Service Tax department to exercise powers under these Acts*

- 5.1. In several Acts, administered by Ministries other than the Ministry of Finance, our departmental officers (i.e. the officer of Customs or the Central Excise officers) have been empowered to exercise certain powers under these Acts. As the number of such allied Acts is fairly large, this topic will be discussed in more details in separate E-book. For the purpose of illustration, two specific Acts, enacted rather recently, have been discussed in the following paragraphs.

### Chemical Weapon Convention Act, 2000

- 5.2. For the Chemical Weapon Convention Act, 2000 (No. 34 of 2000), the Ministry of Chemical and Fertilizers (Department of Chemical and Petro-Chemicals) is the administrative Ministry. Under this Act, vide notification S.O. 1491 (E), dated 13.09.2006, the officers of Directorate of Revenue Intelligence (DRI) of the level of Intelligence Officer (IO) and above, have been appointed as enforcement officer.

- 5.3. The notification S.O. (E), dated 13.09.2006 reads as under: -

*In exercise of the powers conferred by Sub-section (1) of Section 9 read with Sub-section (2) of Section 6 of the Chemical Weapons Convention Act, 2000 ( 34 of 2000), the Central Government hereby appoints the following officers as the Officer of the National Authority, Chemical Weapons Convention and entrusts the said officers the powers and functions of Enforcement Officers for the purpose of the said Act with effect from the date of the publication of this notification in the Official Gazette, namely:-*

**1. Officers of the Directorate General of Revenue Intelligence of the level of Intelligence Officer and above.**

2. *Officers of the level of Deputy Director and above in the National Authority, Chemical Weapons Convention.*

3. *Officers of the rank of Assistant Industrial Advisor and above in the Department of Chemicals and Petro-chemicals.*

[ F. No.40020/6/2005-Ch.I]

- 5.4. Further, the National Authority, Chemical Weapon Convention comprises a Chairperson and three Directors as per Notification S.O.1490 (E) dated 13.09.2006. Three Directors are,-
- (i) the Joint Secretary in NACWC,
  - (ii) the Director General, Directorate of Revenue Intelligence, and
  - (iii) the Joint Secretary of the Department of Chemicals and Petrochemicals.

### **Cigarette and other Tobacco Product (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003**

- 5.5. The Ministry of Health & Family Welfare is the administrative Ministry for the Cigarette and other Tobacco Product (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 [also known as COTPA, 2003]. In exercise of power under COTPA, 2003, the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008 have been issued. These rules deal with statutory warning to be displayed on packing of Cigarette and other tobacco products.
- 5.6. Under the above said Rules, the Ministry of Health & Family Welfare has issued the Notification S.O.1866 (E), dated 30.07.2009 as amended *vide* Notification S.O.23 (E), dated 06.01.10. Under this notification, the officers at the level of Superintendents and above of the Customs & Central Excise department have been conferred with the power of Entry, Search and Seizure under the said provisions of COTPA. The powers given are for enforcing provisions of Section 5, which deals with prohibition of advertisement of cigarettes and other tobacco products, & Section 7, which deals with Restrictions on trade and commerce in and production, supply and distribution of cigarettes and other tobacco products. *Vide* Notification S.O. 1866(E) dated 30th July 2009, following officers have been empowered:-

**Table 7: Authorized officers**

<b>Designation</b>	<b>Department</b>
All officer of the level of Superintendent & above of the Customs & Central Excise	All premises registered under Department of Revenue
All officer of the rank of Inspectors & above of Sales Tax / Health / Transport Departments	Department of Revenue / Health / Transport of State
Junior Labour Commissioner	Labour Department
Joint Director	O/o Commissioner of Industries / Small Scale Industries
Sub – Inspector and above of Police / State Food & Drug Administration or any other officer holding the equivalent rank of the Sub – Inspector of Police	Department of Food & Drugs & Department of Home Affairs.

## **6. Delegation of powers**

- 6.1 Specific provisions have been incorporated in the Customs Act, 1962/Central Excise Act, 1962 and Finance Act, 1994 where in Central Government has been given powers to delegate power of the Board or powers of other senior officers to junior Gazetted officers by issuing notification in the official Gazette. In exercise of these powers, several notifications have been issued by the Central Government. It is important for the department officers to have idea about the various notifications so issued to have a correct perspective.
- 6.2 Summary of legislative provisions dealing with delegation of powers under Customs Act, 1962/Central Excise Act, 1944/Finance Act, 1994 along with notifications issued are summarized in table below: -

### **Section 152 of the Customs Act, 1962: 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 a Chief Commissioner of Customs or a Commissioner of Customs empowered in this behalf by the Central Government;
- (b) any power exercisable by a Commissioner of Customs under this Act may be exercisable also by a Joint Commissioner of Customs or an Assistant Commissioner of Customs or Deputy Commissioner of Customs empowered in this behalf by the Central Government;
- (c) any power exercisable by a Joint Commissioner of Customs under this Act may be exercisable also by an Assistant Commissioner of Customs or Deputy Commissioner of Customs empowered in this behalf by the Central Government;
- (d) any power exercisable by an 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.

6.3. The notification issued by the Central Government under Section 152 of the Customs Act, 1962 and power delegated and the officer to whom the power has been delegated is summarized in the Table-8below.

**Table-8**

<b>Sr. No.</b>	<b>Notification issued</b>	<b>Power delegated and officer to whom delegated</b>
1	Notification No. 22-Customs, dated 6.2.1965 as amended by notification No. 54-Customs, dated 24.05.1965	power of Board under Section 105(1) of CA, 1962, delegated to Principal Commissioner or Commissioner of Central Excise
2	Notification No. 121-Customs, dated 18.06.1966	Power of Board under Section 109 of CA, 1962 delegated to Principal Commissioner or Commissioner of Customs in respect of goods imported by Land.
3.	Notification No. 100-Customs, dated 5.12.1975 <i>[Note: This notification has become redundant as in subsequent amendment to the said provision, the power is to be exercised by the Principal Commissioner of Customs.]</i>	Power of Board under Clause (ii) of first provision to Section 61 of CA, 62 was delegated to principal Commissioner or Commissioner of Customs.
4.	Notification No. 123-Customs, dated 11.05.1963 <i>[Note: This notification has become redundant as in subsequent amendment to the said provision, the power is to be exercised by the Assistant Commissioner or Deputy Commissioner of Customs.]</i>	Section 116 of Custom Act, 1962 delegated powers of Principal Commissioner or Commissioner of Customs to Assistant Commissioner/DC of Customs provided penalty imposed does not exceed 10000/- per case

Sr. No.	Notification issued	Power delegated and officer to whom delegated
5.	Notification No. 151-customs, dated 15.06.1963	Section 122 of the Customs Act, 1962- powers exercisable by Principal Commissioner or Commissioner of Customs under the section to adjudge the penalty shall also be exercisable by AC/DC in case of penalty not exceeding Rs. 5000/- where the goods are allowed to be imported, exported or cleared, on the person executing a bond under Section 143 of the Customs Act, 1962.
6.	Notification No. 162-Customs, dated 22.06.1963	Power under section 46(3) and under clause (i) of the first proviso to section 61 of CA, 1962, which are exercisable by Principal commissioner or Commissioner of Customs also to be exercised by specified officers of JC/DC/AC rank subject to condition mentioned in the notification.
7.	Notification No. 96-Customs, dated 28.06.1969	Power under section 46(3) and under clause (i) of the first proviso to section 61 of CA, 1962, which are exercisable by Principal commissioner or Commissioner of Customs also to be exercised by AC/DC of Central Excise, Pondicherry.
8.	Notification No. 157-Customs, dated 29.11.1969	Section 122 of the Customs Act, 1962- powers exercisable by Principal Commissioner or Commissioner of Customs under the section to adjudge the penalty shall also be exercisable by Joint Commissioner of Central Excise, Goa.
9.	Notification No. 33/94-Customs (NT), dated 1.7.1994 as amended by notification No. 122/2004-Customs (NT), dated 25.10.2004	Delegates power of CBEC to declare places to be warehousing station under section 9 of the Customs Act, 1962 to the principal Chief Commissioner or Chief Commissioner of Customs in normal cases and to the principal commissioner of Customs or commissioner of Customs in case of EOUs. It also delegates power of Board under proviso to clause (b) of sub-section (1) of Section 74 of the Customs Act, 1962 to allow export under drawback within three years from the date of payment of duty on the importation thereof, to the principal Chief Commissioner of Customs or Chief Commissioner of Customs. It also delegates power of Board under section 61 of the Customs Act to waive interest on the customs duty in respect of warehoused goods in cases where interest does not exceed Rs.2 crores to the principal Chief Commissioner or Chief Commissioner of Customs.

### Under Central Excise Act, 1944

- 6.4. **Section 37 A of the Central Excise Act, 1944** contains provisions for delegation of powers of Board or other higher authorities to lower authorities. The section 37 A of the Central Excise Act, 1944 reads as under:-

**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 may be exercisable also by a Principal Chief Commissioner of Central Excise or Chief Commissioner of*

*Central Excise, or a Principal Commissioner of Central Excise or Commissioner of Central Excise empowered in this behalf by the Central Government;*

- b) *any power exercisable by a Principal Commissioner of Central Excise or Commissioner of Central Excise under this Act may be exercisable also by a Joint Commissioner of Central Excise or an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise empowered in this behalf by the Central Government;*
- c) *any power exercisable by a Joint Commissioner of Central Excise under this Act may be exercisable also by an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise empowered in this behalf by the Central Government; and*
- d) *any power exercisable by an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise under this Act may be exercisable also by a gazetted officer of Central Excise empowered in this behalf by the Board.*

6.5. The notifications issued by the Central Government under Section 37 A of the Central Excise Act, 1944. Power delegated and the officer to whom it has been delegated are summarized in the Table-9 below.

**Table-9**

<b>Sr. No.</b>	<b>Notification issued</b>	<b>Power delegated and officer to whom it is has been delegated</b>
1.	Notification No. 22/88-CE (“NT), dated 4.8.1998	Power of Board under Rules 51A and 145 of the Central Excise Rules, 1944 to the Principal Chief Commissioner /Chief Commissioner.
2.	62/97-CE (NT), dated 11.12.1997	Power of Board under Rules – Sub-rule (2A) of Rule 47; sub-rule (5) of Rule 47; clause (b) of Rule 93; Rule 146; Sub-rule (1) of Rule 150; Sub-rule (1) of Rule 161; and sub-Rule (3) of Rule 167 of the Central Excise Rules, 1944 to the Principal Chief Commissioner /Chief Commissioner/ Principal Commissioner/Commissioner as the case may be.
3.	11/2007-CE (NT), dated 1.3.2007	Power of Board under sub-rule (2) of Rules 3 of the Central Excise Rules, 2002 to the Principal Chief Commissioner /Chief Commissioner of Central Excise for the purposes of adjudication of notices under the provisions of the said Act or the rules framed thereunder within his jurisdiction.
4.	Notification No. 29/2014-CE (NT), dated 16.9.2014 (w.e.f. 15.10.2014)	It delegates the power of Board under Rule 3 of the Central Excise Rules, 2002 to the Principal Chief Commissioner /Chief Commissioner of Central Excise to specify within his jurisdiction, the jurisdiction of Commissioner of Central Excise (Appeals) or a Commissioner of Central Excise (Audit).

### **Under Finance Act, 1994**

6.6. Under Section 83 of the Finance Act, 1994, the provisions of the Section 37A of the Central Excise Act, 1944 has been extended to Service Tax as they apply in relation to a duty of Excise. In exercise of power under Section 37 A of the Central Excise Act, 1944 read with Section 83 of the Finance Act, 1994, the Central Government has issued the following notification summarized in the Table-10 below: -

**Table-10**



<b>Sr. No.</b>	<b>Notification issued</b>	<b>Power delegated</b>
1.	Notification No. 21/2014-ST, dated 16.9.2014(w.e.f 15.10.2014)	Power of Board under Rule 3 of the Service Tax Rules, 1994 to the Principal Chief Commissioner of Central Excise or the Chief Commissioner of Central Excise or the Chief Commissioner of Service Tax, to specify within his jurisdiction, the jurisdiction of a Commissioner of Service Tax (Appeals) / Commissioner of Central Excise (Appeals)/ Commissioner of Service Tax (Audit) / Commissioner of Central Excise (Audit).

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