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[Training Material for Departmental Use]

E-BOOK

On

Appointment of
Adjudicating Authorities
for the show cause notices
issued by
DGCEI/ DRI/ Field
Commissionerates

Appointment of common Adjudicating authority

Note:

1. In this E-book, attempts have been made to explain about the **Appointment of Adjudicating Authorities for the show cause notices issued by DGCEI/ DRI/ Field Commissionerates**. It is expected that it will help departmental officers in their day to day work.
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Sd/-

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~ Part - I ~

Appointment of (common) Adjudicating Authorities in Customs Cases booked by DRI/ Field Formations.

1. Background

1.1 The officers of the Directorate of Revenue Intelligence (DRI) have all India Jurisdiction of investigating cases of Customs duty evasion or smuggling. In the cases, where imports or exports have been made by the offender through number of Ports/Airports/ICDs/ Land Customs stations, DRI issues single show cause notice, answerable to multiple adjudicating authorities in charge of the ports/airports /ICDs /Land Customs station through which such imports or exports have taken place. Later, for the purpose of adjudicating such case, the Board, by exercising its power under Section 4 and 5 of the Customs Act, 1962, appoints a common and/or single adjudicating authority for the purpose of adjudication of the case by issuing a notification. Several such notifications have been issued in the past and are available on CBEC website under non-tariff notification category.

1.2 Further, prior to cadre-structuring in Oct, 2014, there were four posts of Commissioner of Customs (Adjudication) at four metro cities and after cadre structuring, these posts of Commissioner (Adjudication) have been re-designated as ADG (Adjudication), DRI.

1.3 Section 152 of the Customs Act, 1962 empowers the Central Government to delegate the powers exercisable by CBEC or any of its officer under the Act to any other officer of Customs by issuing a notification in the official Gazette. Such delegation may be unconditional or may be subject to conditions as specified in the notification issued in this regard. Under the said Section 152, the Central Government may make following delegation of powers as explained in table below:-

Table I

Authority to exercise power under the Act	Authority to whom power may be delegated to
Central Board of Excise & Customs	Principal Chief /Chief Commissioner of Customs or Principal Commissioner/Commissioner of Customs
Principal Commissioner of Customs/Commissioner of Customs	Additional Commissioner of Customs Joint Commissioner of Customs Deputy Commissioner of Customs Assistant Commissioner of Customs
Additional Commissioner of Customs Joint Commissioner of Customs	Deputy Commissioner of Customs Assistant Commissioner of Customs
Deputy Commissioner of Customs Assistant Commissioner of Customs	Any Gazetted Officer of the Customs empowered in this behalf by Board

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Changes w.e.f. 04.06.2015

1.4 In exercise of the power under section 152 (a) of the Customs Act, 1962, the Central Government has issued **notification No. 60/2015-Customs(NT), dated 4.6.2015**, wherein it has been provided that “*the Central Government hereby directs that the powers of the Central Board of Excise and Customs under section 4 and section 5 of the said Act may be exercised also by the Principal Director General, Directorate General of Revenue Intelligence, New Delhi for appointing officers of the rank of Commissioner of Customs or Additional Director General of the said Directorate for the purpose of adjudication of cases investigated by that Directorate.*” Thus, with effect from 4.6.2015, the powers of the Board under sections 4 and 5 of the Customs Act, 1962 to appoint officer of rank of Commissioner or ADG, DRI for the purpose of adjudication of cases investigated by DRI now can be exercised by the Principal DG of DRI.

1.5 After issuance of notification No. 60/2015-Customs (NT), dated 4.6.2015, the power of appointment of (common) adjudicator in DRI cases has been delegated to the Principal Director General of DRI. Further, *vide* **Circular No. 18/2015- Customs dated 9.6.2015 as amended vide Circular No. 30/2015-Customs, dated 04.12.2015**, the Board has also issued detailed guidelines in the matter. As per said Circular dated 9.6.2015 as amended vide Circular No. 30/2015-Customs, dated 04.12.2015, the guidelines for appointment of common adjudicator will be as given in following Table II:-

Table II

Sl.	SCN pertaining to jurisdiction of	Types of Cases	To be assigned to
1.	Single/Multiple Commissionerates	Cases investigated by DRI Cases:- (i) involving duty of Rs. 5 Crores and above; (ii) Group of cases on identical issues involving aggregate duty of Rs. 5 crore and more; (iii) Cases involving seizure value of Rs 25 Crore or more; (iv) Cases involving wrong availment of export incentives where the export incentives wrongly availed is Rs 5 Crore or more; (v) Group of case on identical issues involving wrong availment of export incentives aggregating to Rs5 Crore or more; (vi) Cases of overvaluation of import where overvaluation is Rs 25 Crore or more; and (vii) DRI case pending with erstwhile Commissioner (Adjudication).	ADG (Adjudication), DRI
2.	Single /Multi Commissionerate	DRI cases not covered by (1) above are to be given to jurisdictional Commissioner of Customs on the basis of maximum duty evaded/ export incentive wrongly availed / amount of overvaluation of cases.	Jurisdictional Commissioner of Customs

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3.	Single/Multiple Commissionerates	DRI cases pending with jurisdictional Commissioner of Customs	To continue with jurisdictional Commissioner of Customs)
Non –DRI Cases			
4.	Non-DRI Cases- Common Adjudicator to be appointed by the Board. It will include – (i) Cases made by Commissionerate; and (ii) Non-DRI cases pending with erstwhile Commissioner (Adjudication).		
Remand Cases			
5.	Single/Multiple Commissionerates	Remand cases	Original adjudicating authority

Note: The above said position is also to be applied to other cases falling under the jurisdiction of Additional Commissioner/ Joint Commissioner/ Deputy Commissioner/ Assistant Commissioner.

Cases where CBEC to Appoint Common Adjudicator or Adjudicating Authority (After 04.06.2015)

1.6 After delegation of its powers under Section 4 and 5 of the Customs Act, 1962, the work of Board in this area will be considerably reduced in respect of cases investigated by DRI. However, in respect of non-DRI cases, the common adjudicator would still be appointed by the Board:-

- (a) Cases made by Commissionerates
- (b) Non-DRI cases pending with the erstwhile Commissioner (Adjudication).

Transitional Provisions

1.7 All the pending cases where common adjudicating authorities have not been appointed so far or where the common adjudicating authorities have been appointed but adjudications have not been done should be disposed of expeditiously in terms of aforementioned guidelines. However, while doing so in regard to the latter category of cases, Principal DG, DRI is required to take into consideration the fact whether or not personal hearings have taken place and the stage of passing the adjudication order. This is to ensure that cases about to be finalized are not reallocated to another adjudicating authority thereby defeating the objective of expediting the finalization of disputes.

1.8 Appointment of Common adjudicator in Customs Case is done by issuing a non-tariff notification. Normally, for each case, separate non-tariff customs notification is issued. To know about the common adjudicator in any Customs case, non-tariff notification section, under Customs heading, available on website of CBEC i.e. www.cbec.gov.in may be referred.

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2. Relevant Legal Provisions at a Glance

Table III

Sl. No.	Sections/ Notifications/Circulars/Instructions	Subject
1.	Section 152 of the Customs Act, 1962	Enable central Government to delegate the power exercisable by CBEC or any officer of Customs to any other officer of Customs.
2.	Notification No. 60/2015-Customs, dated 4.06.2015	Delegation of power in DRI cases to the Principal Director General, DRI.
3.	Circular No. 18/2015- Customs, dated 09.06.2015	Guidelines for appointment of common adjudicating authority to be followed by the Principal DG, DRI.
4.	Circular No. 30/2015-Customs, dated 04.12.2015	Amendment to Board Circular No. 18/2015-Cus dated 9.06.2015

3. Text of Relevant Section/notifications/ Circulars/ Instructions

3.1 Text of 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 -

- any power exercisable by the Board under this Act shall be exercisable also by a Principal Chief Commissioner of Customs or Chief Commissioner of Customs or a Principal Commissioner of Customs or Commissioner of Customs empowered in this behalf by the Central Government;
- any power exercisable by a principal Commissioner of Customs or 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;
- 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;
- 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."

3.2 Text of Section 4 and 5 of the Customs Act, 1962

Section 4- Appointment of officers of Customs

- The Board may appoint such persons as it thinks fit to be officers of customs.

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- (2) Without prejudice to the provisions of sub-section (1), the Board may authorise a Chief 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. 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 Text of notification No.60/2015-Customs (N.T.), dated 04.06.2015

G.S.R ... (E).- In exercise of the powers conferred by clause (a) of section 152 of the Customs Act, 1962 (52 of 1962), the Central Government hereby directs that the powers of the Central Board of Excise and Customs under section 4 and section 5 of the said Act may be exercised also by the **Principal Director General, Directorate General of Revenue Intelligence, New Delhi for appointing officers of the rank of Commissioner of Customs or Additional Director General of the said Directorate for the purpose of adjudication of cases investigated by that Directorate.**

3.4 Text of Board Circular No.18/2015- Customs, dated 09.06.2015

Subject: Appointment of common adjudicating authority -regarding

Reference is invited to Notification No. 60/2015-Customs (N.T.), dated 04.06.2015 whereby the power to appoint common adjudicating authority in cases investigated by DRI upto the level of Commissioner of Customs have been delegated to Principal Director General of Directorate of Revenue Intelligence in terms of section 152 of the Customs Act, 1962. This notification was issued in the interest of expediting decision making with resultant benefits to both trade and revenue in terms of faster settlement of outstanding disputes. These appointments were done hitherto by the Central Board of Excise and Customs under sections 4 and 5 of the Customs Act 1962.

2. In the light of the aforementioned notification, all cases of appointment of common adjudicating authority in respect of cases investigated by DRI will be handled by Principal DG, DRI. In this regard, the Board has prescribed the following guidelines for Principal DG, DRI:

- (a) The following cases initiated by DRI shall be assigned to Additional Director General (Adjudication), DRI:
 - (i) Cases involving duty of Rs.5 crores and above;
 - (ii) Group of cases on identical issues involving aggregate duty of Rs.5 crores or more;
 - (iii) Cases involving seizure value of Rs.5 crores or more;
 - (iv) Cases of over-valuation irrespective of value involved; and
 - (v) Existing DRI cases with erstwhile Commissioner (Adjudication).

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- (b) Cases other than at (a) above involving more than one Customs Commissionerate would be assigned to the jurisdictional Commissioner of Customs on the basis of the maximum duty evaded;
- (c) Cases other than at (a) above involving a single Customs Commissionerate would be assigned to the jurisdictional Commissioner of Customs;
- (d) Non-DRI cases pending with erstwhile Commissioner (Adjudication) would be assigned to Additional Director General (Adjudication), DRI;
- (e) Past DRI cases pending for adjudication with jurisdictional Commissioners of Customs would continue with these officers;
- (f) Remand cases would be decided by the original adjudicating authority.

3. All other cases of appointment of common adjudicator i.e. other than the cases mentioned in paragraph 2 above would continue to be dealt by the Board. This would include cases made by Commissionerates or cases made by DRI wherein the adjudicating officer is an officer below the level of Additional Director General (Adjudication), DRI.

4. Board has also decided that all the pending cases where common adjudicating authorities have not been appointed so far or where the common adjudicating authorities have been appointed but adjudications have not been done should be disposed of expeditiously in terms of aforementioned guidelines. However, while doing so in regard to the latter category of cases, Principal DG, DRI will take into consideration the fact whether or not personal hearings have taken place and the stage of passing the adjudication order. This is to ensure that cases about to be finalized are not reallocated to another adjudicating authority thereby defeating the objective of expediting the finalization of disputes.

5. Difficulty faced, if any, may be brought to the notice of the Board at an early date.

3.5 Circular No.30/2015-Customs dated 04.12.2015 [Issued from F. No.450/145/2015-Cus. IV]

Subject: Amendment to Board Circular No. 18/2015-Cus dated 9.06.2015- regarding

Attention is invited to Notification No 60/2015-Customs (N.T.) dated 04.06.2015 as amended delegating powers to appoint Common adjudicating authority to the Principal DGRI or DG DRI under section 4 and section 5 of the Customs Act, 1962. Attention is also invited to Board Circular No. 18/2015 dated 09.06.2015 which lays down guidelines for appointment of common adjudicating authority.

2. DRI has pointed out difficulty being faced in implementing guidelines and accordingly has suggested suitable amendments. The matter has been examined in Board. Accordingly, it has been decided that the following cases investigated by DRI shall be assigned to Additional Director General (Adjudication), DRI:

- (i) Cases involving duty of Rs. 5 Crores and above;
 - (ii) Group of cases on identical issues involving aggregate duty of Rs. 5 crore and more;
 - (iii) Cases involving seizure value of Rs 25 Crore or more;
 - (iv) Cases involving wrong availment of export incentives where the export incentives wrongly availed is Rs 5 Crore or more;
 - (v) Group of case on identical issues involving wrong availment of export incentives aggregating to Rs 5 Crore or more;
 - (vi) Cases of overvaluation of import where overvaluation is Rs 25 Crore or more; and
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(vii) DRI case pending with erstwhile Commissioner (Adjudication).

3. In cases investigated by DRI other than in Para 2 above the basis of appointment of common adjudicating authority shall be maximum duty evaded/ export incentive wrongly availed / amount of overvaluation of cases.

4. In respect of non DRI cases, appointment of common adjudication authority shall continue to be made by Board under section 4 and section 5 of Customs Act. This will include:

(i) Cases made by Commissionerate;

(ii) Non DRI cases pending with erstwhile Commissioner (Adjudication).

5. The Board Circular No 18/2015- Customs dated 09.06.2015 stands modified to above extent.

6. The amended guidelines shall also apply mutatis mutandis for the cases falling under the jurisdiction of Additional Commissioner/ Joint Commissioner/ Deputy Commissioner/ Assistant Commissioner as reference to Commissioners is specifically mentioned in the guidelines.

7. Difficulty faced, if any, may be brought to the notice of the Board urgently.

Director (Customs)

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~ Part - II ~

Appointment of adjudicating authority in DGCEI cases.

4. Background

4.1 Under Rule 3 (2) of the Central Excise Rules, the Board may specify the jurisdiction of the Principal Chief Commissioner/Chief Commissioner /Principal Commissioner /Commissioner for the purpose of the Central Excise Act and Rules framed thereunder. This can be done by issuing a notification in the official Gazette in this regard.

4.2 Further, section 37 A also empowers the Central Government to delegate powers exercisable by Board to the Principal Chief Commissioner/Chief Commissioner/Principal Commissioner/Commissioner by issuing a notification. Such notification may be conditional or unconditional. Under the said Section 37A, the Central Government may make following delegation of powers as explained in table below:-

Table IV

Authority to exercise power under the Act	Authority to whom power may be delegated to
Central Board of Excise & Customs	Principal Chief /Chief Commissioner of Central Excise or Principal Commissioner/Commissioner of Central Excise
Principal Commissioner of Central Excise/Commissioner of Central Excise	Additional Commissioner of Central Excise Joint Commissioner of Central Excise Deputy Commissioner of Central Excise Assistant Commissioner of Central Excise
Additional Commissioner of Central Excise Joint Commissioner of Central Excise	Deputy Commissioner of Central Excise Assistant Commissioner of Central Excise
Deputy Commissioner of Central Excise Assistant Commissioner of Central Excise	Any Gazetted Officer of the Central Excise empowered in this behalf by Board

4.3 *Vide* notification No. 11/2007-CE (NT) issued under Section 37 A of the Central Excise Act, 1944, the Powers of the Board exercisable under sub-rule (2) of rule 3 of the Central Excise Rules, 2002, have been conferred on the Principal Chief Commissioner /Chief Commissioners of Central Excise so as to specify the jurisdiction of the principal Commissioner /Commissioner of Central Excise for the purposes of adjudication within his jurisdiction.

4.4 Further, vide notification No. 38/2001- C.E (N.T.), dated 26-6-2001, as amended from time to time, the officers of various ranks of Directorate General of Central Excise

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Intelligence have been appointed by the Board as the officers of Central Excise of the corresponding ranks to exercise all powers under the Central Excise Act, 1944 and rules made there under, throughout the territory of India.

4.5 The officers of DGCEI, as Central Excise Officers, issue show cause notices in cases investigated by them. By far, these Show Cause Notices were being adjudicated either by the field Commissioners or by the Commissioner (adjudication). Cases to be adjudicated by Commissioner (adjudication) were specified by the Board by issuing the orders in this regard.

4.6 Pursuant to the Cadre structuring and reorganization of CBEC, new posts in the rank of Principal Commissioners of Central Excise or Commissioners of Central Excise have been created in DGCEI, for various purposes including for adjudication of cases. Additional Director General (Adjudication) in DGCEI are now required to adjudicate cases where the show cause notices are issued by the officers of DGCEI. Further, the adjudication of DGCEI cases is also done by field Commissioners.

Changes w.e.f. 10.02.2015

4.7 Powers of the Board under sub-rule (2) of rule 3 of the Central Excise Rules, 2002, have been conferred on Principal Chief Commissioner /Chief Commissioners of Central Excise by notification No. 11/2007-C.E (N.T) dated 1.3.2007 to specify the jurisdiction of the Principal Commissioner /Commissioner of Central Excise for the purposes of adjudication within his jurisdiction. Director General of CEI has jurisdiction over the ADGs. Now, the jurisdiction of Director General has been extended over to Principal Commissioners/ Commissioners of Central Excise *vide* **Notification No.2/15-CE. (NT) dated 10.02.15** so that he may assign cases, where show cause notices have been issued by the officers of the DGCEI, for adjudication to the field Commissioners also.

4.8 The CBEC also issued instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI *vide* **Circular No. 994/01/2015-CX dated 10.02.2015 as amended vide Circular No.1000/7/2015-CX, dated 3.3.2015** wherein the guidelines to assign cases for adjudication amongst the Additional Director General (Adjudication) and the field Commissioners has been provided.

4.9 The above said Circulars prescribed following guidelines in DGCEI cases. ,

- (i) Cases including cases pertaining to the jurisdiction of multiple Commissionerates, where the duty involved is more than Rs 5 crore shall be adjudicated by the ADG (Adjudication). However in case of large pendency of cases or there being a vacancy in the rank of ADG (Adjudication), Director
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General, CEI may assign cases involving duty of more than Rs 5 crore to the field Commissioners following clauses (iv) and (v) of the guidelines.

- (ii) Director General, CEI may issue general orders assigning the show cause notices involving duty of more than Rs 5 crore issued by the specified Zonal Units and/or the DGCEI Headquarters to a particular ADG (Adjudication).
- (iii) Where ADG (Adjudication) is the adjudicating authority in one of the cases involving identical issue or common evidences, the Director General, CEI may assign all such cases to that ADG (Adjudication).
- (iv) Cases to be adjudicated by the executive Commissioner, when pertaining to jurisdiction of one executive Commissioner of Central Excise, shall be adjudicated by the said executive Commissioner of the Central Excise.
- (v) Cases to be adjudicated by the executive Commissioners, when pertaining to jurisdiction of multiple Commissionerates, shall be adjudicated by the Commissioner in whose jurisdiction, the noticee from whom the highest demand of duty has been made, falls. In these cases, an order shall be issued by the Director General, CEI exercising the powers of the Board, assigning appropriate jurisdiction to the executive Commissioner for the purposes of adjudication of the identified case.
- (vi) Show Cause Notices issued prior to 1.3. 2015 shall continue to be adjudicated by the Commissioner before whom the adjudication proceedings are continuing unless the Director General, CEI issues orders appointing a new adjudicating authority in terms of the guidelines above or where Board appoints a new adjudicating authority on the basis of proposal of DGCEI.
- (vii) Where DGCEI proposes appointment of an adjudicating authority not in conformity with the above guidelines, DGCEI shall forward such proposal to the Board.
- (viii) Cases to be adjudicated by the officers below the rank of Commissioner may be adjudicated only by the field officers in the executive Commissionerates and the above guidelines shall apply mutatis-mutandis.”

Cases where CBEC to appoint Adjudicating Authority (After 10.02.2015)

4.10 Now, where DGCEI proposes appointment of an adjudicating authority not in conformity with the above guidelines prescribed vide Board Circular No.994/01/2015-CX, dated 10.02.2015 as modified vide Circular dated 3.3.2015, the Director General, EI

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is required to forward such proposal to the Board for appointment of an adjudicating Authority.

5. Relevant Legal Provisions at a glance

Table V

Sl. No.	Relevant Sections/ Notifications/Circulars/ Instructions	Subject
1.	Section 37 A of the Central Excise Act, 1944	Enable central Government to delegate the power exercisable by CBEC or any officer of Central Excise to any other officer of Central Excise.
2.	Rule 3 of the Central Excise Rules, 2002	Provides for appointment and jurisdiction of Central Excise officers.
3.	Notification No. 2/15- CE. (NT) dated 10.02.15	Delegate the power of Board to the Principal Director General or Director General, DGCEI for assigning cases to field Commissionerates.
4.	Notification No. 11/2007-C.E (N.T) dated 1.3.2007	Delegation of power of Board to the Principal Chief Commissioner/Chief Commissioner of Central Excise to assign cases to officer within his jurisdiction.
5.	Circulars issued by CBEC	
5.1	Circular No. 994/01/2015-CX, dated 10.02.2015	Instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI
5.2	Circular No. 1000/7/2015-CX, dated 3.3.2015	Instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI
6.	Instruction F. No. 587 / CE/46/Pol/2012/Pt., dated 10.03.2015 issued by the Principal DG, DGCEI	Instruction regarding adjudication of Central Excise and Service Tax cases investigated by DGCEI

6. Text of relevant notification/Circulars/Instructions

6.1. Text of Section 37 A of the Central Excise Act, 1944

Section 37A-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 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*

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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.*

6.2 Text of Rule 3 of the Central Excise Rules, 2002

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 Chief Commissioner of Central Excise, Commissioner of Central Excise 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.

6.3 Text of Notification No.02/2015-CX(N.T.) dated 10.02.2015

G.S.R. (E).- In exercise of the powers conferred by rule 3 of the Central Excise Rules, 2002, the Central Board of Excise and Customs hereby specifies that the Principal Director General or the Director General of Central Excise Intelligence shall have jurisdiction as Principal Chief Commissioner or Chief Commissioner of Central Excise over the Principal Commissioners of Central Excise or the Commissioners of Central Excise, whose respective jurisdictions are specified in Table III(A) and III(B) of the notification No. 27/2014- Central Excise (N.T) dated the 16th September, 2014, published *vide* number G.S.R. 651(E), dated the 16th September, 2014, for exercising the powers of the Central Board of Excise and Customs and for the purposes of assigning the cases for adjudication of show cause notices, delegated *vide* notification number 11/2007-Central Excise (N.T) dated the 1st March, 2007, published *vide* number G.S.R. 151(E), dated the 1st March, 2007.

6.4 Text of notification No. 11/2007-CE (NT) dated 01.03.2007

G.S.R. (E).- In exercise of the powers conferred by section 37A of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby directs that the powers exercisable by the Central Board of Excise and Customs under the provisions of sub-rule(2) of rule 3 of the Central Excise Rules, 2002, shall also be exercised by the Principal Chief Commissioner/ Chief Commissioner of Central Excise for the purposes of adjudication of notices issued under the provisions of the said Act or the rules made thereunder within his jurisdiction. [F.No. 334/1/2007-TRU]

6.5 Text of Circular No. 994/01/2015-CX dated 10.02.2015

Sub: Instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI.

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Attention is invited to notification No. 38/2001 –CE (NT) dated 26.06.2001 as amended from time to time whereby the officers of various ranks of Directorate General of Central Excise Intelligence have been appointed by the Board as the officers of Central Excise of the corresponding ranks for exercise of all powers under the Central Excise Act, 1944 and rules made thereunder, throughout the territory of India.

2. Officers of DGCEI, as Central Excise Officers, issue show cause notices in cases investigated by them. These Show Cause Notices are adjudicated by either the field Commissioners or by the Commissioner (adjudication). Cases to be adjudicated by Commissioner (adjudication) were specified by the orders of the Board.

3. Pursuant to the Cadre structuring and reorganization of CBEC, new posts in the rank of Principal Commissioners of Central Excise or Commissioners of Central Excise have been created in DGCEI, for various purposes including for adjudication of cases. Additional Director General (Adjudication) in DGCEI shall adjudicate cases where the show cause notices are issued by the officers of DGCEI. The practice of adjudication of DGCEI cases by field Commissioners shall also continue.

4. Powers of the Board under sub-rule 2 of rule 3 of the Central Excise Rules, 2002, have been conferred on Chief Commissioners of Central Excise by notification no. 11/2007-C.E (N.T) dated 1-3-2007 to specify the jurisdiction of the Commissioner of Central Excise for the purposes of adjudication within his jurisdiction. Director General of CEI has jurisdiction over the ADGs. Now, the jurisdiction of Director General has been extended over to Principal Commissioners/Commissioners of Central Excise *vide* notification number 2/15 –C.E. (N.T) dated 10-02-15 so that he may assign cases, where show cause notices have been issued by the officers of the DGCEI, for adjudication to the field Commissioners also.

5. To assign cases for adjudication amongst the Additional Director General (Adjudication) and the field Commissioners following general guidelines shall be followed:-

- (i) All cases where the duty involved is more than Rs 5 crores shall be adjudicated by the ADG (Adjudication).
 - (ii) Cases to be adjudicated by the executive Commissioner, when pertaining to jurisdiction of one executive Commissioner of Central Excise, shall be adjudicated by the said executive Commissioner of the Central Excise.
 - (iii) Cases to be adjudicated by the executive Commissioner, when pertaining to jurisdiction of multiple Commissionerates, shall be adjudicated by the Commissioner in whose jurisdiction the notice from whom the highest demand of duty has been made falls. In these cases, an order shall be issued by the Director General, exercising the powers of the Board, assigning appropriate jurisdiction to the executive Commissioner for the purposes of adjudication of the identified case.
 - (iv) Where DGCEI proposes appointment of an adjudicating authority not in conformity with the above guidelines, DGCEI shall forward such proposal to the Board.
 - (v) Past cases pending adjudication shall be examined in the light of above guidelines and DGCEI shall take appropriate action such as assigning the cases to the appropriate adjudicating authority, issuing corrigendum to the show cause notices, appointing common adjudicating authority or forwarding proposal for appointment of the adjudicating authority by the Board as may be necessary.
 - (vi) Cases to be adjudicated by the officers below the rank of Commissioner shall be adjudicated only by the field officers in the executive Commissionerates and the above guidelines shall apply *mutatis-mutandis*.]
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6. Above guidelines shall also apply mutatis-mutandis to the Service Tax cases booked by DGCEI. Notification no. 2/15-Service Tax dt. 10-02-15 has been issued to provide necessary jurisdiction to the DG, CEI over the Principal Commissioners and Commissioners of Service Tax in this regard.

7. Difficulty, if any in implementing this circular may be brought to the notice of the Board. Hindi version shall follow.

[Note: Para 5 of the above Circular has been substituted by Circular No. 1000/7/2015-CX dated 03.03.2015]

6.6 Text of Circular No.1000/7/2015-CX dated 3.3.2015

Sub: Instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI-reg.

Attention is invited to Circular No. 994/01/2015 dated 10.02.2015 on the above subject. Reference has since been received from DGCEI regarding the difficulties in implementing the instructions. The issue has been examined and it has been decided to substitute paragraph 5 of the said Circular dated 10.02.2015 with the following paragraph -

“5. To assign cases for adjudication amongst the Additional Director General (Adjudication) and the field Commissioners, following general guidelines may be followed:-

(i) Cases including cases pertaining to the jurisdiction of multiple Commissionerates, where the duty involved is more than Rs 5 crore shall be adjudicated by the ADG (Adjudication). However in case of large pendency of cases or there being a vacancy in the rank of ADG (Adjudication), Director General, CEI may assign cases involving duty of more than Rs 5 crore to the field Commissioners following clauses (iv) and (v) of the guidelines.

(ii) Director General, CEI may issue general orders assigning the show cause notices involving duty of more than Rs 5 crore issued by the specified Zonal Units and/or the DGCEI Headquarters to a particular ADG (Adjudication).

(iii) Where ADG (Adjudication) is the adjudicating authority in one of the cases involving identical issue or common evidences, the Director General, CEI may assign all such cases to that ADG (Adjudication).

(iv) Cases to be adjudicated by the executive Commissioner, when pertaining to jurisdiction of one executive Commissioner of Central Excise, shall be adjudicated by the said executive Commissioner of the Central Excise.

(v) Cases to be adjudicated by the executive Commissioners, when pertaining to jurisdiction of multiple Commissionerates, shall be adjudicated by the Commissioner in whose jurisdiction, the noticee from whom the highest demand of duty has been made, falls. In these cases, an order shall be issued by the Director General, CEI exercising the powers of the Board, assigning appropriate jurisdiction to the executive Commissioner for the purposes of adjudication of the identified case.

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(vi) Show Cause Notices issued prior to 1st March, 2015 shall continue to be adjudicated by the Commissioner before whom the adjudication proceedings are continuing unless the Director General, CEI issues orders appointing a new adjudicating authority in terms of the guidelines above or where Board appoints a new adjudicating authority on the basis of proposal of DGCEI.

(vii) Where DGCEI proposes appointment of an adjudicating authority not in conformity with the above guidelines, DGCEI shall forward such proposal to the Board.

(viii) Cases to be adjudicated by the officers below the rank of Commissioner may be adjudicated only by the field officers in the executive Commissionerates and the above guidelines shall apply mutatis-mutandis.”

2. Difficulty, if any in implementing this circular may be brought to the notice of the Board. Hindi version shall follow.

6.7 Text of Instructions Issued by the DGCEI

6.7.1 Vide letter issued from F.No.587/CE/46/Pol/2012/Pt., dated 10.03.2015, DGCEI issued following instructions for adjudication of Central Excise and Service tax Cases investigated by DGCEI.

Subject: Instruction regarding adjudication of Central Excise and Service Tax cases investigated by DGCEI- reg.

Please refer to the CBEC's Circular No.994/01/2015 dated 10.02.2015 as amended by Circular No.1000/7/2015-CX dated 03.03.2015 on the above subject (hereinafter referred to as the amended Circular). In this regard, following instructions are being issued for proper implementation of the guidelines contained in this amended Circular:

2. **Show Cause Notices issued prior to 01.03.2015:** Such Show Cause Notices will continue to be adjudicated by the Commissioner before whom the adjudication proceedings are continuing. However, if any reallocation of any of such show cause notice is required, a comprehensive proposal in terms of the guidelines, contained in the amended Circular along with detailed justification may be sent to the Investigation Branch of the DGCEI Headquarters or examination and approval or otherwise by the Director General (CEI)

3. **Show Cause Notices issued on after 01.03.2015:** Considering the fact that at present only one ADG (Adjudication) has been posted at DGCEI, New Delhi, the following two tables (one in respect of Show Cause Notices involving duty/tax of more than Rs.5 Crore and the other table in respect of Show Cause Notices involving duty/tax uptoRs. 5 Crore) prescribe the adjudicating authority to whom such SCNs are required to be made answerable:

TABLE 1

SCNs involving duty/tax of more than Rs. 5 Crore

SCN issued or to be issued by	SCN pertaining to jurisdiction of	SCN to be made answerable to
DGCEI (Hdqrs)	Single Commissionerate	ADG (Adjudication), DGCEI, New Delhi.
Delhi Zonal Unit and Lucknow Zonal Unit	Multiple Commissionerates	

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Zonal Units of DGCEI other than Delhi and Lucknow Zonal Units	Single Commissionerate	Jurisdictional executive Principal Commissioner/Commissioner
	Multiple Commissionerate	<p>SCNs may be made initially answerable to the jurisdictional executive Principal Commissioners/Commissioner. After issuance of SCNs, a comprehensive proposal may be forwarded to the Investigation Branch of the DGCEI Headquarters for examination and approval or otherwise of the Director General (CEI) for appointing common adjudicating authority in terms of para 5(v) of the amended Circular.</p> <p>Subsequent to appointment of common adjudicating authority by DG (CEI), necessary action may be taken by the concerned Zonal Units for informing the notices about the new adjudicating authority by issue of suitable corrigendum.</p>

TABLE 2

SCNs involving duty/tax up to Rs.5 Crore

SCN issued or to be issued by	SCN pertaining to jurisdiction of	SCN to be made answerable to
DGCEI (Hqrs) and All Zonal Units of DGCEI	Single Commissionerate	Jurisdictional executive Principal Commissioner/Commissioner
	Multiple Commissionerate	<p>SCNs may be made initially answerable to the jurisdictional executive Principal Commissioners/Commissioner. After issuance of SCNs, a comprehensive proposal may be forwarded to the Investigation Branch of the DGCEI Headquarters for examination and approval or otherwise of the Director General (CEI) for appointing common adjudicating authority in terms of para 5(v) of the amended Circular.</p> <p>Subsequent to appointment of common adjudicating authority by DG (CEI), necessary action may be taken by the concerned DGCEI Headquarters/concerned Zonal Units for informing the notices about the new adjudicating authority by issue of suitable corrigendum.</p>

4. In respect of Show Cause Notices where it is felt necessary to assign case to ADG (Adjudication), DGCEI, New Delhi in terms of Para 5 (iii) of the amended circular on the ground that such show cause notices involve identical issue or common evidences, a comprehensive proposal may be sent to the investigation Branch of the DGCEI Headquarters after issue of SCNs made answerable to the jurisdictional executive Principal Commissioner/Commissioner for examination and approval or otherwise of the Director General (CEI) for assigning such cases to ADG (Adjudication) DGCEI, New Delhi for adjudication of such show cause notices.

5. In respect of the show cause notices, where it is felt necessary to appoint and adjudicating authority not in conformity with the guidelines, contained in the amended circular, a comprehensive

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proposal may be sent to the investigation Branch of the DGCI Headquarters for examination and taking up the matter with the Board or otherwise.

6. Difficulty, if any faced in the implementation of these instructions may be brought to the notice of the Policy Branch of the DGCEI Headquarters.

7. This issues with the approval of the Director General (CEI)

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~ Part-III ~

Appointment of Adjudicating Authority in Service Tax.

7. *Appointment of Adjudicating Authority in Service Tax*

7.1 *Vide* Section 83 of the Finance Act, 1994, the Provisions of Section 37A of the Central Excise Act, 1944 has been made applicable to service tax as they apply in relation to a duty of excise.

7.2 As per Rule 3 of the Service Tax Rules, 1994, “*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.*”

7.3 In exercise of the powers conferred by Rule 3 of the Service Tax Rules, 1994, read with notification No. 6/2009-Service Tax dated the 30.01.2009 and notification No. 22/2014-Service Tax, dated 16.09.2014, CBEC has issued notification **No. 2/15-Service Tax dated 10.02.2015 so as to provide necessary jurisdiction to the Director General of Central Excise Intelligence over the Principal Commissioners and Commissioners of Service Tax in this regard.**

7.4 Accordingly, in Para 6 of the Circular No. 994/01/2015-CX, dated 10.02.2015, it has been provided that the guidelines provided therein regarding adjudication of the cases booked by DGCEI shall also apply mutatis-mutandis to the Service Tax cases booked by DGCEI. Further, *vide* letter issued from F.No.587/CE/46/Pol/2012/Pt., dated 10.03.2015, DGCEI has issued detailed instructions for adjudication of Central Excise and Service tax Cases investigated by DGCEI.

8. *Relevant Legal Provisions at a Glance*

Table VI

Sl. No.	Sections/ Notifications / Circulars/Instructions	Subject
1.	Section 37 A of the Central Excise Act, 1944 [applicable to Service Tax also vide Section 83 of the Finance Act, 1994]	Enable central Government to delegate the power exercisable by CBEC or any officer of Central Excise to any other officer of Central Excise.
2.	Rule 3 of the Service Tax Rules, 1994	Provides for appointment of Officers.
3.	Notification No. 22/2014-	Appointment of officers of the DGCEI as Central Excise

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	Service Tax, dated 16.09.2014	Officers and invests them with all the powers of Chapter V of the Finance Act, 1994 and the rules made thereunder, throughout the territory of India as are exercisable by the Central Excise Officers of Corresponding rank.
4.	Notification No. 2/2015-Service Tax, dated 10.02.2015	Specifies that the Principal DG of DGCEI to have jurisdiction over the principal Commissioner of Service Tax/Central Excise or the principal Commissioner of Service Tax/Central Excise for the purpose of assigning SCN issued by DGCEI for adjudication.
5.	Board's Circular No. 994/01/2015-CX, dated 10.02.2015 as amended by Circular dated 3.3.2015	Instructions regarding adjudication of Central Excise and Service Tax Cases booked by DGCEI
6.	Instruction F.No.587/CE/46/Pol/2012/Pt., dated 10.03.2015 issued by the Principal DG, DGCEI	Instruction regarding adjudication of Central Excise and Service Tax cases investigated by DGCEI

9. Text of relevant rules/notifications

10.1 Text of Rule 3 of the Service Tax Rules, 1994

Rule 3. 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

10.2 Text of notification No. 22/2014-Service Tax, dated 16.09.2014

G.S.R(E).- In exercise of the powers conferred by clause (b) of section 2 of the Central Excise Act, 1944 (1 of 1944), read with clause (55) of section 65B of the Finance Act, 1994 (32 of 1994), rule 3 of the Central Excise Rules, 2002 and rule 3 of the Service Tax Rules, 1994 and in supercession of the notification No. 46/98-SERVICE TAX, dated the 28th January, 1998, published vide number G.S.R. 59(E), dated the 28th January, 1998 and No. 7/2004-CE, dated the 11th March, 2004, published vide number G.S.R 187(E), dated the 11th March, 2004, the Central Board of Excise and Customs hereby appoints the officers in the Directorate General of Audit, Directorate General of Central Excise Intelligence and Directorate General of Service Tax specified in column (2) of the Table below as Central Excise Officers and invests them with all the powers under Chapter V of the Finance Act, 1994 (32 of 1994) and the rules made there under, throughout the territory of India, as are exercisable by the Central Excise Officers of the corresponding rank as specified in column (3) of the said Table, namely:-

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TABLE

Sl. No.	Officers	Officers whose powers are to be exercised
(1)	(2)	(3)
1.	Principal Director General, Central Excise Intelligence or Principal Director General, Service Tax	Principal Chief Commissioner
2.	Director General, Audit	Chief Commissioner
3.	Principal Additional Director General, Central Excise Intelligence, Principal Additional Director General, Service Tax or Principal Additional Director General, Audit	Principal Commissioner
4.	Additional Director General, Central Excise Intelligence, Additional Director General, Service Tax or Additional Director General, Audit	Commissioner
5.	Additional Director, Central Excise Intelligence, Additional Director, Service Tax or Additional Director, Audit	Additional Commissioner
6.	Joint Director, Central Excise Intelligence, Joint Director, Service Tax or Joint Director, Audit	Joint Commissioner
7.	Deputy Director or Assistant Director, Central Excise Intelligence, Deputy Director or Assistant Director, Service Tax or Deputy Director or Assistant Director, Audit	Deputy Commissioner or Assistant Commissioner
8.	Senior Intelligence Officer, Central Excise Intelligence, Superintendent, Service Tax or Superintendent, Audit	Superintendent
9.	Intelligence Officer, Central Excise Intelligence, Inspector, Service Tax or Inspector, Audit	Inspector

2. This notification shall come into force on 15th October, 2014.

10.3 Text of Notification No.02/2015-Service Tax, dated 10.02.2015

G.S.R (E).- In exercise of the powers conferred by rule 3 of the Service Tax Rules, 1994, read with notification No. 6/2009-Service Tax dated the 30th January, 2009, published vide G.S.R. 60 (E) dated the 30th January, 2009 and notification No. 22/2014-Service Tax dated the 16th September, 2014, published vide G.S.R. 650 (E) dated the 16th September, 2014, the Central Board of Excise and Customs hereby specifies that the Principal Director General of Central Excise Intelligence shall 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 Central Excise 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.

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10. Relevant Websites for reference and further research

- (i) Website of **Central Board of Excise and Customs**(www.cbec.gov.in) for downloading the text of statutes, rules, notification and Circulars/instructions relating to Customs, Central Excise and Service tax.
- (ii) Website of **Directorate General of Revenue Intelligence**(www.dri.nic.in) for knowing more about the Directorate General of Revenue Intelligence.
- (iii) Website of **Directorate General of Central Excise Intelligence** (www.dgcei.nic.in) for knowing more about the Directorate General of Central Excise Intelligence.
- (iv) Website of NACEN, RTI, Kanpur (www.nacenkanpur.gov.in) for downloading free learning resources in the form of E-books on various topics of Customs, Central Excise and Service Tax.
