

CENTRAL EXCISE (APPEALS) RULES, 2001

[Notification No. 32/2001-C.E. (N.T.), dated 21.06.2001]

In exercise of the powers conferred by section 37 of the Central Excise Act, 1944 (1 of 1944), the Central Government hereby makes the following rules, namely:-

RULE 1. Short title, extent and commencement.— (1) These rules may be called the Central Excise (Appeals) Rules, 2001.

(2) They extend to the whole of India.

(3) They shall come into force on and from the 1st day of July, 2001.

RULE 2. Definitions.— In these rules, unless the context otherwise requires, -

(a) “Act” means the Central Excise Act, 1944 (1 of 1944);

(b) “Form” means a form appended to these rules;

(c) words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

RULE 3. Form of appeal to Commissioner (Appeals). — (1) An appeal under sub-section (1) of section 35 of the Act to the Commissioner (Appeals) shall be made in Form No. E.A.-1.

(2) The grounds of appeal and the form of verification as contained in Form No. E.A.-1. shall be signed, -

- a) in the case of an individual, by the individual himself or where the individual is absent from India, by the individual concerned or by any person duly authorised by him in this behalf; and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
- b) in the case of a Hindu undivided family, by the Karta and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;
- c) in the case of a company or local authority, by the principal officer thereof;
- d) in the case of a firm, by any partner thereof, not being a minor;
- e) in the case of any other association, by any member of the association or the principal officer thereof; and
- f) in the case of any other person, by that person or any person competent to act on his behalf.

(3) The form of appeal in Form No. E.A.-1 shall be filed in duplicate and shall be accompanied by a copy of the decision or order appealed against.

RULE 4. Form of application to the Commissioner (Appeals).— (1) An application under sub-section (4) of section 35E of the Act to the Commissioner (Appeals) shall be made in Form No. E.A.-2.

(2) The form of application in Form No. E.A.-2 shall be filed in duplicate and shall be accompanied by a certified copy of the decision or order passed by the adjudicating authority and a copy of the order passed by the Commissioner of Central Excise directing such authority to apply to the Commissioner (Appeals).

RULE 5. Production of additional evidence before Commissioner (Appeals). — (1) The appellant shall not be entitled to produce before the Commissioner (Appeals) any evidence, whether oral or documentary, other than

the evidence produced by him during the course of the proceedings before the adjudicating authority except in the following circumstances, namely :-

- a) where the adjudicating authority has refused to admit evidence which ought to have been admitted; or
- b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by adjudicating authority; or
- c) where the appellant was prevented by sufficient cause from producing, before the adjudicating authority any evidence which is relevant to any ground of appeal; or
- d) where the adjudicating authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the Commissioner (Appeals) records in writing the reasons for its admission.

(3) The Commissioner (Appeals) shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity, -

- a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or
- b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).

(4) Nothing contained in this rule shall affect the power of the Commissioner (Appeals) to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal.

RULE 6. Form of appeal, etc., to the Appellate Tribunal. — (1) An appeal under sub-section (1) of section 35B of the Act to the Appellate Tribunal shall be made in Form No. E.A.-3.

(2) A memorandum of cross-objections to the Appellate Tribunal under sub-section (4) of section 35B of the Act shall be made in Form No. E.A.-4.

(3) Where an appeal under sub-section (1) of section 35B of the Act or a memorandum of cross-objections under sub-section (4) of that section is made by any person other than the Commissioner of Central Excise, the grounds of appeal, the grounds of cross-objection and the forms of verification as contained in Form Nos. E.A-3 and E.A-4, as the case may be, respectively shall be signed by the person specified in sub-rule (2) of rule 3.

(4) The form of appeal in Form No. E.A.-3 and the form of memorandum of cross-objections in Form No. E.A.-4 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).

RULE 7. Form of application to the Appellate Tribunal. — (1) An application under sub-section (1) of section 35E of the Act to the Appellate Tribunal shall be made in Form No. E.A.-5.

(2) The form of application in Form No. E.A.-5 shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the decision or order passed by the Commissioner of Central Excise (one of which at least shall be a certified copy) and a copy of the order passed by the Board directing such Commissioner to apply to the Appellate Tribunal.

RULE 8. Form of application to the High Court. — (1) An application under sub-section (1) of section 35H of the Act requiring the High Court to direct the Appellate Tribunal to the High Court any question of law shall be made in Form No. E.A.-6 and such application shall be filed in quadruplicate.

(2) A memorandum of cross-objections under sub-section (3) of section 35H of the Act to the High Court shall be made in Form No. E.A.-7 and such memorandum shall be filed in quadruplicate.

(3) Where an application under sub-section (1) of section 35H of the Act or a memorandum of cross-objections under sub-section (3) of that section is made by any person other than the Commissioner of Central Excise, the application, the memorandum or form of verification, as the case may be, contained in Form No. E.A.-6 or Form No. E.A.-7 shall be signed by the person specified in sub-rule (2) or rule 3.

RULE 9. Form of revision application to the Central Government. — (1) A revision application under sub-section (3) of section 35EE of the Act to the Central Government shall be in Form No. E.A.-8.

(2) The grounds of revision application and the form of verification, as contained in Form E.A.-8, shall be signed by the person specified in sub-rule (2) of rule 3.

(3) Where the revision application is signed by the authorised representative of the applicant, the document authorising the representative to sign and appear on behalf of the applicant shall be appended to such revision application.

(4) The form of revision application in Form No. E.A.-8 shall be filed in duplicate and shall be accompanied by two copies of the following documents, namely:-

- i. order referred to in the first proviso to sub-section (1) of section 35B of the Act; and
- ii. decision or order passed by the Central Excise Officer, which was the subject matter of the order referred to in clause (i) of this sub-rule.

RULE 10. Procedure for filing revision application. — (1) The revision application in Form E.A.-8 shall be presented in person to the Under Secretary, Revision Application Unit, Government of India, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Sansad Marg, New Delhi-110 001, or sent by registered post to such officer.

(2) The revision application sent by registered post under sub-rule (1) shall be deemed to have been submitted to the said Under Secretary on the date on which it is received in the office of such officer.

RULE 11. Procedure for filing appeals etc. — (1) An appeal in Form No. E.A.-3 or a memorandum of cross-objections in Form No. E.A.-4 or Form No. E.A.-7 or an application in Form No. E.A.-5 or Form No. E.A.-6 shall be presented in person to the Registrar or an officer authorized in his behalf by the Registrar, or sent by registered post addressed to the Registrar or such officer.

(2) An appeal or a memorandum of cross-objections or an application sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar or to the officer authorized by the Registrar on the date on which it is received in the office of the Registrar, or, as the case may be, in the office of such officer.

RULE 12 . Qualifications for authorized representatives. --- For the purposes of clause (c) of sub-section (2) of section 35Q of the Act, an authorized representative shall include a person who has acquired any of the following qualifications namely:-

- a) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949); or
- b) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959); or
- c) a Company Secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980) who has obtained a certificate of practice under section 6 of that Act; or
- d) a post-graduate or an Honours degree holder in Commerce or a post-graduate degree or diploma holder in Business Administration from any recognised university; or

- e) a person formerly employed in the Department of Customs and Central Excise or Narcotics and has retired or resigned from such employment after having rendered service in any capacity in one or more of the said departments for not less than ten years in the aggregate.

Explanation. - In this rule “recognised University” means any of the Universities specified below, namely:-

- I. Indian Universities
- II. Rangoon University;
- III. English and Welsh Universities
The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Reading, Sheffield and Wales;
- IV. Scottish Universities
The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews;
- V. Irish Universities
The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin;
- VI. The Universities of Dublin (Trinity College), the Queen's University, Belfast and the National University of Dublin;
- VII. Bangladesh Universities
Any Bangladesh University incorporated by any law for the time being in force.

RULE 13. Authority under section 35Q(5)(b) of the Act. — The Commissioner of Central Excise having jurisdiction in the proceedings in which a person who is not a legal practitioner is found guilty of misconduct in connection with that proceeding under the Act shall be the authority for the purposes of clause (b) of sub-section (5) of section 35Q of the Act.

Appendix

Form No. EA-1

(see Rule 3)

Form of Appeal to the Commissioner (Appeals) under section 35 of the Act

1. No.of.....2001
2. Name and address of the appellant.
3. Designation and address of the officer passing the decision or order appealed against and the date of the decision or order.
4. Date of communication of the decision or order appealed against to the appellant.
5. Address to which notices may be sent to the appellant.
6. (i) Description and classification of goods
- (ii) Period of dispute
- (iii) Amount of duty, if any, demanded for the period mentioned in item (ii)
- (iv) Amount of refund if any claimed for the period mentioned in item (i)
- (v) Amount of fine imposed.
- (vi) Amount of penalty imposed
- (vii) Market value of seized goods.

7. Whether duty or penalty or both is deposited; if not whether any application for dispensing with such deposit has been made. (A copy of the challan under which the deposit is made shall be furnished).

8. Whether the appellant wishes to be heard in person?

9. Reliefs claimed in appeal.

Statement of facts

Grounds of appeal

Signature of the authorised

Representative, if any Signature of the applicant.

Verification

I.....the appellant,do hereby declare that what is stated above is true to the best of my information and belief.

verified today, theday of.....

Place.....

Date.....

Signature of the authorised.

Representative, if any. Signature of the appellant

Note.- (1) The grounds of appeal and the form of verification shall be signed by the appellant in accordance with the provisions of rule 3.

(2) The form of appeal including the statement of facts and the grounds of appeal shall be filed in duplicate and shall be accompanied by a copy of the decision or order appealed against.

Form No. E.A-2

(see Rule 4)

Form of Application to the Commissioner (Appeals) under sub-section (4) of section 35E of the Act

No.....of.....2001.....Applicant.

Vs

.....Respondent.

1. Designation and address of the applicant (If the applicant is not the adjudicating authority, a copy of the authorisation from the Commissioner of Central Excise to make the application should be enclosed).

2. Name and address of the respondent.

3. Designation and address of the officer passing the decision or order in respect of which this application is being made and the date of the decision or order.

4. Date on which order under sub-section (1) of section 35E has been passed by the Board.

5. Date of communication of the order referred to in (3) above in the adjudicating authority.

6. (i) Description and classification of goods

(ii) Period of dispute

(iii) Amount of duty, if any, demanded for the period mentioned in column (ii)

(iv) Amount of refund, if any, claimed for the period mentioned in column (ii)

(v) Amount of fine imposed

(vi) Amount of penalty imposed

(vii) Market value of seized goods.

6. Reliefs claimed in the application.

Statement of facts

Grounds of application

Signature of the applicant

Note.- The form of application including statement of facts and grounds of application shall be filed in duplicate and accompanied by two copies of the decision or order passed by the adjudicating authority (one of which at least shall be a certified copy) and a copy of the order of the Commissioner of Central Excise under sub-section (2) of section 35E of the Act.

Form No. E.A.-3

[See Rule 6]

Form of Appeal to Appellate Tribunal under section 35B of the Act

In the Customs, Excise and Gold (Control) Appellate Tribunal Appeal
No.....of.....2001.....Appellant.

Vs

.....Respondent.

1. The designation and address of the authority passing the order appealed against.
2. The number and date of the order appealed against.
3. Date of communication of a copy of the order appealed against.
4. State/Union territory and the Commissionerate in which the order/decision of assessment/penalty/fine was made.
5. Designation and address of the adjudicating authority in cases where the order appealed against is an order of the Commissioner (Appeals).
6. Address to which the notices may be sent to the appellant.
7. Address to which the notices may be sent to the respondent.
8. Whether the decision or order appealed against involves any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment or not; difference in duty or duty involved, or amount of fine or penalty involved or value of goods involved, as the case may be.
- 9 (i) Description and classification of goods
- (ii) Period of dispute
- (iii) Amount of duty, if any, demanded for the period mentioned in item (i)
- (iv) Amount of refund, if any, claimed for the period mentioned in item (ii)
- (v) Amount of fine imposed
- (vi) Amount of penalty imposed
- (vii) Market value of seized goods.
10. Whether duty or penalty is deposited; if not, whether any application for dispensing with such deposit has

been made. (A copy of the challan under which the deposit is made shall be furnished).

11 Whether the appellant wishes to be heard in person?

12. Reliefs claimed in appeal.

Statement of facts

Grounds of appeal

Signature of the authorised

Representative, if any. Signature of the Appellant

I,.....the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, theday of.....2001.....

Signature of the authorised

Representative, if any. Signature of the Appellant.

Notes.- (1) The grounds of appeal and the form of verification shall, if the appeal is made by any person, other than the Commissioner of Central Excise be signed by the appellant in accordance with Rule 3.

(2) The appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy).

(3) The form of appeal shall be in English (or Hindi) and should set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative and such grounds should be numbered consecutively.

(4) The fee of Rs. 200.00 required to be paid under the provisions of the Act shall be paid through a crossed bank draft drawn in favour of the Assistant Registrar of the Bench of the Tribunal on a branch of any nationalised bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

Form No.E.A.-4

[See Rule 6(2)]

Form of Memorandum of Cross-objections to the Appellate Tribunal under section 35B of the Act

In the Customs, Excise and Gold (Control) Appellate Tribunal Cross-objection No..... of 2001.....

In appeal No.....of 2001.....

.....Appellant

Vs

.....Respondent.

1. State/Union Territory and the Commissionerate in which the order/decision of assessment/penalty/fine was made.

2. Date of receipt of notice of appeal or application filed with the Appellate Tribunal by the appellant or as the case may be, the Commissioner of Central Excise.

3. Address to which notices may be sent to the respondent.

4. Address to which notices may be sent to the appellant/applicant.

5. Whether the decision or order appealed against involves any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment; if not, difference in duty or duty involved, or amount of fine or penalty involved or value of goods involved, as the case may be .

6. (i) Description and classification of goods
- (ii) Period of dispute
- (iii) Amount of duty, if any, demanded for the period mentioned in item (i)
- (iv) Amount of refund, if any, claimed for the period mentioned in item (i)
- (v) Amount of fine imposed
- (vi) Amount of penalty imposed
- (vii) Market value of seized goods.

6. Reliefs claimed in the memorandum of cross-objections

Grounds of Cross-objections

Signature of the authorised

Representative, if any. Signature of the Respondent.

Verification

I,.....the respondent, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, the.....day of.....2001.....

Signature of the authorised

Representative, if any. Signature of the Respondent.

Notes.- (1) The grounds of cross-objections and the form of verification shall be signed by the respondent in accordance with the provisions of Rule 3.

(2) The form of memorandum of corss-objections shall be filed in quadruplicate.

(3) The form of memorandum of cross-objections should be in English or Hindi and should set forth, concisely and under distinct heads the ground of the cross-objections without any argument or narrative and such grounds should be numbered consecutively.

(4) The number and year of appeal/application as allotted by the office of the Appellate Tribunal and appearing in the notice of appeal/application received by the respondent is to be filled in by the respondent.

Form No. E.A.-5

[See Rule 7]

Form of Application to Appellate Tribunal under sub-section (1) of section 35B of the Act

In the Customs, Excise and Gold (Control) Appellate Tribunal Appeal No.....of...2001.

.....Applicant

Vs.

.....Respondent.

1. Designation and address of the applicant (If the applicant is not the adjudicating authority, a copy of the authorisation from the Commissioner of Central Excise to make the application should be enclosed).
2. Name and address of the respondent.
3. Designation and address of the officer passing the decision or order in respect of which this application is being made and the date of the decision or order.
4. State/Union Territory and the Commissionerate in which the decision or order was made.
5. Date on which order under sub-section (1) of section 35E of the Act has been passed by the Board.
6. Date of communication of the order referred to in (3) above to the adjudicating authority.
7. Whether the decision or order appealed against involves any question having a relation to the rate of duty or excise or to the value of goods for purposes of assessment; if not, difference in duty or duty involved, or amount

of fine or penalty involved or value of goods involved, as the case may be.

8. (i) Description and classification of goods

(ii) Period of dispute

(iii) Amount of duty, if any, demanded for the period mentioned in column (i)

(iv) Amount of refund, if any, claimed for the period mentioned in column (i)

(v) Amount of fine imposed

(vi) Amount of penalty imposed

(vii) Market value of seized goods.

9. Relief claimed in the application.

Statement of facts

Grounds of application

Signature of the authorised

representative, if any. Signature of the applicant.

Note.- The form of application including the statement of facts and grounds of application shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the decision or order passed by the Commissioner of Central Excise (one of which at least shall be a certified copy) and a copy of the order passed by the Board under sub-section (1) of section 35E of the Act.

Form No. E.A.-6

[See Rule 8 (1)]

Form of Application to the High Court under sub-section (1) of section 35H of the Act

In the High Court of Judicature at

In the matter of Appeal No. (Name of the appellant)

Application No.....of.....2001

(To be filled in by the Office)

.....Applicant.

Vs.

.....Respondent.

1. State or Union Territory and the Commissionerate from which the application is filed:

2. Number of the appeal which gives rise to the reference:

3. Address to which notices may be sent to the applicant:

4. Address to which notices may be sent to the respondent:

5. The appeal noted above was decided by theBench of the Appellate Tribunal on:

6. The notice of the order under section 35C of the Act was served on the applicant on:

7. The facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case are stated in the enclosure for ready reference:

8. The following questions of law arise out of the order of the Appellate Tribunal:

9. The applicant, therefore, requires under sub-section (1) of section 35H of the Act that the High Court directs the Appellate Tribunal to refer to the High Court the question of law referred to in paragraph 8 above.

10. The documents or copies thereof specified below (the translation in English of the documents, where necessary) are annexed with the statement of the case.

Signature of the authorised Signature of the applicant.

representative, if any.

Verification

I,.....the applicant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, the.....day of.....2001.....

Signature of the authorised
representative, if any. Signature of the applicant.

Notes.- (1) The application and the form of verification shall, if the application is made by any person, other than the Commissioner of Customs, be signed by the applicant in accordance with the provisions of Rule 3.

(2) The application shall be filed in quadruplicate.

(3) The fee of Rs. 200/- required to be paid under the provisions of the Act shall be through a crossed bank draft drawn in favor of the Registrar of the High Court on a branch of any nationalised bank located at the place where the High Court is situated and the demand draft shall be attached to the form of application.

Form No. E.A.-7
[See Rule 8(2)]

Form of Memorandum of Cross-Objections under sub-section (3) of section 35H of the Act in the matter of an application before the High Court under sub-section (1) of section 35 H of the Act

In the High Court of Judicature at
Memorandum of Cross-Objections No.....of.....2001.....
(To be filled in by the office)
In Application No.....of.....2001.....
.....Applicant.
Vs.
.....Respondent.

1. State or Union Territory and the Commissionerate from which the memorandum of cross-objection is filed:
2. Date of receipt of application filed with the High Court by the respondent:
3. Address to which notices may be sent to the respondent
4. Address to which notices may be sent to the applicant:
5. The facts which are admitted and/or found by the Appellate Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference:
6. The following questions of law arise out of the order of the Appellate Tribunal:
7. The respondent, therefore, requires under sub-section (1) of section 35H of the Act that the Tribunal may be directed to furnish a statement of the case on the questions of law referred to in paragraph 6 above.
8. That the documents or copies thereof as specified below (the translation in English of the documents where necessary) is annexed with the statement of case.

Signature of the authorised
representative, if any. Signature of the applicant.
Verification

I,.....the respondent, do hereby declare tht what is stated above is true to the best of my
information and belief.

Verified today, the.....day of.....2001.....

Signature of the authorised
representative, if any. Signature of the applicant.

Notes.- (1) The form of memorandum of cross-objection and the form of certification shall, if the memorandum is filed by any person, other than the Commissioner of Central Excise be signed in accordance with the provisions of Rule 3.

(2) The memorandum of cross-objection shall be filed in quadruplicate.

Form No. E.A.-8
[See Rule 9]
Form of revision application to the Central Government under section 35EE of the Act

Revision application No.....of.....2001.....

1. Name and address of the applicant:
2. Address of the Commissioner (Appeals) passing the order against which the revision application is filed:
3. The number and date of the order:
4. Date of communication of the order:
5. Designation and address of the adjudicating authority against which the order has been passed by the Commissioner (Appeals):
6. Address to which notices/communications may be sent to the applicant:
7. Whether the appellant wishes to be heard in person.
8. (i) Description of classification of goods
(ii) Period of dispute
(iii) Amount of duty, if any, demanded for the period mentioned in item (ii)
(iv) Amount of refund, if any, claimed for the period mentioned in item (ii)
(v) Amount of fine imposed
(vi) Amount of penalty imposed
(vii) Market value of seized goods.
9. Whether duty or penalty, if any, has been deposited (a copy/extract of the challan/account-current, as the case may be, under which the deposit is made, shall be furnished):
10. Relief claimed in application:
Statement of facts
Grounds of application

Signature of the authorised
representative, if any. Signature of the applicant.

Verification

I,.....the applicant, do hereby declare that what is stated above is true to the best of my information and belief.

Verified today, the.....day of.....2001.....

Signature of the authorised
representative, if any. Signature of the applicant.

Notes.- (1) The grounds of application and the form of verification shall be signed by the person specified in sub-rule (2) of Rule 3.

(2) Where the application is signed by the authorised representative of the applicant, the document authorising the representative to sign and appear on behalf of the applicant shall be appended to the application.

(3) The application, including the statement of facts and the grounds of application shall be filed in duplicate and shall be accompanied by an equal number of copies of the order against which the application is filed and also the decision/order of the adjudicating authority against which Commissioner (Appeals) passed the order.

(4) The form of application shall be in English (or Hindi) and should set forth concisely and under distinct head grounds of application without any argument or narration and such grounds should be numbered consecutively.

(5) The fee of Rs. 200.00 required to be paid under the provisions of the Act shall be paid under T.R. 6 challan and the duplicate copy of the T.R. 6 challan shall be filed along with the application for revision.