

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 4.	113. In section 4 of the Customs Act, 1962 (hereinafter referred to as the Customs Act),—	52 of 1962.
	(i) in sub-section (1), for the words “Central Government”, the word “Board” shall be substituted;	5
	(ii) in sub-section (2), for the words “Central Government may authorise the Board,”, the words “Board may authorise a Chief Commissioner of Customs or” shall be substituted.	
Amendment of section 14.	114. In section 14 of the Customs Act,—	
	(i) in sub-section (1), for the portion beginning with the words “international trade” and ending with the words “offer for sale”, the following shall be substituted, namely:—	10
	“international trade, where—	
	(a) the seller and the buyer have no interest in the business of each other; or	
	(b) one of them has no interest in the business of the other,	
	and the price is the sole consideration for the sale or offer for sale”;	
	(ii) in sub-section (2), for the words “Central Government”, the word “Board” shall be substituted;	15
	(iii) in sub-section (3),—	
	(a) in clause (a), for the words “Central Government”, wherever they occur, the word “Board” shall be substituted;	
	(b) for clause (b), the following clause shall be substituted, namely:—	
	“(b) “foreign currency” and “Indian currency” have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999;”.	20
		42 of 1999.
Amendment of section 25.	115. In section 25 of the Customs Act,—	
	(a) after sub-section (2), the following sub-section shall be inserted, namely:—	
	“(2A) The Central Government may, if it considers it necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification in the Official Gazette at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.”;	25
	(b) in sub-section (4), after the word, brackets and figure “sub-section (1)”, the words, brackets, figure and letter “or sub-section (2A)” shall be inserted.	30
Amendment of section 28AA.	116. In section 28AA of the Customs Act, in sub-section (1), for the words “eighteen per cent.”, the words “ten per cent.” shall be substituted.	
Amendment of section 28AB.	117. In section 28AB of the Customs Act, in sub-section (1), for the words “eighteen per cent.”, the words “ten per cent.” shall be substituted.	35
Amendment of section 28-I.	118. In section 28-I of the Customs Act, in sub-section (2), in the first proviso, the words “except in the case of a resident applicant” shall be omitted.	
Amendment of section 47.	119. In section 47 of the Customs Act, in sub-section (2),—	
	(i) for the words “two days”, the words “five days” shall be substituted;	40
	(ii) for the words “eighteen per cent.”, the words “ten per cent.” shall be substituted.	
Amendment of section 61.	120. In section 61 of the Customs Act, in sub-section (1), in the first proviso, for clause (i), the following clause shall be substituted, namely:—	
	“(i) in the case of any goods which are not likely to deteriorate, the period specified in clause (a) or clause (b) may, on sufficient cause being shown, be extended—	45
	(A) in the case of such goods intended for use in any hundred per cent. export oriented undertaking, by the Commissioner of Customs, for such period as he may deem fit; and	
	(B) in any other case, by the Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit.”.	

121. In section 129B of the Customs Act,—

Amendment of
section 129B.

(i) in sub-section (2), for the words “four years”, the words “six months” shall be substituted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed:

Provided that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 129A, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:

Provided further that if such appeal is not disposed of within the period specified in the first proviso, the stay order shall, on the expiry of that period, stand vacated.”.

122. In section 129D of the Customs Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of
section 129D.

“(3) The Board or the Commissioner of Customs, as the case may be, shall, where it is possible to do so, make order under sub-section (1) or sub-section (2), within a period of six months, but not beyond a period of one year, from the date of the decision or order of the adjudicating authority.”.

Customs Tariff

51 of 1975.

123. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), after section 8B, the following section shall be inserted, namely:—

Insertion of new
section 8C.

‘8C. (1) Notwithstanding anything contained in section 8B, if the Central Government, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India, from the People’s Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to domestic industry, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article:

Power of Central
Government to
impose transitional
product specific
safeguard duty
on imports from
the People’s
Republic of China.

Provided that the Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from People’s Republic of China into India, from payment of the whole or part of the safeguard duty leviable thereon.

(2) The Central Government may, pending the determination under sub-section (1), impose a provisional safeguard duty under this sub-section on the basis of a preliminary determination that increased imports have caused or threatened to cause market disruption to a domestic industry:

Provided that where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause market disruption to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation.—For the purposes of this section, the expressions “hundred per cent. export-oriented undertaking”, “free trade zone” and “special economic zone” shall have the meanings respectively assigned to them in *Explanation 2* to sub-section (1) of section 3 of the Central Excise Act, 1944.

1 of 1944.

(4) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(5) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that such article continues to be imported into India, from People’s Republic of China, in such increased quantities so as to cause or threatening to cause market disruption to domestic industry and the safeguard duty should continue to be imposed, it may extend the period of such imposition for a period not beyond the period of ten years from the date on which the safeguard duty was first imposed.

(6) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the

manner in which the causes of market disruption or causes of threat of market disruption in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(7) For the purposes of this section,—

(a) “domestic industry” means the producers—

(i) as a whole of a like article or a directly competitive article in India; or 5

(ii) whose collective output of a like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;

(b) “market disruption” shall be caused whenever imports of a like article or a directly competitive article produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry; 10

(c) “threat of market disruption” means a clear and imminent danger of market disruption.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.’.

Refund of additional duty of customs in certain cases.

124. (1) Notwithstanding anything contained in section 25 of the Customs Act, barge mounted power plants, falling under heading 98.01 of the First Schedule to the Customs Tariff Act, shall be deemed to have been exempted from the whole of the additional duty of customs leviable thereon under sub-section (1) of section 3 of the Customs Tariff Act, within the period commencing from the 8th December, 2000 and ending with the 28th February, 2002 (both the dates inclusive) and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, barge mounted power plants shall be deemed to be, and always to have been, exempted from the said additional duty of customs as if the exemption given by this sub-section had been in force at all material times. 15 20

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to exempt the goods referred to in the said sub-section with retrospective effect as if the Central Government had the power to exempt the said goods under sub-section (1) of section 25 of the Customs Act, retrospectively at all material times. 25

(3) Refund shall be made of all such additional duty of customs which have been collected but which would have not been so collected if the exemption referred to in sub-section (1) had been in force at all material times.

(4) Notwithstanding anything contained in section 27 of the Customs Act, an application for the claim of refund of the additional duty of customs under sub-section (3) shall be made within six months from the date on which the Finance Bill, 2002 receives the assent of the President. 30

Amendment of First Schedule.

125. In the Customs Tariff Act, the First Schedule shall be amended in the manner as specified in the Second Schedule.