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Write Up on
Monetary Limits for Different
Adjudicating Authorities

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Introduction

The CBEC by issuing Circulars / Instructions has prescribed monetary limits, normally in terms of amount of duty involved, for different adjudicating authorities for the purpose of issuance and Adjudication of Show Cause Notices. For the purpose of convenience of departmental officers, the instructions/Circulars on the subject matter have been summarized in this write up.

Under Central Excise Act, 1944

2. *Vide* Circular No.752/68/2003-CX 1st October, 2003, as amended vide Circular No.865/3/2008-CX,dated 19/2/2008; Circular No. 922/12/2010-CX, dated 18/5/2010 and last amended vide Circular No. 957/18/2011-CX-3, dated 25/10/2011, the Government revised the power of Adjudication of Central Excise Officers and prescribed monetary limits under Section 33 and Section 11A of the Central Excise Act, 1944. The monetary limits prescribed are as under:-

- (i) uniform monetary limits for adjudication of Central Excise Cases under Section 11A and/or Section 33 of the Central Excise Act, 1944, whether or not the cases involve fraud, collusion or any willful mis-statement or suppression of facts, or contravention of any of the provisions of the Act or of the rules made there-under with intent to evade payment of duty and whether or not extended period has been involved.
- (ii) Prescribe monetary limits for adjudication of show cause notices relating to classification and valuation of excisable goods to different categories of officers. Prior to this circular, Deputy/Assistant Commissioners were competent to adjudicate show-cause notices relating to determination of classification and valuation without any monetary limit of the amount of duty involved.
- (iii) Prescribe monetary limits for adjudication of show cause notices relating to CENVAT Credit cases for different categories of officers. Prior to this Circular

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Deputy/Assistant Commissioners are competent to adjudicate show cause notices relating to CENVAT credit without any monetary limit of the amount of credit involved.

3. The Board has prescribed that the powers of adjudication and determination of duty shall be exercised, based on monetary limit (duty involved in a case) as under:-

A. All cases involving fraud, collusion, any wilful mis-statement, suppression of facts or contravention of Central Excise Act/ Rules with an intent to evade duty and/ or where extended period has been invoked in show cause notices (including classification and valuation of excisable goods and CENVAT credit cases) will be adjudicated as follows:-

Central Excise Officers	Powers of Adjudication (Amount of duty involved)
Superintendents	Upto Rs. 1 Lakh (excluding cases involving determination of rate of duty or valuation and cases involving extended period of limitation)
Deputy/Assistant Commissioners	upto Rs. 5 Lakh (except the cases where Superintendents are empowered to adjudicate).
Joint Commissioners/ Additional Commissioners	Above Rs.5 lakhs and up to Rs.50 lakhs
Commissioners	Without limit

B. Cases which do not fall under the Category (A) above including all cases relating to determination of classification and valuation of excisable goods and CENVAT credit will be adjudicated as follows:

Central Excise Officers	Powers of Adjudication (Amount of duty involved)
Superintendents	Upto Rs. 1 Lakh (excluding cases involving determination of rate of duty or valuation and cases involving extended period of limitation)

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Deputy/Assistant Commissioners	Upto Rs. 5 Lakh (except the cases where Superintendents are empowered to adjudicate).
Joint Commissioners / Additional Commissioner	Above Rs.5 lakhs and up to Rs.50 lakhs
Commissioners	Without limit

C. Cases related to issues mentioned under first proviso to Section 35B (1) of Central Excise Act, 1944 would be **adjudicated by the Additional/ Joint Commissioners without any monetary limit.**

4. Further, it has been clarified that in view of the above modifications, all cases including cases relating to determination of classification and valuation and cases pertaining to CENVAT credit whether or not involving fraud, collusion, wilful mis-statement, suppression of fact or contravention of Central Excise Act/ Rules with intent to evade duty and/ or where extended period has been invoked will be treated uniformly and the prescribed monetary limit is applicable to all cases for the purpose of adjudication.

5. Regarding the power of adjudication of cases given to Superintendents, it has been prescribed that :

- They would be eligible to decide cases involving duty and/or CENVAT credit upto Rs. 1 Lakh in individual SCNs.
- They would not be eligible to decide cases which involve excisability of a product, classification, eligibility of exemption, valuation and cases involving suppression of facts, fraud etc..
- They would be eligible to decide cases involving wrong availment of CENVAT credit upto a monetary limit of upto Rs. 1 Lakh.
- They would be eligible to decide Show Cause Notice proposing only imposition of penalty under Rule 26 and 27 of the Central Excise Rules, 2002 or Rule 15 and 15A of the CENVAT Credit Rules, 2004.”

6. In case different show cause notices have been issued on the same issue answerable to different adjudicating authorities, attention is invited to CBEC’s Circular

No.362/78/97-CX dated 9.12.97, whereby it has been clarified that all the show cause notices involving the same issue will be adjudicated by the adjudicating authority competent to decide the cases involving the highest amount of duty.

7. The value of goods/conveyance liable to confiscation will not alter the above powers of adjudication, which shall solely depend upon the amount of duty/ CENVAT credit involved in the offending goods.

8. Regarding issue of show cause notices, it has been clarified that in respect of all cases, whether or not fraud, collusion, willful mis-statement, suppression of fact or contravention of Central Excise Act/ Rules with intent to evade duty and/ or where extended period has been invoked i.e. cases falling under any category (A), (B) or (C) above, the show cause notice shall be approved in writing and signed by the officer competent to adjudicate the said show cause notice.

Under Customs Act, 1962

9. The Board, *Vide* Circular No. 23/2009-Customs, dated 1.9.2009 as amended vide Circular No. 24/2011-Customs, dated 31/5/2011 reviewed the monetary limits prescribed for adjudication of cases and decided as under:-

A. cases where SCNs are issued under section 28 of the Customs Act, 1962, these will be adjudicated as per following norms:

Level of Adjudication officer	Nature of cases	Amount of duty involved
Commissioner	All cases	Without limit
ADC/JC	All Cases	Upto Rs.50 lakhs
AC/DC	All cases	Upto Rs. 5 lakhs

B. The proper officer for the issuance of Show Cause Notice and adjudication of cases under the **provisions of Rule 16 of the Customs, Central Excise and Service**

Tax Drawback Rules, 1995 shall, henceforth, be as under:

(i) In case of simple demand of erroneously paid **drawback**, the present practice of issuing Show Cause Notice and adjudication of case without any limit by Assistant / Deputy Commissioner of Customs shall continue.

(ii) In cases involving collusion, wilful misstatement or suppression of facts etc., the adjudication powers will be as under:

Level of Adjudication Officer	Amount of Drawback
Additional / Joint Commissioner of Customs	Without any limit
Deputy / Assistant Commissioner of Customs	Upto Rs.5 lakhs

C. In case of Export Promotion Schemes i.e. DEPB / Advance Authorization / DFIA / Reward Schemes etc. the adjudication powers shall be as under:-

Level of Adjudication officer	Duty Incentive amount
Commissioner of Customs.	Without any limit.
Additional / Joint Commissioner of Customs.	Upto Rs.50 lakhs.
Deputy / Assistant Commissioner of Customs.	Upto Rs.5 lakhs.

D. In the case of **Baggage**, the Additional Commissioner or Joint Commissioner shall continue to adjudicate the cases without limit, since such cases are covered by the offences under Chapter XIV and it is necessary to expeditiously dispose of the cases in respect of passengers at the airport.

E. In other cases, such as short landing, drawback etc., the adjudication powers shall be continue to the same as provided under the Customs Act, 1962 or the Rules /Regulations made thereunder.

10. As per definition under section 2 (8) of the Customs Act, 1962, Commissioner of

Customs includes an Additional Commissioner of Customs except for the purpose of appeal and revision. Therefore, respective Commissioners may review the status of cases pending for adjudication, which fall within the powers of Commissioners only, and depending on the workload may consider allocating some of these cases to Additional Commissioners working under their charge to ensure speedier disposal. An appeal against the Order-In-Original passed by an Additional Commissioner shall lie before Commissioner of Customs (Appeal) and not before the CESTAT.

11. In so far as the issuance of Show Cause Notice for demand of duty under Section 28 is concerned, the same can be issued by the respective adjudicating officers depending upon the powers of adjudication.

Under Finance Act, 1994 For Service Tax): Adjudication of Service Tax cases

12. The Board *vide* Circular No. 80/1/2005–ST dated 10.05.2005 and Circular No. 97/8/2007-ST, dated 23/8/2007 as amended *vide* Circular No. 99/2/2008-ST, dated 11/3/2008 and **Circular No. 130/12/2010 – ST, dated 20.09.2010** has prescribed adjudication powers of officers.

13. Section 73 of the Act deals with adjudication of cases of short-levy or non-levy of service tax or service tax short paid or not paid or erroneously refunded. For quick settlement of disputes, this section prescribes that (i) in other cases involving fraud, collusions, wilful misstatement and suppression of facts etc., the dispute could be settled by making payment of the service tax amount specified in the notice along with interest and penalty equal to 25% of service tax amount, within thirty days of issue of show cause notice; (ii) and in any other case, the person chargeable to service tax, or to whom service tax has been erroneously refunded, may make payment *suo moto* along with interest, as applicable, and, consequently no Show Cause Notice will be served in respect of the amount so paid.

14. The revised monetary limits for the purpose of adjudication under section 73 are as specified as below,-

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Table

Sr. No.	Central Excise Officer	Amount of Service Tax or CENVAT credit specified in a notice for the purpose of adjudication.
(1)	(2)	(3)
(1)	Superintendent of Central Excise	Not exceeding Rs. one lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)
(2)	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. five lakhs (except cases where Superintendents are empowered to adjudicate.)
(3)	Joint Commissioner of Central Excise	Above Rs. five lakhs but not exceeding Rs. fifty lakhs
(4)	Additional Commissioner of Central Excise	Above Rs. twenty lakhs but not exceeding Rs. fifty lakhs
(5)	Commissioner of Central Excise	Without limit.

15. Section 83A confers powers on the Central Excise Officer for adjudging a penalty under the provisions of the said Act or the rules made there under. Board has specified monetary limits for adjudication of cases under section 83A of the said Act *vide* notification No. 30/2005- Service Tax dated 10th August, 2005 as amended *vide* notification No. 16/2008-ST, dated 11/3/2008, and 48/2010-ST, dated 8/9/2010. The revised monetary limits are as follows:

Sr. No.	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under Section 83A
(1)	(2)	(3)
(1)	(2)	(3)

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(1)	Superintendent Central Excise	of	Not exceeding Rs. one lakh (excluding the cases relating to taxability of services or valuation of services and cases involving extended period of limitation.)
(2)	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise		Not exceeding Rs. five lakhs (except cases where Superintendents are empowered to adjudicate.)
(3)	Joint Commissioner of Central Excise		Above Rs. five lakhs but not exceeding Rs. fifty lakhs
(4)	Additional Commissioner Central Excise	of	Above Rs. twenty lakhs but not exceeding Rs. fifty lakhs
(5)	Commissioner Central Excise	of	Without limit.

16. In respect of the above powers of adjudication conferred on the Superintendents, it has been clarified as under,-

- (i) The Superintendents would be competent to decide cases that involve Service Tax and / or CENVAT credit upto Rs. one lakh in individual show cause notices.
- (ii) They would not be competent to decide cases that involve taxability of services, valuation of services, eligibility of exemption and cases involving suppression of facts, fraud, collusion, willful mis-statement etc.
- (iii) They would be competent to decide cases involving wrong availment of CENVAT credit upto a monetary limit of Rs. one lakh.
- (iv) The jurisdictional Commissioners of Central Excise may redistribute the pending cases in the Commissionerate based on above factors. It is further clarified that notwithstanding this revision, in all cases, where the personal hearing has already been completed, orders will be passed by the officer

before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

17. The monetary limits specified in the above tables for adjudication of service tax cases are irrespective of whether or not such cases involve fraud, collusion, wilful mis-statement, suppression of facts or contravention of any of the provisions of the Act or the rules made thereunder with an intent to evade payment of service tax and whether or not extended period has been invoked. Cases not involving non-payment of service tax or mis-utilization of CENVAT credit are to be adjudicated by the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.

18. Where different cases involving the same issue are due to be adjudicated in a Commissionerate, all such cases may be adjudicated by the Central Excise Officer competent to decide the case where the service tax or CENVAT credit involved is of the highest amount.

19. For cases where the appellate authority remands the case for de-novo adjudication, specifically mentioning the authority that has to adjudicate the case, then such authority specified in the said appellate order should adjudicate such cases. Where the appellate authority does not specifically mention any adjudicating authority, it should be decided by the authority competent in terms of the monetary limits mentioned above.

20. Central Board of Excise & Customs (CBEC) has directed that in respect of demands for an amount upto one thousand rupees towards short payment/non-payment of service tax, if the service provider, on the default being pointed out, pays the service tax along with interest within a period of one month of the default in payment, the penalty should be waived, taking recourse to the provisions under section 80 of the

Act. In other cases, i.e. where amount of service tax involved is over Rs one thousand, penal action prescribed under sections 76, 77 and 79 would be attracted.

Note:

To see full text of Board's Circular and Notifications mentioned above, website of Central Board of Excise and Customs: www.cbec.gov.in may kindly be referred.