

THE CENTRAL EXCISE ACT, 1944

[Act No. 1 of 1944]

An Act to consolidate and amend the law relating to Central Duties of Excise

[24th February, 1944]

CHAPTER III

POWERS AND DUTIES OF OFFICERS AND LANDHOLDERS

SECTION 12E. Powers of Central Excise Officers. — (1) A Central Excise Officer may exercise the powers and discharge the duties conferred or imposed under this Act on any other Central Excise Officer who is subordinate to him.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner of Central Excise (Appeals) shall not exercise the powers and discharge the duties conferred or imposed on a Central Excise Officer other than those specified in section 14 or Chapter VIA.

SECTION 12F. Power of search and seizure.— (1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure, shall, so far as may be, apply to search and seizure under this section as they apply to search and seizure under that Code.

SECTION 13. Power to arrest. —

(1) Any Central Excise Officer not below the rank of Inspector of Central Excise may, with prior approval of the Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder.

SECTION 14. Power to summon persons to give evidence and produce documents in inquiries under this Act. —

(1) Any Central Excise Officer duly empowered by the Central Government in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under Sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a “judicial proceeding” within the meaning of Section 193 and Section 228 of the Indian Penal Code, 1860 (45 of 1860).

SECTION 14A. Special audit in certain cases. —

(1) If at any stage of enquiry, investigation or any other proceedings before him, any Central Excise Officer not below the rank of an Assistant Commissioner of Central Excise, or Deputy Commissioner of Central Excise having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person, he may, with the previous approval of the Chief Commissioner of Central Excise, direct such manufacturer or such person to get the accounts of his factory, office, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a cost accountant or Chartered accountant, nominated by the Chief Commissioner of Central Excise in this behalf.

(2) The cost accountant or Chartered accountant, so nominated shall, within the period specified by the Central Excise Officer, submit a report of such audit duly signed and certified by him to the said Central Excise Officer mentioning therein such other particulars as may be specified:

Provided that the Central Excise Officer may, on an application made to him in this behalf by the manufacturer or the person and for any material and sufficient reason, extend the said period by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (1) is received by the manufacturer or the person.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the manufacturer or person aforesaid have been audited under any other law for the time being in force or otherwise.

(4) Omitted

(5) The manufacturer or the person shall be given an opportunity of being heard in respect of any material gathered on the basis of audit under sub-section (1) and proposed to be utilised in any proceedings under this Act or rules made thereunder.

Explanation. 1 - For the purpose of this section, “cost accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of Section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959).

Explanation.2 – For the purpose of this section, “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949).

SECTION 14AA. Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc. —

(1) If the Commissioner of Central Excise has reason to believe that the credit of duty availed of or utilised under the rules made under this Act by a manufacturer of any excisable goods -

(a) is not within the normal limits having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate;

(b) has been availed of or utilised by reason of fraud, collusion or any wilful mis-statement or suppression of facts, he may direct such manufacturer to get the accounts of his factory, office, depot, distributor or any other place, as may be specified by him, audited by a cost accountant or Chartered accountant nominated by him.

(2) The cost accountant or Chartered accountant so nominated shall, within the period specified by the Commissioner of Central Excise, submit a report of such audit duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the said manufacturer aforesaid have been audited under any other law for the time being in force or otherwise.

(4) Omitted

(5) The manufacturer shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding under this Act or rules made thereunder.

Explanation- 1 — For the purpose of this section, “cost accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959).]

Explanation.2 – For the purpose of this section, “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949).

SECTION 15. Officers required to assist Central Excise Officers.— All officers of Police and Customs and all officers of Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the Central Excise Officers in the execution of this Act.

SECTION 16. Omitted

SECTION 17. Omitted

SECTION 18. Searches and arrests how to be made. — All searches made under this Act or any rules made thereunder and all arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating respectively to searches and arrests made under that Code.

SECTION 19. Disposal of persons arrested. — Every person arrested under this Act shall be forwarded without delay to the nearest Central Excise Officer empowered to send persons so arrested to a Magistrate, or, if there is no such Central Excise Officer within a reasonable distance, to the officer-in-charge of the nearest police station.

SECTION 20. Procedure to be followed by officer-in-charge of police station.— The officer-in-charge of a police station to whom any person is forwarded under section 19 shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

SECTION 21. Inquiry how to be made by Central Excise Officers against arrested persons forwarded to them under section 19. —

(1) When any person is forwarded under section 19 to a Central Excise Officer empowered to send persons so arrested to a Magistrate, the Central Excise Officer shall proceed to enquire into the charge against him.

(2) For this purpose the Central Excise Officer may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898), when investigating a cognizable case:

Provided that —

(a) if the Central Excise Officer is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

(b) if it appears to the Central Excise Officer that there is not sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the Central Excise Officer may direct, to appear, if and when so required, before the Magistrate having jurisdiction, and shall make a full report of all the particulars of the case to his official superior.

SECTION 22. Vexatious search, seizure, etc., by Central Excise Officer. — Any Central Excise or other officer exercising powers under this Act or under the rules made thereunder who —

- a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place;
- b) vexatiously and unnecessarily detains, searches or arrests any person;
- c) vexatiously and unnecessarily seizes the movable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;
- d) commits, as such officer, any other act to the injury of any person, without having reason to believe that such act is required for the execution of his duty;

shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

SECTION 23. Failure of Central Excise Officer in duty. — Any Central Excise Officer who ceases or refuses to perform or withdraws himself from the duties of his office, unless he has obtained the express written permission of the Commissioner of Central Excise, or has given to his superior officer two months' notice in writing of his intention or has other lawful excuse, shall on conviction before a Magistrate be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three months' pay, or with both.