

F. No.450/72/2021-Cus. IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)

Room No.227B, North Block,
New Delhi, dated 31st of March, 2022.

To,

Principal Chief Commissioners/ Chief Commissioners of Customs/ Customs (Preventive)
Principal Chief Commissioners/ Chief Commissioners of Customs & Central Tax
Principal Director Generals/ Director Generals under CBIC
Principal Commissioners/ Commissioners of Customs/ Customs (Preventive)
Principal Commissioners/ Commissioners of Customs & Central Tax
(All under CBIC)

Madam/Sir,

Subject: Changes in the Customs Act, 1962 vide Sections 86, 87, 88 and 94 of the Finance Act, 2022 (enacted on 30.03.2022) and notifications related thereto with reference to appointment of officers of customs and assignment of functions - reg.

Kind reference is invited to the above subject.

2. Changes have been made in sub-section (34) of section 2 of the Customs Act, more classes of officers of customs have been specified in section 3, new sub-sections (1A), (1B), (4) and (5) inserted under Section 5, and a new section 110AA inserted relating to action subsequent to inquiry, investigation or audit which applies in specified situations. For reference purposes, extract from the Memorandum explaining the provisions in the Finance Bill, 2022, is reproduced below:

Amendments in the Customs Act, 1962	Extract from Explanatory Memorandum
2(34)	This section is being modified to specifically state that assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 of the Customs Act, 1962.
3	Being amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs.

Amendments in the Customs Act, 1962	Extract from Explanatory Memorandum
5 (1A) & 5 (1B)	Sub-section (1A) and (1B) have been inserted in section 5 of the Act to explicitly provide power of assignment of function to officers of customs by the Board or as the case may be, by the Principal Commissioner of Customs or Commissioner of Customs. This amendment has been necessitated to correct the infirmity observed by the Courts in recent judgments that the Act required explicit provision conferring powers for assignment of function to officers of Customs as proper officers for the purposes of the Act, besides the definition clause (34) in section 2 of the Customs Act.
5 (4)	Sub-section (4) to section 5 is being inserted to delineate the criteria which the Board may adopt while imposing limitations or conditions under sub-section (1) or while assigning functions under sub-section (1A) to the officer of Customs. For instance, one of the limitations/conditions that the Board currently imposes on officers of customs is that they are required to operate within a specified territorial jurisdiction. However, with the launch of faceless assessments and other trade facilitation initiatives wherein, for instance, a need is felt for the development of industry-specific expertise in assessments the Board may need to confine jurisdiction to certain goods or class of goods.
5 (5)	Sub-section (5) to section 5 is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions (for example in the case of faceless assessment)
110AA	Section 110AA is being inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation, audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation, audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like reassessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose.

3. Consequent to enactment of the Finance Act, 2022, following notifications are issued by the Board.

Sr.	Notification No. and date	Purpose in brief	Clarification
1.	21/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level of Commissioner of Customs and below till AC/DC for respective area of jurisdiction.	There is no change in the area of jurisdiction.
2.	22/2022 Cus (NT) dt 31.03.2022	To appoint officers at the level of Commissioner of	Commissioner shall assign functions in terms of section 5(1B).

Sr.	Notification No. and date	Purpose in brief	Clarification
		Customs and below till AC/DC for the purposes of carrying out audit under section 99A of Customs Act.	
3.	23/2022 Cus. (NT) dt 31.03.2022	To appoint Commissioner (Adjudication), Delhi and Mumbai for the purposes of adjudicating cases assigned to them by the Board.	The posts of ADG (Adjudication), DRI in Delhi and Mumbai are being re-designated and officers being placed in the area of jurisdiction of Chief Commissioner of Customs, Delhi and Mumbai, respectively.
4.	24/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level of Chief Commissioner of Customs for the areas falling within the jurisdiction of specified Commissioners.	There is no change in the area of jurisdiction except as specified at sr.3 above.
5.	25/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level Principal Director General and below till AD/DD of Revenue Intelligence.	The jurisdiction is all over India.
6.	26/2022 Cus. (NT) dt 31.03.2022	To assign functions under various sections of Customs Act to various officers of customs.	Commissioner level officer shall assign function in terms of section 5 (1B).
7.	27/2022 Cus. (NT) dt 31.03.2022	To appoint officers and assign functions relating to Faceless Assessment	Circular / Instruction issued relating to Faceless Assessment continue.
8.	28/2022 Cus. (NT) dt 31.03.2022	For assigning proper officer in case of multiple jurisdictions in terms of section 110AA of Customs Act.	Such proper officers have been invested with enabling powers including issuing the notice and, unless otherwise specified, adjudication including confiscation.
9.	29/2022 Cus. (NT) dt 31.03.2022	To specify and assign adjudication functions for disposal of pending notices	This is specified in light of Section 97 of the Finance Act, 2022.
10.	30/2022 Cus. (NT) dt 31.03.2022	To provide for section 124 functions to be performed by certain officers in relation to particular types of cases	A limitation / condition has been specified. Where entry under the Act and assessment is already made, but case falls outside the purview of section 110AA by virtue of there being no differential duty involved, after causing inquiry or investigation the report along with documents would be transferred to the officer specified in

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			the notification for further required action, for the purposes of section 124.

4. Previous circulars/instructions stand modified to the above extent. Suitable action(s) should be initiated/taken immediately in the light of above changes/provisions of law, and the Customs Act, 1962. Difficulties, if any in implementation be brought to the notice of Board.

5. Hindi Version follows.

Yours faithfully,



(Ananth Rathakrishnan)

Deputy Secretary to the Government of India

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