

SERVICE TAX (FINANCE ACT, 1994)

83. Application of certain provisions of Act 1 of 1944 – The provisions of the following section of the Central Excise Act, 1944, as in force from time to time, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise: -

9C, 9D, 11B, 11BB, 11C, 12 12A, 12B. 12C, 12D, 12E, 14, [14AA]*, 15, 33A, 35F to 35O (both inclusive), 35Q, 36, 36A, 36B, 37A, 37B, 37C, 37D, [38A]* and 40.

86. Appeals to Appellate Tribunal –(1) Any assessee aggrieved by an order passed by a Commissioner of Central Excise under section 73 or section 83A or section 84, or an order passed by a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order.

[(1A) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter.
(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.]*

(2) The [Committee of Chief Commissioners of Central Excise]* may, if it objects to any order passed by the Commissioner of Central Excise under section 73 or section 83A or section 84, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

(2A) The [Committee of Commissioners]* may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on his behalf to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) or sub-section (2A) shall be filed within three months of the date on which the order sought to be appealed against is received by the assessee, the [Committee of Chief Commissioners or the Committee of Commissioners]* as the case may be.

(4) The Commissioner of Central Excise or any Central Excise Officer subordinate to him or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)] by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be

disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

- (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, —
- (a) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
 - (b) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;
 - (c) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no fee shall be payable in the case of an appeal referred to in sub-section (2) or sub-section (2A) or a memorandum of cross-objections referred to in sub-section (4).

- (6A) Every application made before the Appellate Tribunal, —
- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
 - (b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees :

Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be under this sub-section.”

- (7) Subject to the provisions of this Chapter, in hearing the appeal and making orders under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercise and follows in hearing the appeals and making orders under the Central Excise Act, 1944 (1 of 1944).