

F.NO.208/13/2000-CX.6
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 30th MAY 2000

Subject: Show cause notice -Section 11A of CEA, 1944 (as amended by Finance Act, 2000) - guidelines for issue.

It is directed to refer to amendments made in section 11A relating to issue of notices, providing for approval of Chief Commissioners and Commissioners, as the case may be. The provisions are reproduced below:

"Provided further that where the amount of duty which has not been levied or paid or has been short levied or short paid or erroneously refunded is one crore of rupees or less a notice under this sub-section shall be served by the Commissioner of Central Excise or with his approval by any officer subordinate to him:

Provided also that where the amount of duty which has not been levied or paid or has been short levied or short paid or erroneously refunded is more than one crore or rupees, no notice under this sub-section shall be served without the prior approval of the chief commissioner of central Excise". 2. At the outset it is seen that a large proportion of Show-cause notices are issued as a result of Central Excise Revenue (CERA) Audit or Internal audit objections. Use should be made of the meetings with Director (Audit) in respect of CERA objections and the meetings of Audit Board in respect of Internal Audit objections, to keep such objections to unavoidable minimum, i.e. only those which can be sustained.

3. In regard to the new provisions the Board has decided to issue the following further guidelines.

1. The draft Show Cause Notice should be submitted to the Office of the Chief Commissioner or the Commissioner, as the case may be, at least 3 months in advance from the last date. Since the limitation period has been extended to one year, there will be sufficient time for investigation, scrutiny of returns or other documents, examination of audit objection etc. This will facilitate proper scrutiny and application of mind in the office of Chief Commissioners and the Commissioners. It should be impressed upon the field formations to adhere to the time frame. However, this period may be relaxed by the concerned Chief Commissioners or Commissioners in genuine cases.
2. Since all SCNs will necessarily come to Headquarters of Commissionerates, there may be a Centralized system of allotment of SCN numbers, indicating a running serial number, concerned Range and the year. A register should be updated on monthly basis. It should comprise columns for status on adjudication, appeals and recovery. This register will reflect success rate of cases booked/demand issued in a Commissionerate.
3. The Divisional/Range Offices will maintain their records, namely,-335J Register, Register of Unconfirmed Demands and the Register of Confirmed demands as usual.
4. It is advised that the Chief Commissioners and the Commissioners quickly examine any draft notice, including the implications of any judgement of Tribunal/Court, existing instructions of the Board etc. and call the concerned officers for discussion, to determine the reasonableness of a demand. The concerned Chief Commissioners and the Commissioners may determine the exact modality of convening such meeting.

4. In view of the new provisions, Board's Circular 299/15/97-CX dated 27.2.1997 (as modified earlier) is partially modified to the extent that paragraphs 5.1 to 5.3 stand omitted. Paragraph 7 also stands partially modified, mutatis mutandis. Other instructions of the said Circular shall remain the same.

5. The new provisions and the aforementioned guidelines will also be applicable, by implication, to the Show-cause notices which are issued by the Officers of the directorate General of Anti-Evasion. Accordingly, the Board's Circular 373/06/98-CX dated 20.11.1998 stands modified, mutatis mutandis.