

F. No.437/143/2009-Cus.IV(pt)

**Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs**

229 A, North Block
New Delhi, dated 15th April, 2011.

Subject: Adjudication of appraising related Show Cause Notices- regarding.

Attention is invited to Hon'ble Supreme Court order in Civil Appeals Nos. 4294-4295 of 2002 alongwith C.A. Nos. 4603-4604 of 2005. As per the said Hon'ble Supreme Court order, only such Customs officer who has been assigned the specific functions of assessment and re-assessment of duty in the jurisdictional area where the import concerned has been effected, by either the Board or the Commissioner of Customs, in terms of Section 2 (34) of the Act is competent to issue notice under section 28 of the Act. The Supreme Court in its judgement has also observed that these judgements shall not preclude the revenue from initiating any proceedings against the importers for recovery of duty and other charges payable in respect of subject goods, if permissible under the Act.

2. In view of Hon'ble Supreme Court order, while other alternative measures are being considered to address the matter, it has been decided by the Board that henceforth all Show Cause Notices under Section 28 of the Customs Act, 1962 in respect of cases investigated DRI/Customs Preventive formations are required to be issued by jurisdictional Commissioners from where imports have taken place. Board also desires the field formations to examine the pending show cause notices and wherever the cases are not hit by limitation, show cause notices may be got issued afresh by jurisdictional Commissionerates in supersession of the earlier show cause notices and in the light of the Hon'ble Supreme Court judgement in the matter.

3. As for the cases which would be hit by limitation if notices are issued afresh now, necessary legal options are being explored.

4. Difficulty faced, if any, may be brought to notice of the Board.

Yours faithfully,

**(G. S. Sinha),
OSD (Customs IV)**