

INSTRUCTION
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi 3rd June, 2013

Sub:- Reduction of Government litigation - providing monetary limits for filing appeals by the Department before CESTAT/High Courts and Supreme court - Regarding

I am directed to refer to Instruction of even number dated 17.8.2011 on the captioned subject.

Reference has been received regarding the application of the threshold limit prescribed vide Instruction ibid to cases where either redemption fine alone is in dispute or both redemption fine and penalty are in dispute. For example, in one case the Tribunal confirmed the duty but set aside the penalty of Rs. 5 lakhs and redemption fine of Rs. 15 lakhs imposed by the adjudicating authority. As the Instruction ibid did not specifically mention about redemption fine a clarification has been sought whether the word "penalty" mentioned in para 2 of the Instruction ibid would include redemption fine or otherwise.

The matter has been examined. Redemption fine is an option in the hand of the owner of goods to redeem goods confiscated by the department for violation of any provisions of the Customs Act. On the other hand, penalty is imposed on any person who violates the provisions of the Customs Act while importing or exporting the goods out of India. Therefore, the nature and scope of penalty is different from that of the redemption fine. While penalty is in persona, redemption fine is on goods. However, both redemption fine and penalty are imposed for violations of the statutory provisions. Therefore, even though redemption fine cannot be said to be covered under the word 'penalty' the treatment given to both redemption fine and penalty is required to be identical and hence, redemption fine and penalty would need to be clubbed to decide the applicability of threshold limit prescribed.

Accordingly, it is clarified that if the imposition of redemption fine alone is the subject matter of dispute, and if such redemption fine exceeds the monetary limits prescribed, then the matter could be litigated further in Courts and Tribunal. Further, if both the amount of redemption fine and penalty are in dispute and if such redemption fine and penalty is in dispute, taken together, exceed the prescribed monetary limit then the matter should be litigated further.

Instruction ibid stands suitably modified.

This issues with the approval of Chairperson (CBEC).

No.390/Misc./163/2010-JC

(Sunil K. Sinha)
Director (JC)