

CIRCULAR NO

922/12/2010-CX., Dated: May 18, 2010

Subject: Power of adjudication of Central Excise Officers- instructions - reg.

Please refer to Circular No. 752/68/2003-CX dated 01.10.'03 amended by Circular No. 865/3/2008-CX dated 19 th February 2008 on the above subject. At present adjudication powers in Central Excise cases have been delegated upto the level of Assistant Commissioners only, and Superintendents are not vested with any authority to adjudicate cases. The Board has decided to confer the power of adjudication on Superintendents for cases involving duty upto Rs. 1 Lakh in a show cause notice, except in respect of issues involving rate of duty and valuation or where extended period of limitation has been involved. Accordingly, under the provisions of Section 11A and 33 of the Central Excise Act, 1944, the following further amendments are made to the Circular 752/68/2003-CX dated 1st October 2003, as amended.

I. In Part B of para 2.1 of the Circular, the following row shall be inserted .:

Central Excise Officers	Power of adjudication (Amount of duty involved)
Superintendents	Upto Rs. 1 Lakh (<i>excluding cases involving determination of rate of duty or valuation and cases involving extended period of limitation</i>)

II. Consequently, the monetary limits of adjudication for the Assistant Commissioner/Deputy Commissioner would stand revised/amended in the said tables as follows:

Central Excise Officers	Power of adjudication (Amount of duty involved)
Deputy/Assistant Commissioners	Upto Rs. 5 Lakh (<i>except the cases where Superintendents are empowered to adjudicate</i>).

III . After Para 4 of the said Circular, a new Para 4A shall be inserted as given below:

"4A Regarding the power of adjudication of cases given to Superintendents , the following aspects are clarified:

I. They would be eligible to decide cases involving duty and/or CENVAT credit upto Rs. 1 Lakh in individual SCNs.

II. They would not be eligible to decide cases which involve excisability of a product, classification, eligibility of exemption, valuation and cases involving suppression of facts, fraud etc..

III. They would be eligible to decide cases involving wrong availment of CENVAT credit upto a monetary limit of upto Rs. 1 Lakh .

IV. They would be eligible to decide Show Cause Notice proposing only imposition of penalty under Rule 26 and 27 of the Central Excise Rules, 2002 or Rule 15 and 15A of the CENVAT Credit Rules, 2004.”

2. The jurisdictional Commissioners of Central Excise may redistribute the pending cases in the Commissionerate based on the above factors. It is further clarified that notwithstanding this revision, in all cases, where the personal hearing has already been completed, orders will be passed by the officer before whom the hearing has been held. Such orders should normally be issued within a month of the date of completion of the personal hearing.

3. It may also be noted that the age-wise pendency of cases as shown in MTR would be reflected based on the date of issuance of Show Cause Notice, and not on the basis of transfer of cases to the new Adjudicating Authority. The jurisdictional Commissioners should ensure that the work regarding re-allocation of pending cases, issuance of corrigendum to the Show Cause Notices, transfer of relevant files and records, etc., should be completed within a month. A compliance report in this regard should be sent by the Commissioner to the zonal Chief Commissioner, who in turn, should submit a report to the Board by 1.6.2010, certifying that all the work regarding re-allocation of cases has been completed.

4. Field formations **and trade** may be informed suitably.

5. Receipt of the Circular may please be acknowledged.

6. Hindi version will follow.

F.No . 208/2/2009-CX-6

**(Sushil Solanki)
Commissioner (CX**