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DRI and Budget 2022

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The Directorate of Revenue Intelligence (DRI) is a working agency of the Central Board of Indirect Taxes & Customs, falling under the Ministry of Finance of the Government of India. Over the years, the role and objectives of DRI have been to put curbs on smuggling activities, as well as to, prevent the revenue loss of the Government of India incurred by illegal commercial activities within the territory of the country. But whether the DRI has the power to issue Show Cause Notices as required under the tax provisions for invoking legal propositions against the Noticee or the Assessee? Whether they have the adjudicating power and fall under the purview of “proper officers” as per the provision of Section 28 of the Customs Act, 1962? In this paper, we are going to analyse these conflicting questions based on the various judgements of Hon’ble Courts and the legal provisions as well as the changes brought up by the Finance Budget, 2022.

Keywords: *DRI, proper officers, adjudicating power, customs act.*

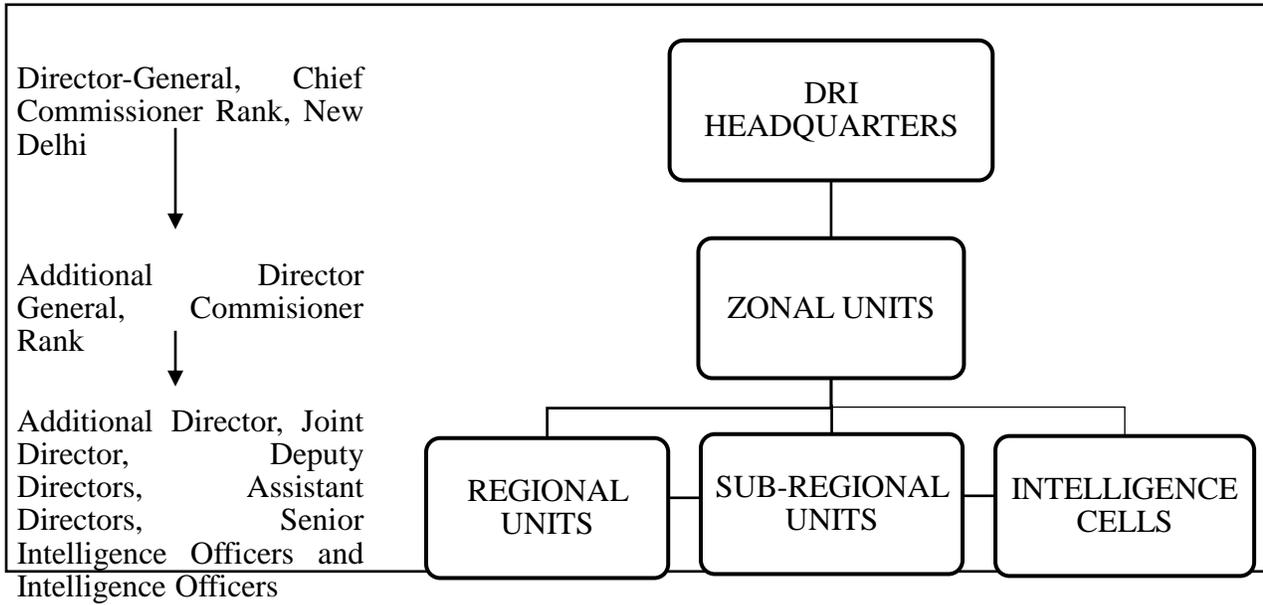
INTRODUCTION

The DRI can be categorically understood as an apex anti-smuggling agency of India, working under the Central Board of Indirect Taxes & Customs, Ministry of Finance, Government of India. It is tasked with detecting and curbing smuggling of contraband, including drug trafficking and illicit international trade in wildlife and environmentally sensitive items, as well as combating commercial frauds related to international trade and evasion of Customs

duty. It can be very well understood that the DRI working as an intelligence agency combat smuggling activities and commercial frauds. In a summary form, one can understand DRI as an anti-smuggling intelligence, investigations, and operation agency. These operations are carried out by officers who are appointed for various posts at their Zonal Units spread across the Indian territory including the Indian Embassies situated abroad forming a part of the Customs Overseas Intelligence Network.

BRIEF HISTORY

The formation of the DRI may be sketched out in the year 1953 when the Central Revenue Intelligence Board (CRIB) was construed. CRIB was responsible for dealing with the matters linked with anti-smuggling and anti-corruption under the Central Board of Indirect Taxes & Customs (CBIC), earlier familiar be known as the Central Board of Excise & Customs (CBEC). CRIB used to be a Unit comprising of an Assistant collector and two Superintendents dealing with the above-mentioned tasks present throughout the territory. That's how DRI was formed on 4th December 1957 exclusively dealing with smuggling and corrupt practices of evading customs duty. Since its formation, this elite agency has been successfully focused on customs offences such as under-invoicing, smuggling of foreign currency, gold and precious stones like diamonds, narcotic drugs, arms and ammunition, retrieving black money, and so on. The Structure of DRI has evolved over the period and now is divided into seven zones headed by the Director-General situated in New Delhi. Its main structure and rank of officers can be understood from the given below chart:



POWER TO ISSUE SHOW CAUSE NOTICE BY “PROPER OFFICERS”:

The power to issue Show Cause Notice as required under the provisions of the tax laws is a quasi-judiciary function wherein such show cause notices are issued to the taxpayers so that the respective taxpayer can file its legal reply and put forward its arguments against the provisions invoked against him by the authorities. In the Customs Act, 1962¹, the power to such show cause notices has been authorized to the “proper officers”. But as amended by Notification No. 43/2019-Customs (N.T.) dated 18.06.2019 by CBIC, Department of Revenue under the Ministry of Finance through the mentioned notification, the CBIC assigned the designation of the “Proper Officers” to the below-mentioned officers to fulfill the motive behind Section 28 and 124² of the Customs Act, 1962: -

- Additional Director Generals, Additional Directors or Joint Directors, Deputy Directors or Assistant Directors in the Directorate General of Revenue Intelligence.

¹ Customs Act, 1962

² Customs Act, 1962, s 28 and 124

- Commissioners of Customs (Preventive), Additional Commissioners or Joint Commissioners of Customs (Preventive), Deputy Commissioners, or Assistant Commissioners of Customs (Preventive).
- Additional Director Generals, Additional Directors or Joint Directors, Deputy Directors or Assistant Directors in the Directorate General of Central Excise Intelligence.
- Commissioners of Central Excise, Additional commissioners or Joint Commissioners of Central Excise, Deputy Commissioners or Assistant Commissioners of Central Excise.
- Deputy Commissioner or Assistant Commissioner of Customs and Central Excise.

Therefore, it may be understood here that the recovery power has been duly vested upon the proper officers within and as per the provisions of the Customs Act, 1962. This provision as amended through the Notification No. 43/2019-Customs (N.T.) dated 18.06.2019 has been a base for controversy and a long battle between the Noticee/Appellant and the Department of DRI which has been reflected in a catena of judgments passed by Hon'ble Courts questing the power of the DRI to issue Show Cause Notice and power to adjudicate leading with the case decided by the three Judges Bench of Supreme Court of India in the matter of M/s. Canon India Private Limited Versus Commissioner of Customs.³

JUDGMENTS & POWER OF DRI TO ISSUE SHOW CAUSE NOTICE

It can be noticed that the DRI and the Preventive Commissionerate are suffering a factual crisis, based on judicial explanations. In 1999, to outcast doubt that whether the officers of DRI can issue show cause notice for the cases investigated by them, the CBEC (now CBIC) in its Circular No. 4/1999 Cus. Dt.15.02.1999 clarified that they can issue show cause notices but the adjudication would be undertaken by the jurisdictional customs officers. The Hon'ble Supreme Court in the case of Commissioner of Customs vs Syed Ali⁴ decided on 18.02.2011 discussed

³ Ms. Canon India Private Limited v Commissioner of Customs (2021)

⁴ Commissioner of Customs v Syed Ali (2011)

the arousing conflict that whether the Commissioner of Customs (Preventive) may be termed as "proper officer" as defined in Section 2 (34)⁵ of the Customs Act, 1962, to issue show cause notice under Section 28⁶ of the said Act. The Hon'ble Supreme Court therein held that the officers of preventive formations are not proper officers for exercising the powers vested in Section of the Act.

Relevant para from the above-mentioned judgement is as follows: -

"14. From a conjoint reading of Sections 2(34) and 28 of the Act, it is manifest that only such a 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 affected, by either the Board or the Commissioner of Customs, in terms of Section 2(34) of the Act is competent to issue a notice under section 28 of the Act. Any other reading of Section 28 would render the provisions of Section 2(34) of the Act otiose in as much as the test contemplated under Section 2(34) of the Act is that of specific conferment of such functions. Moreover, if the Revenue's contention that once territorial jurisdiction is conferred, the Collector of Customs (Preventive) becomes a "proper officer" in terms of Section 28 of the Act is accepted, it would lead to a situation of utter chaos and confusion, in as much as all officers of customs, in a particular area be it under the Collectorate of Customs (Imports) or the Preventive Collectorate, would be "proper officers". In our view, therefore, it is only the officers of customs, who are assigned the functions of assessment, which of course, would include reassessment, working under the jurisdictional Collectorate within whose jurisdiction the bills of entry or baggage declarations had been filed and the consignments had been cleared for home consumption, will have the jurisdiction to issue a notice under Section 28 of the Act. 16. In the present cases, the import manifest and the bill of entry have been filed before the Collectorate of Customs (Imports) Mumbai, the same having been assessed and clearance for home consumption having been allowed by the proper officer on importers executing a bond, undertaking the obligation of export, in our opinion, the Collector of Customs (Preventive), not being a "proper officer" within the meaning of Section 2(34) of the Act, was not competent to issue how to cause notice for re-assessment under Section 28 of the Act. Nothing has been brought on record to show that the Collector of Customs (Preventive), who had issued the show-cause notices was assigned

⁵ Customs Act, 1962, s 2(34)

⁶ Customs Act, 1962, s 28

the functions under Section 28 of the Act as "proper officer" either by the Board or the Collector/Commissioner of Customs. We are convinced that Notifications No. 250-Cus. and 251-Cus., both dated 27th August 1983, issued by the Central Government in the exercise of the powers conferred by sub-section (1) of Section 4⁷ of the Act, appointing collectors of Customs (Preventive), etc. to be the Collector of Customs for Bombay, Thane and Kolaba Districts in the State of Maharashtra did not ipso facto confer jurisdiction on him to exercise power entrusted to the "proper officers" for the purpose of Section 28 of the Act."

Section 28 of the Customs Act further was proposed to be amended vide Finance Bill 2011. The Notes on Clauses and the Memorandum to Finance Bill, 2011 described the purpose of Section 28 as being substituted was to make the provisions more coherent and clearer and also to harmonize the demand period in normal cases to one year. Section 28 of the Act, deals with the provisions for recovery of duties not levied or not paid or short levied or erroneously refunded by the proper officers.

Section 28 of the Act, read as

"Section 28. Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. -

(1) Where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful misstatement or suppression of facts, -

(a) the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

.....

⁷ Customs Act, 1962, s 4(1)

(b) the person chargeable with the duty or interest may pay before service of notice under clause (a) on the basis of, -

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by **the proper officer**,

the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

.....

(2) The person who has paid the duty along with interest or amount of interest under clause (b) of sub-section (1)⁸ shall inform **the proper officer** of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a)⁹ of that subsection in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest:

.....

(3) Where **the proper officer** is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that subsection in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (2)¹⁰.

(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of, -

(a) collusion; or

⁸ Customs Act, 1962, s 28(1)

⁹ Customs Act, 1962, s 28(1) (a)

¹⁰ Customs Act, 1962, s 28(2)

(b) any wilful misstatement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, **the proper officer** shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or not paid or has been short-levied or short paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful misstatement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub-section (4)¹¹ by **the proper officer**, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA¹² and the penalty equal to fifteen percent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform **the proper officer** of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5)¹³, **the proper officer** shall determine the amount of duty or interest and on determination, if **the proper officer** is of the opinion-

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or

¹¹ Customs Act, 1962, s 28(4)

¹² Customs Act, 1962, s 28AA

¹³ Customs Act, 1962, s 28(5)

sub-section (4), shall, without prejudice to the provisions of sections 135, 135A and 140¹⁴ be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, **the proper officer** shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of two years shall be computed from the date of receipt of information under sub-section (5).

(7) In computing the period of two years referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.

(8) **The proper officer** shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(9) **The proper officer** shall determine the amount of duty or interest under sub-section (8), -

(a) within six months from the date of the notice, in respect of cases falling under clause (a) of sub-section (1);

(b) within one year from the date of the notice, in respect of cases falling under sub-section (4)

(10) Where an order determining the duty is passed by **the proper officer** under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

.....

¹⁴ Customs Act, 1962, s 135, 135A, and 140

(11) Notwithstanding anything to the contrary contained in any judgement, decree or order of any court of law, tribunal, or other authority, all persons appointed as officers of Customs under sub-section (1) of section 4 before the 6th day of July 2011 shall be deemed to have and always had the power of assessment under section 17¹⁵ and shall be deemed to have been and always had been the proper officers for the purposes of this section."

(Relevant Paras)

After the relevant changes mentioned above, the impact of the SC decision was felt like a thunderbolt and, therefore, the CBEC came out with a fire-fighting solution vide notification 44/2011 Cus. N.T. dated 06.07.2011 directed that all future show-cause notices for cases investigated by DRI and Customs Preventive Formations shall be issued by the jurisdictional customs officers and also assigned the functions of proper officers for sections 17 and 28¹⁶ of the Customs Act on DRI officers. Such notification reflected the Board's motive to reiterate the position of the DRI and Customs (Preventive) to issue show cause notice, but not to adjudicate them. It is pertinent to note here that though DRI officers are designated as "proper officers" for Section 28 of the Act, including adjudication under sub-section (8), adjudication was still kept away from the DRI hands by way of administrative instructions through this Circular.

DRI was given the adjudication in the year 2014 and from that time onwards, DRI officers used to adjudicate the show cause notice issued by them. Additional Director General (Adjudication), who is of the rank of Commissioner came to be appointed for such adjudication purposes. The Notification No. 60/2015-Cus. N.T. dated 04.06.2015 was issued wherein the CBEC, in the exercise of its powers under Section 152(a)¹⁷ of the Customs Act, has delegated its power under Sections 4 and 5¹⁸ of the Customs Act to the Principal Director General of DRI, to appoint the officers working under him for adjudication of show-cause notices issued by DRI. That is how the DRI officers came to adjudicate the show cause notices

¹⁵ Customs Act, 1962, s 17

¹⁶ Customs Act, 1962, s 17 and 28

¹⁷ Customs Act, 1962, s 152(a)

¹⁸ Customs Act, 1962, s 4 and 5

issued by them. In this way, the Government successfully overcame the setback faced by the unfavourable decision of the Hon'ble Supreme Court in the Syed Ali case.

But the issue once again got aroused before the Hon'ble Bombay High Court in the case of Sunil Gupta Vs Union of India¹⁹. Therein it was being argued that even after insertion of sub-section (11) to section 28 of the Customs Act, vide Customs (Amendment and Validation) Act 2011, after the Hon'ble Apex Court judgement in Syed Ali case, any show-cause notices issued before the date on which the Finance Bill 2011 receives the assent of the President shall be dealt with only under unamended Section 28. The Hon'ble Bombay High Court was not overwhelmed with these influences. In the decision rendered on 03.11.2014, the Bombay High Court has held that sub-section (11) of Section 28 was inserted specifically to overcome the effect of the Hon'ble SC judgement in Syed Ali case; DRI officers are appointed as Customs officers by notification 19/90; and Explanation 2 inserted vide Finance Act, 2011 has got no relevance to sub-section (11) of Section 28.

Following this, the department filed Special Leave Petition against the judgement which was dismissed by the Hon'ble Supreme Court on the ground of delay. The same issue is pending before the Hon'ble High Court of Delhi which came to be decided on 03.05.2016 in Mangali Impex Ltd. & Ors. VS UOI²⁰ wherein it was held that sub-section (11) of Section 28²¹ is a non-obstante provision only in so far as judgements, orders, etc. and not concerning any other provisions of the Customs Act and if all the officers of customs appointed as such before 06.07.2011 are deemed to be proper officers than the administrative chaos that is likely to result, as pointed out in Syed Ali, would persist. The quoted parts from the decision are as follows: -

“62. There is merit in the contention that Section 28(11) is overbroad in as much as it confers jurisdiction on a plurality of officers on the same subject matter which would result in chaos, harassment, contrary and conflicting decisions. Such untrammelled power would indeed be arbitrary and violative of Article 14 of the Constitution.

¹⁹ Sunil Gupta v Union of India (2014)

²⁰ Mangali Impex Ltd. & Ors. v UOI (2016)

²¹ Customs Act, 1962, s 28(11)

66. *The mere fact that Section 28(11) has been given retrospective effect does not solve the essential problem pointed out by the Supreme Court in the Sayed Ali case, which is the absence of the assigning of functions to 'proper officers' under Section 2(34) of the Act. The even more serious problem is the impossibility of reconciling two contradictory provisions, viz., Explanation 2 to Section 28 and Section 28(11) of the Act.*

70.1 *The net result of the above discussion is that the Department cannot seek to rely upon Section 28(11) of the Act as authorising the officers of the Customs, DRI, the DGCEI, etc. to exercise powers in relation to non-levy, short-levy, or erroneous refund for a period prior to 8th April 2011 if, in fact, there was no proper assigning of the functions of reassessment or assessment in favour of such officers who issued such SCNs since they were not 'proper officers' for the purposes of Section 2(34) of the Act and further because Explanation 2 to Section 28 as presently enacted makes it explicit that such non-levy, short-levy or erroneous refund prior to 8th April 2011 would continue to be governed only by Section 28 as it stood prior to that date and not the newly re-cast Section 28 of the Act."*

In response, the Department again filed a SLP to the Supreme Court, in one of the SLPs, the Supreme Court on 7.10.2016, stayed the Delhi High Court Order. But after came a thunderbolt judgement by a three-judge bench of the Hon'ble Supreme Court in Canon India Pvt. Ltd. Vs Commissioner²² wherein it was held that the entire proceeding in the present case initiated by the Additional Director General of the DRI by issuing show-cause notices in all the matters before us are invalid without any authority of law and liable to be set-aside and the ensuing demands are also set aside. Crucial findings of the Hon'ble Supreme Court in this case were: -

"15. It is obvious that the reassessment and recovery of duties i.e., contemplated by Section 28(4) is by the same authority and not by any superior authority such as Appellate or Revisional Authority. It is, therefore, clear to us that the Additional Director General of DRI was not "the" proper officer to exercise the power under Section 28(4) and the initiation of the recovery proceedings in the present case is without any jurisdiction and liable to be set aside.

16. *At this stage, we must also examine whether the Additional Director General of the DRI who issued the recovery notice under Section 28(4) was even a proper officer. The Additional Director General can*

²² *Ibid*

be considered to be a proper officer only if it is shown that he was a Customs officer under the Customs Act. In addition, he was entrusted with the functions of the proper officer under Section 6 of the Customs Act. The Additional Director General of the DRI can be considered to be a Customs officer only if he is shown to have been appointed as Customs officer under the Customs Act."

This decision of the Hon'ble Supreme Court cast a light for many of the appeals having similar issues and most of them were disposed of by various High Courts and Customs, Excise, and Service Tax Tribunal across the country on the question that the DRI issued the show cause notices which is out of its power as they are not classified as proper officers under the Customs Act, 1962.

IMPLICATIONS OF BUDGET 2022:

The DRI is a source of not only preventing the illegal and corrupt practices but also helps in protecting the revenue of the government and thereby through their intelligence they help the government in grabbing those who try to escape their liability like custom duty and to penalize the smugglers. The decision of the Hon'ble Supreme Court was a hard stroke that hit the revenue pockets of the government. Therefore, to overcome this ongoing crisis of huge revenue loss, the government through the Finance Bill, 2022, dated 01.02.2022²³ proposed comprehensive changes within the Act giving them retrospective effect.

The proposed changes in the Finance Bill, 2022 to overcome the decision of the Hon'ble Supreme Court in the case of Canon India are as follows: -

- Vide clause 85²⁴, in the definition of "proper officer" under Section 2 (34)²⁵, reference to Section 5²⁶ is being made, for assignment of functions.
- Vide clause 86, a new Section 3²⁷ is being substituted and DRI officers and officers of Preventive formations are made as Customs Officers as this section itself.

²³ Finance Bill, 2022

²⁴ Finance Bill, 2022, cl. 85

²⁵ Customs Act, 1962, s 2(34)

²⁶ Customs Act, 1962, s 5

²⁷ Customs Act, 1962, s 3

- Clause 87²⁸ seeks to amend section 5 of the Customs Act relating to the powers of the officers of customs. It is proposed to insert a new sub-section (1A) in the said section to empower the board to assign by notification, such functions as he may deem fit, to an officer of customs, who shall be the proper officer about such functions.
- It is further proposed to insert a new sub-section (1B) in the said section to empower the Principal Commissioner of Customs or Commissioner of Customs within their jurisdiction to assign by order such functions as he may deem fit to an officer of customs, who shall be the proper officer about such functions.
- It is also proposed to insert a new sub-section (4) in the said section to provide the criteria which the Board may consider while specifying the conditions and limitations imposed under sub-section (1) and assigning functions under sub-section (1A) to an officer of customs.
- It is also proposed to insert a new sub-section (5) in the said section to empower the Board in certain cases to specify by notification two or more officers of customs, whether or not of the same class, to have concurrent power and functions under the said Act.
- Vide clause 96²⁹, the effect of the decision of the Hon'ble Supreme Court in the Canon case is sought to be overcome. The amended provisions of Section 2 (34), 3, and 5 are given retrospective effect and any past action is deemed to have been undertaken under these amended provisions.

Even the statement explaining the amendment says that *“this amendment has been necessitated to correct the infirmity observed by the Courts in recent judgments that the Act required explicit provision conferring powers for assignment of function to officers of Customs as “proper officers” for the purposes of the Act, besides the definition clause (34) in section 2 of the Act”*

Also, a major amendment has been proposed through clause 93³⁰ of the Finance Bill, 2022, whereby a new Section 110 AA³¹, wherein it is mentioned that any demands arising out of

²⁸ Finance Bill, 2022, cl. 87

²⁹ Finance Bill, 2022, cl. 96

³⁰ Finance Bill, 2022, cl. 93

³¹ Customs Act, 1962, s 110AA

audits (Chapter XIIA) and search, seizure, and arrest (Chapter XIII), the officers of an audit or any other investigative agencies (DRI, Preventive formations, etc) have to transfer the relevant documents along with a report in writing to the jurisdictional Customs Officer and it is only the jurisdictional Customs Officer who is empowered to issue show cause notice and adjudicate the same. This newly introduced Section 110AA vide Clause 93 of the Finance Bill and the Explanatory Memorandum to this clause reaffirms the principle that investigation/audit should transfer the documents with a report to the officer who originally exercised the jurisdiction and that officer alone shall have the sole authority to exercise jurisdiction for further action, like re-assessment, adjudication, etc. This rather reaffirms what was stated by Supreme Court in the Canon India case.

INFERENCE

The respective changes in provisions of law brought up through the Finance Bill, 2022 dated 01.02.2022 fall within the right of the government to amend a law through the legislative procedure, and from this viewpoint it seems to be a valid step in the direction of preventing the revenue loss in future to be incurred upon the Ministry of Finance under the Government of India and to overcome the effects of the Hon'ble Supreme Court's judgement in the Canon India Case. These amendments seek to empower the capabilities and scope of DRI to issue demand-cum-show cause notices directly and indirectly to prevent the revenue loss suffered by the government of India by the Canon India judgement or the Mangali Impex and many others which followed. The DRI might be over-whelmed that their past action has been safeguarded through such amendments but at the very same time, the newly inserted Section 110AA restricts their power to issue show cause notice and to adjudicate them. Also, such amendment is proposed to be retrospective which can view as arbitrary, if implemented may intensify the ongoing conflicting tussle as it has already been commended by various courts on times and occasions that such reassessments; if allowed through multiple officers may lead to a chaotic and unintended situation which should be avoided. Also, an interesting remark by the Supreme Court Chief Justice may be pointed out here where he said, "*Some bureaucrats might be there who will advise the government to make the legislation to nullify the judgement. They*

will say 'pass another legislation if they pass a judgement'. This is how bureaucracy functions, we understand." Furthermore, one can hope that the Review Petition filed by the Department in the Canon India Case which will be heard on the coming 09.03.2022, might clear the conflicting picture once and for all by firstly settling the provision defining the meaning of "Proper Officers" and secondly, the power and scope of the DRI respectively.