

**Customs Act 1962 s 128A - Procedure in appeal**

**(1) The Commissioner (Appeals)] shall give an opportunity to the appellant to be heard if he so desires.**

**(2) The Commissioner (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Commissioner (Appeals)] is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.**

**(3) 3[The Commissioner (Appeals)] shall, after making such further inquiry as may be necessary, pass pass such order, as he thinks just and proper,—**

**(a) confirming, modifying or annulling the decision or order appealed against; or**

**(b) referring the matter back to the adjudicating authority with directions for fresh adjudication or decision, as the case may be, in the following cases, namely:—**

**(i) where an order or decision has been passed without following the principles of natural justice; or (ii) where no order or decision has been passed after re-assessment under section 17; or**

**(iii) where an order of refund under section 27 has been issued by crediting the amount to Fund without recording any finding on the evidence produced by the applicant: Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order: Provided further that**

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where the Commissioner (Appeals) is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

(4) The order of the Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.

(5) On the disposal of the appeal, the Commissioner (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority , the Principal Chief Commissioner of Customs or Chief Commissioner of Customs] and the Principal Commissioner of Customs or Commissioner of Customs.

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