

Appeals under Excise

Introduction

Under the Central Excise Act, 1944 both the assessee and the department have been conferred the right of three stage remedies against the orders passed under Central Excise Act and Rules. Briefly, it consists of three stages of appeal, two stages of revision and a further appeal to the Supreme Court. The three stages of Appellate Authorities are the Commissioner (Appeals), CESTAT and High Court.

Section 35

In case of orders passed by officers lower than the rank of Commissioner of Central Excise, the first appeal goes to the Commissioner (Appeals) and from there to the Appellate Tribunal and then to the High Court and finally to the Supreme Court. Where the order of the Tribunal does not relate to determination of rate of duty or value of goods, an appeal is made to the High Court under sections 35G, instead of an appeal to the Supreme Court. In cases where the order-in-original is passed by a Commissioner of Central Excise, the appeal is made directly to the Appellate Tribunal.

As per the provisions of section 35 read with sections 35B, 35G, 35H and 35L of the Central Excise Act, any person aggrieved by the order passed by the Central Excise Officer, can file an appeal to the following authorities:-

Order passed by	Appellate Authority
All officers up to & including the Additional Commissioner	Commissioner (Appeals)
Commissioner or Commissioner (Appeals)	<p>CESTAT except in case where the order relates to:-</p> <p>a) A case of loss of goods, where the loss occurs in transit from a factory to a warehouse or to another factory, or from one warehouse to another, or during the course of processing of the goods in a warehouse or in storage, whether in a factory or in a warehouse;</p> <p>b) A rebate of duty of excise on goods exported to any country or territory outside India or on excisable materials used in the manufacture of goods which are exported to any country or territory outside India;</p> <p>c) Goods exported outside India (except to Nepal or Bhutan) without payment of duty</p> <p>d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the rules made there under and such order is passed by the Commissioner (Appeals) on or after the date appointed under section 109 of the Finance (No.2) Act, 1998].</p>

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Commissioner or Commissioner (Appeals)	Revision application to Central Govt. (in matters relating to baggage, drawback, export without payment of duty, goods short landed loss of goods in transit). No further appeal.
CESTAT	Supreme Court (Classification and valuation cases)
CESTAT	High Court (Other than classification and valuation matters)
High Court	Supreme court