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[For departmental use]

# *e-Exercise Book*

On

*Appeal before  
Commissioner (Appeals)*

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## MCQs on Appeal before Commissioner (Appeals)

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### Note:

1. In this E-exercise, attempts have been made to understand the concept of *Appeal before Commissioner (Appeals)*. It is expected that it will help the new entrants into the service. Though all efforts have been made to make this exercise error free, but it is possible that some errors might have crept into the same. If you notice any errors or if you have any suggestion to improve this exercise, the same may be brought to the notice to the NACEN, RTI, Kanpur on the Email addresses: [rtinacenkanpur@yahoo.co.in](mailto:rtinacenkanpur@yahoo.co.in) ). This may not be a perfect E-exercise and all are requested to assist us to make it better.

2. This E-exercise book has been prepared with active assistance and contribution by **Shri S. K. Agarwal, Superintendent, Central Excise Lucknow**. I appreciate his participation and willingness to prepare e-books/E-exercise with a view to help fellow departmental officers in capacity building and upgrading their knowledge.

Sd/-

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**Take the following Quiz & Test your knowledge**

Identify the most appropriate choice by choosing the correct option out of four options given below.

- Q.No.1** Before whom the appeal lies against the order passed by an officer, who is lower than the rank of Principal Commissioner of Central Excise or Commissioner of Central Excise:-
- CESTAT
  - Commissioner (Appeals)
  - High Court/ Supreme Court
  - Joint Secretary (Revision Application)
- Q.No.2** Before whom the appeal lies against the order passed by the Principal Commissioner of Central Excise or Commissioner of Central Excise:-
- CESTAT
  - Commissioner (Appeals)
  - High Court
  - Supreme Court
- Q.No.3** The provisions relating to appeals before the Commissioner (Appeals) are contained in which sections of the Central Excise Act, 1944:-
- Section 35 & 35A
  - Section 35G
  - Section 35H
  - Section 35L
- Q.No.4** The provisions relating to appeals before the Commissioner (Appeals) are contained in which sections of the Customs Act, 1962:-
- Section 110 & 111
  - Section 123
  - Section 128 & 128A
  - Section 129
- Q.No.5** The provisions relating to appeals before the Commissioner (Appeals) are contained in which sections of the Finance Act, 1994:-
- Section 76, 77 & 78
  - Section 80
  - Section 83 & 84
  - Section 84 & 85

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- Q.No.6** What is the time limit for filing appeal by the party before the Commissioner (Appeals) in Central Excise:-
- 90 days
  - 60 days
  - 3 months
  - 4 months
- Q.No.7** What is the time limit for filing appeal by the party before the Commissioner (Appeals) in Customs:-
- 90 days
  - 60 days
  - 3 months
  - 4 months
- Q.No.8** What is the time limit for filing appeal by the party before the Commissioner (Appeals) in Service Tax:-
- 90 days
  - 2 months
  - 3 months
  - 4 months
- Q.No.9** In which forms, the appeal has to be filed by the party before the Commissioner (Appeals) in Central Excise:-
- EA-1
  - EA-2
  - EA-3
  - EA-4
- Q.No.10** In which forms, the appeal has to be filed by the party before the Commissioner (Appeals) in Customs:-
- CA-1
  - CA-2
  - CA-3
  - CA-4
- Q.No.11** In which forms, the appeal has to be filed by the party before the Commissioner (Appeals) in Service Tax:-
- ST-4
  - ST-5
  - ST-6
  - ST-7

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**Q.No.12** As per Section 35F of Central Excise Act, 1944 and Section 129E of Customs Act, 1962 and CBEC Circular No. 984/8/2014-CX dated 16.09.2014, what is the quantum of pre-deposit at the time of filing appeal (w.e.f. 06.08.2014) before the Commissioner (Appeals):-

- a. 5% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- b. 7.5% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- c. 10% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- d. 12.36% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)

**Q.No.13** What is the quantum of pre-deposit for the department at the time of filing application (appeal) (w.e.f. 06.08.2014) before the Commissioner (Appeals):-

- a. 5% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- b. 7.5% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- c. 10% of the duty, in case where duty or duty and penalty are in dispute; or penalty, where such penalty is in dispute (aggregate of all penalties imposed)
- d. Nil

**Q.No.14** Can additional evidences be produced before the Commissioner (Appeals):-

- a. No
- b. Yes, but with the prior concurrence of the jurisdictional Commissioner
- c. Yes, subject to fulfillment of specified conditions
- d. Yes, but with the permission of the Chief Commissioner/ Principal Chief Commissioner

**Q.No.15** Whether the Commissioner (Appeals) enjoys power of remand?

- a. Yes
- b. No
- c. Yes subject to approval of Chief Commissioner/ Principal Chief Commissioner
- d. Yes, in certain specified conditions only

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**Q.No.16** CBEC issued Instruction F.No. 275/34/2006-CX.8A dated 18.02.2010 curtailing the power of remand by Commissioner (Appeals) in wake of which decision:-

- a. Hon'ble High Court of Gujarat in the case of CCE, Ahmedabad-I Vs. Medico Lab [2004(173) ELT 117 (Guj.)]
- b. Hon'ble Punjab & Haryana High Court in the case of CC, Amritsar Vs. M/s. Enkay (India) Rubber Co. Pvt. Ltd.
- c. Hon'ble Punjab & Haryana High Court in the case of CCE, Jalandhar Vs. B.C. Kataria [2008(221) ELT.508 P&H]
- d. Hon'ble Supreme Court in the case of MIL India Ltd. [2007(210) ELT.188(SC)]

**Q.No.17** As per Central Excise/ Customs/ Service Tax provisions, what is the nomenclature of departmental representation before Commissioner (Appeals):-

- a. Appeal
- b. Application
- c. Memorandum
- d. None of the above

**Q.No.18** The provisions relating to departmental application (appeals) before the Commissioner (Appeals) are contained in which sections of the Central Excise Act, 1944:-

- a. Section 35E(2)
- b. Section 35G(2)
- c. Section 35H(2)
- d. Section 35L (2)

**Q.No.19** The provisions relating to departmental application (appeals) before the Commissioner (Appeals) are contained in which sections of the Customs Act, 1962:-

- a. Section 110
- b. Section 123
- c. Section 129D(2)
- d. Section 130(2)

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- Q.No.20** The provisions relating to departmental application (appeals) before the Commissioner (Appeals) are contained in which sections of the Finance Act, 1994:-
- Section 76, 77 & 78
  - Section 80
  - Section 83
  - Section 84**
- Q.No.21** What is the time limit for filing departmental application (appeals) before the Commissioner (Appeals) in Central Excise:-
- 90 days
  - 60 days
  - 3 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
  - 2 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
- Q.No.22** What is the time limit for filing departmental application (appeals) before the Commissioner (Appeals) in Customs:-
- 90 days
  - 60 days
  - 3 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
  - 2 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
- Q.No.23** What is the time limit for filing departmental application (appeals) before the Commissioner (Appeals) in Service Tax:-
- 90 days
  - 2 months
  - 3 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
  - 2 months for taking decision by the competent authority to file the appeal + 1 month from the date of communication of said decision
- Q.No.24** In which forms, the departmental application (appeals) has to be filed before the Commissioner (Appeals) in Central Excise:-
- EA-1
  - EA-2
  - EA-3
  - EA-4

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- Q.No.25** In which forms, the departmental application (appeals) has to be filed before the Commissioner (Appeals) in Customs:-
- CA-1
  - CA-2
  - CA-3
  - CA-4
- Q.No.26** In which forms, the departmental application (appeals) has to be filed before the Commissioner (Appeals) in Service Tax:-
- ST-3
  - ST-4
  - ST-5
  - ST-7
- Q.No.27** What is the monetary limit prescribed for filing application (appeal) by the Department before the Commissioner (Appeals), below which appeal should not be filed by the department before the Commissioner (Appeals):-
- 1 lakh
  - 2 lacs
  - 5 lacs
  - None
- Q.No.28** At the time of the pre-deposit for filing appeal, what is the treatment of payments made during investigation:-
- Not considered at all
  - Considered and in case of any shortfall, the same has to be deposited
  - Considered to the extent of 50% of deposit made
  - Considered if deposit was made unconditionally & voluntarily

## MCQs on Appeal before Commissioner (Appeals)

### ANSWERS OF MULTI CHOICE QUESTIONS (MCQs)

Q.No.	Answer	Explanation
1.	<b>b</b>	
2.	<b>a</b>	
3.	<b>a</b>	
4.	<b>c</b>	
5.	<b>d</b>	
6.	<b>b</b>	
7.	<b>b</b>	
8.	<b>b</b>	
9.	<b>a</b>	
10.	<b>a</b>	
11.	<b>a</b>	
12.	<b>b</b>	
13.	<b>d</b>	
14.	<b>c</b>	Additional evidence can be produced in the circumstances given in Rule 5(1) of the Central Excise (Appeals) Rules, 2001, however, no evidence shall be admitted unless the Commissioner (Appeals) records in writing the reasons for its admission and the adjudicating authority or an officer authorised in this behalf by the said authority will be allowed a reasonable opportunity to examine the evidence or document or to cross-examine any witness produced by the appellant.
15.	<b>b</b>	As per Section 35A(3) of the Central Excise Act, 1944 / Section 128A(3) of the Customs Act, 1962, the Commissioner(Appeals) shall, after making such further enquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against.
16.	<b>d</b>	
17.	<b>b</b>	
18.	<b>a</b>	
19.	<b>c</b>	
20.	<b>d</b>	
21.	<b>c</b>	The order directing to apply to the Commissioner (Appeals) should be made within 3 months from the date of communication of the order to be appealed against, whether the issue relates to Central Excise or Customs or Service Tax. Thereafter, an application has to be filed within 1 month of the date of communication of the said order, which is treated as appeal.
22.	<b>c</b>	
23.	<b>c</b>	
24.	<b>b</b>	
25.	<b>b</b>	
26.	<b>b</b>	
27.	<b>d</b>	
28.	<b>b</b>	

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