

Power to make rules.

208. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made and the manner in which such declaration may be verified under sub-section (1) of section 200 ; 5

(b) the form of certificate which may be granted under sub-section (1) of section 201;

(c) the manner in which orders may be published under sub-section (2) of section 206;

(d) any other matter which by this scheme is to be, or may be, prescribed, or in respect of which provision is to be made, by rules. 10

(3) Every rule made by the Central Government under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15

CHAPTER XI

THE INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016 20

Short title, application and commencement.

209. (1) This Scheme may be called the Indirect Tax Dispute Resolution Scheme, 2016.

(2) It shall be applicable to the declarations made up to the 31st day of December, 2016.

(3) It shall come into force on the 1st day of June, 2016.

Definitions.

210. (1) In this Scheme, unless the context otherwise requires,—

(a) "Act" means the Customs Act, 1962 or the Central Excise Act, 1944 or Chapter V of the Finance Act, 1994, as the case may be; 25 52 of 1962. 1 of 1944. 32 of 1994.

(b) "Assistant Commissioner" means the Assistant Commissioner of Customs or the Assistant Commissioner of Central Excise or the Assistant Commissioner of Service Tax, as the case may be;

(c) "Commissioner" means the Commissioner of Customs or the Commissioner of Central Excise or the Commissioner of Service Tax, as the case may be; 30

(d) "declarant" means any person who makes a declaration under sub-section (1) of section 211;

(e) "designated authority" means an officer not below the rank of Assistant Commissioner who is authorised to act as Assistant Commissioner by the Commissioner for the purposes of this Scheme;

(f) "impugned order" means any order which is under challenge before the Commissioner (Appeals);

(g) "indirect tax dispute" means a dispute in respect of any of the provisions of the Act which is pending before the Commissioner (Appeals) as an appeal against the impugned order as on the 1st day of March, 2016; 35

(h) "prescribed" means prescribed by rules made under this Scheme;

(i) "tax" includes duty or tax levied under the Act.

(2) Words and expressions used herein and not defined but defined in the Act or the rules made thereunder shall have the meanings respectively assigned to them in the Act or the rules made thereunder. 40

Procedure for making declaration.

211. (1) Subject to the provisions of this Scheme, a person may make a declaration to the designated authority on or before the 31st day of December, 2016 in such form and manner as may be prescribed. 45

(2) The designated authority shall acknowledge the declaration in such form and manner as may be prescribed.

(3) The declarant shall pay tax due alongwith the interest thereon at the rate as provided in the Act and penalty equivalent to twenty-five per cent. of the penalty imposed in the impugned order, within fifteen days of the receipt of acknowledgement under sub-section (2) and intimate the designated 50

authority within seven days of making such payment giving the details of payment made along with the proof thereof.

(4) On receipt of the proof of payment of tax, interest and penalty under sub-section (3), the designated authority shall, within fifteen days of the receipt of such proof, pass an order of discharge of dues referred to in sub-section (3) in such form as may be prescribed.

212. The provisions of this Scheme shall not apply, if—

Scheme not to apply in certain cases.

(a) the impugned order is in respect of search and seizure proceeding; or

(b) prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or

(c) the impugned order is in respect of narcotic drugs or other prohibited goods; or

45 of 1860.
61 of 1985.
49 of 1988.

(d) impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988; or

52 of 1974.

(e) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

213. (1) Notwithstanding anything contained in any provision of the Act, upon the passing of an order under sub-section (4) of section 211, the appeal pending before the Commissioner (Appeals) shall stand disposed of and the declarant shall get immunity from all proceedings under the Act, in respect of the indirect tax dispute for which the declaration has been made under this Scheme.

Immunity from other proceedings under Act.

(2) A declaration made under sub-section (1) of section 211 shall become conclusive upon the issuance of an order under sub-section (4) of section 211 and no matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.

214. (1) Any amount paid in pursuance of a declaration made under sub-section (1) of section 211 shall not be refunded.

Consequences of order made under Scheme.

(2) Any order passed under sub-section (4) of section 211 shall not be deemed to be an order on merits and has no binding effect.

Explanation.— For the removal of doubts, it is hereby declared that nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant other than the benefit, concession or immunity granted under section 213.

215. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and the manner in which a declaration may be made under sub-section (1) of section 211;

(b) the form and the manner of acknowledging the declaration under sub-section (2) of section 211;

(c) the form and the manner of issuing an order of discharge under sub-section (4) of section 211;

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.