Module 24 · Refund · provisional assessment P19 · topic 24

SM pp. 1228–1235; s.18 changes in SM 1116 and Supp J26 p.70; the new **Finalisation of Provisional Assessment Regulations, 2025** only in Supp D26 p.14–23 (Dec'26 is the first paper that can ask them). Past: **J23 Q2(c)** conditions for refund of import duty (5 marks, = s.26A); **J24 Q7(b)** provisional assessment conditions + interest u/s 18 (7 marks). Expected ~1.7 marks.

REFUND OF EXPORT DUTY · S.26

- All three: goods returned **otherwise than by way of re-sale** (rejects, sales returns, consignment stock, exhibition goods); **re-imported within One year** of export; refund applied for **within six months** of the clearance order for the re-import. Paid to the exporter. [SM 1228]

REFUND OF IMPORT DUTY · S.26A (J23 Q2(c))

- (a) goods **defective** or not as per agreed specification — not altered, mended or used after import (except use needed to find the defect); (b) **identified** to the satisfaction of the AC / DC as the same goods; (c) **no drawback** claimed; (d) the goods are **exported**, or title **relinquished** to customs, or **destroyed** / rendered commercially valueless before the officer within **30 days** of the s.47 clearance order — Commissioner may extend by up to **three months**. [SM 1228–1229]
- No refund for perishable goods or goods past their expiry date. Relevant date: let export order / relinquishment / destruction. [SM 1229]

GENERAL REFUND · S.27 AND INTEREST · S.27A

- Excess duty or interest paid (short landing, shortage, pilferage, assessment error, unaware of an exemption — even without an assessment order, *Aman Medical*). Apply in duplicate to the AC / DC within **ONE year** from the date of payment. No refund below **₹100** (third proviso to s.27(1)). [SM 1229–1230]
- One-year count starts from: the s.25(2) special order; the judgment; or, for **provisional** payment u/s 18, the adjustment after final assessment. For a **s.18A** revised entry or a **s.149** amendment: **twelve months** from payment, and the relevant date is the date of payment (FA 2025). [SM 1231, Supp J26 p.70–71]
- **Unjust enrichment**: refund goes to the applicant only if the burden was not passed on (own use, buyer bore it, export duty u/s 26, drawback, notified class); otherwise to the Consumer Welfare Fund. Captive use still = burden passed on (*Solar Pesticide*, SC — SM Case 2). A **CA certificate alone** does not prove it (*BPL Ltd.*, Mad HC). [SM 1231–1234]
- Acknowledgment within **ten working days** of a complete application, else returned with defects; the acknowledged date is the receipt date for s.27A. [SM 1232]
- **s.27A**: refund not paid within **3 months** of the application → interest from the end of those 3 months; an appellate order counts as the refund order; no interest on deposits (project import, provisional release security). [SM 1230, SM 1233]
- Duty paid by **mistake** on fully exempt goods is not "duty" — the one-year limit does not bar a writ (SM Case 5, tunnel boring machines). Goods lost in port custody before clearance → **s.23 with s.27** (SM Case 1, Krish Flame). [SM 1233–1235]

PROVISIONAL ASSESSMENT · S.18 AS AMENDED BY FA 2025

- Proper officer assesses provisionally (pending documents, chemical test, further enquiry), goods released against a bond / **security**; on final assessment, short duty is paid with interest, excess is refunded (s.18(4)–(5)). [SM 1115, Supp D26 p.21]
- New **s.18(1B)**: finalise within **2 years** of provisional assessment, Commissioner may extend by **1 year**; **s.18(1C)** stops the clock (information from foreign authorities, appeals, stays, Board directions). In force from **1 May 2025**. [SM 1116, Supp J26 p.70]
- New **s.18A**: voluntary **revision of an entry after clearance** (BE / SB) — treated as self-assessment or as a s.27 refund claim; procedures from 1 November 2025. [SM 1116, Supp J26 p.70–71]

FINALISATION REGULATIONS 2025 (N. 55/2025-CUS (NT), 12-09-2025)

Stage	Time limit
Officer names the documents needed	within 15 days of provisional assessment
Importer / exporter supplies them	2 months from requisition
Extension by the proper officer	further 2 months (reasons in writing)
Superior officer's extension; enquiry + report	outer limit 14 months from provisional assessment
Finalise after documents / expiry / enquiry	3 months, where possible; + 2 months at a time
Commissioner monitors	cases pending beyond 17 months
Overall finalisation · extension	2 years · additional 1 year
Recovery from security	unpaid > 90 days and final

[Supp D26 p.15–23]

- **Each BE / SB is a separate case** (20 BEs = 20 cases). A chemical test report counts as "documents or information". Documents not given → finalise on the record, with natural justice. [Supp D26 p.14–16]
- Cases pending on **29-03-2025** (date of assent of FA 2025): clocks run from that date → documents by **29-05-2026**, finalisation by 29-03-2027. [Supp D26 p.14–19]
- **Voluntary payment** during pendency (Reg 7) is adjusted against the final duty; interest still applies. Final ≠ provisional → **speaking order**; final = provisional → written acceptance. Penalty u/s 158(2)(ii). Applies to project imports too. [Supp D26 p.17–22]

s.26	s.27
export duty only, on re-import	any import / export duty or interest paid in excess
to the exporter who paid	to the importer who paid, or the buyer who bore it

[SM 1230–1231]

⚠ SM SLIPS AND GAPS

- **s.27A interest rate**: SM 1230 says **6%** p.a.; SM 1233 says **15%** (the s.28AA rate payable by importers). Write 6% for delayed refunds — ⚠ our knowledge that 6% is the notified s.27A rate. [SM 1230, SM 1233]
- SM 1229 writes "under section 26" for the perishable-goods bar; it belongs to **s.26A** — ⚠ our knowledge.
- The SM has no s.18(3) interest rule. ⚠ Our knowledge: interest at the s.28AA rate on the short duty from the **first day of the month** in which duty is provisionally assessed till payment. Rate 15% p.a. is in SM 1203 (note 2).

PROBLEMS BOX · REFUND AND PROVISIONAL SUMS (RECOMPUTED BY SCRIPT)

WORKED PATTERN · SM EXAMPLE 1 (S.26)

Exported 1.1.2025, export duty ₹1,00,000; returned (not re-sold) 1.8.2025 → re-imported within One year → refund ₹1,00,000 claimable within Six months of the clearance order dated 1.8.2025 (i.e. by 1-2-2026). [SM 1228]

WORKED PATTERN · SUPP D26 EXAMPLES 7, 10, 12

Final 28 − provisional 20 − voluntary 5 (₹ lakh)	3
₹17,00,000 − ₹12,00,000 − ₹2,00,000 + interest	3,00,000
Paid ₹25 lakh, final ₹19 lakh → refund u/s 18(4)/(5)	₹6 lakh

[Supp D26 p.18, Supp D26 p.20, Supp D26 p.21]

J24 Q7(b) JAGDESH & CO. (OUR WORKING)

Final duty 4,80,000 − provisional 3,40,000	1,40,000
Period 1-12-2022 to 31-1-2023	62 days
Interest 1,40,000 × 15% × 62/365	**3,567**

Conditions first: provisional assessment needs a **bond** with **security** for the difference; with the chemical test, today the test report is "documents or information" under the 2025 Regulations. [SM 1115, Supp D26 p.14]

PRACTISE THESE

J23 Q2(c) · J24 Q7(b) · SM solved cases 1–5 (SM 1233–1235) · Supp D26 examples 1–13 · **ICMAI Practice Workbook Ch19 illus. 1–6** (export-duty refund, defective imports, short landing, s.27A interest, duty under protest) · MCQ bank Q173–Q175.

MEMORY HOOK

"26 = export comes home (1 year in, 6 months to claim); 26A = defective import (30 days to send back); 27 = any excess (1 year, no refund under ₹100, no unjust enrichment)." Provisional: **15 days → 2 + 2 months → 14 months → 2 + 1 years.**