

## **The Proper Officer Vs Any Proper Officer-- SC CANON Ruling**

Ascertaining the 'Proper Officer' under the Customs Act//The Supreme Court in Canon India case observed--

Significance of article 'the'.

The Court emphasised upon the article 'the' being used before the words Proper Officer. This is indicative of the fact that the intent of the law maker was to emphasise on 'the Proper Officer' and not empower any Proper Officer. The Court also relied upon rulings of the Apex Court to conclude that the word 'the' is a definite article and that the intention of such definite article is to give reference to a specific person or thing<sup>9</sup>. Therefore, the use of article 'the' was done with an aim to empower only the Proper Officer to issue show cause notice under S. 28(4) of the Act and not confer such power upon any Proper Officer.

Hon'ble Supreme Court judgment in the case of Canon India under Customs Act.

The said judgement would also have a significant impact on the Goods and Service Tax ("GST") law, where a notice has been issued by the Directorate General of Goods and Service Tax Intelligence. The concept of Proper Officer under Central Goods and Service Tax Act, 2017, is quite similar to the provision under the Act and under both the Statutes only the Proper Officer is empowered to issue Notices. Therefore, it can be argued, on basis of the Canon India judgement, that the Directorate General of Goods and Service Tax Intelligence would have no jurisdiction to issue Notices under S. 74 of the Central Goods and Service Tax Act, 2017

<https://taxguru.in/custom-duty/cbic-directs-scn-anil-aggarwal-11-pending.html#:~:text=The%20recent%20judgement%20by%20Hon,of%20the%20Customs%20Act%2C%201962.>

(The article contains CBIC instruction as well as link to Canon Order)