



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones: +91-33- 2252-1031/1034/1035
+ 91-33-2252-1602/1492/1619
+ 91-33- 2252-7143/7373/2204
Website : www.icmai.in

Ref No. –TRD-IDT/Customs/23

Date: 21.08.2020

To
Shri S.W Haider
OSD(TRU)
Central Board of Indirect Taxes and Customs

**Subject: Suggestions for review of existing Customs Duty Exemption Notifications/Customs Laws
& Procedures -The Institute of Cost Accountants of India**

Respected Sir,

Greetings from The Institute of Cost Accountants of India....

The Institute of Cost Accountants of India is a Statutory Body set up under an Act of Parliament in the year 1959 and is headquartered in Kolkata with an office at Delhi. The Institute has an extensive reach all across the country comprising of, 4 Regional Councils, 106 Chapters, 10 Overseas Centres, 4 Centre of Excellence and many more ROCCs extension Centres and Support Centres and is a Founder Member of IFAC, CAPA and SAFA.

The Institute has been putting in sustained efforts to support the Government for multiple times by providing suggestions, creating awareness about Direct and Indirect Tax and dispersing the knowledge among various stakeholders through conducting of Courses, Webinars, Corporate Trainings, Seminars, publication of Tax Bulletins and handbooks on various Topics of Taxation, both Direct and Indirect.

As per Instruction No. 14/2020-Customs dated 21st July 2020 we are submitting the suggestions for review of existing Customs Duty Exemption Notifications/Customs Laws & Procedures (Annexure attached), as per the feedback received from our members and stakeholders.

We shall be glad to provide suggestion in Customs as may be required and your good office may reach us at trd@icmai.in.

Thank you.

Yours Sincerely,

CMA Niranjana Mishra
Chairman- Indirect Taxation Committee

The Institute of Cost Accountants of India

Copy of this letter and suggestions has already shared with Sri M Ajit Kumar, Chairman CBIC.



Annexure

Suggestions for review of existing Customs duty exemption notifications/Customs Laws and Procedures

1. Electronic permission for import of goods under Customs (Import of Goods at Concessional Rate of Duty) Rules 2017:

At present, in terms of rule 4 of the said rules, the importer intending to import the goods by availing the benefit of any customs notification which requires the importer to follow the above said rules, is required to give information to the jurisdictional officer which has jurisdiction over the premises where the imported goods are proposed to put to use. Though it is only the information that is required to be given u/r 4, in practice information sheet duly certified by the said jurisdictional officer is insisted.

Suggestion - However as a simplification measure arising out of covid-19 outbreak the electronic intimation of the said information accompanied by an undertaking to pay differential duty if any arises is introduced as a matter of default. Electronic acknowledgment issued thereon is uploaded on E-Sanchit at port of import. This simplified measure may be made permanent practice.

2. Electronic uploading of intimation of receipt of goods under rule 6 of Customs (Import of Goods at Concessional Rate of Duty) Rules 2017:

At present, initiation of receipt of goods is given by way of letter accompanied by copy of bill of entry to the jurisdictional officer before whom intimation u/r 4 was submitted. This intimation exercise requires the importer or his representative to personally visit the customs office (Export Promotion Cell as is now called).

Suggestion: It is therefore suggested that the intimation of receipt of goods u/r 6 may be allowed to be done electronically to be made to specified e mail address or on to ICEGATE so that the jurisdictional EPC may view the details. This will not only avoid the company staff spending valuable time to visit EPC for every intimation but also add to adds to the ease of doing business.

3. Re-credit of bond amount to the continuity bond given under rule 5 (2) of Customs (Import of Goods at Concessional Rate of Duty) Rules 2017:



Present position: In terms of the above rule, the importer submits the continuity bond backed by 5% security by way of bank guarantee or fixed deposit receipt valid for at a least year. Whenever the intimation u/r 4 is given, the duty saved amount is debited and over a period of time, the closing balance comes to NIL. In such cases, the importer is asked to execute fresh bond and bank guarantee even if the validity period of security is not yet over.

Suggestion: It is therefore suggested that a system of re-credit of the debit bond amount may be introduced upon the importer submitting the quarterly return prescribe under rule 6(3) of the said rules. This system will go a long way in reducing the transaction cost but also adds up the furtherance of ease of doing business.

4. The exporter who has claimed the benefit of custom duty drawback is required to submit proof of export realization by way of copy of Bank Realization Certificate (BRC , for short) within the period specified in the respective shipping bill. Further CBIC Public Notice 07.2016 dated 05th December 2016 also mandates. This requires the exporter to submit a copy of BRC to each of the port of export from where export has taken place.

At present banker generates e-BRC and uploads on to DGFT website: www.dgft.gov.in which the exporter uses for availing benefits such as Merchandize Export from India Scheme / Services Exports from India Scheme. The banker also uploads the BRC data onto EDPMS window of RBI appearing on ICEGATE server maintained by CBIC.

Suggestion: Hence submission of copy of e-BRC again for meeting the drawback benefit availment compliance can be avoided if the e-BRC uploaded by banker is linked to drawback shipping bill. This will work as a further measure of Ease of Doing Business.

5. Online linking of Export Obligation Discharge Certificate (EODC, for short) issued by DGFT authorities with Bonds executed by exporter under Advance authorization Scheme / Export Promotion Capital Goods Scheme:

At present, DGFT authorities issue EODC upon scrutiny of documents of export obligation fulfillment submitted by the exporter a copy of which is also endorsed to the customs authorities at ports of exports. However as a practice by default the exporter is required to submit a copy of the said EODC to customs authorities at port of export who will consider the said EODC and cancel the bond and return the bank guarantee. This increases the work load of tracing the old file (in EPCG scheme cases, the file will be at least 8 years old), bond and bank guarantee, file noting, and approval for cancellation of bond and return of bank



guarantee on the department side while the exporter is required to visit two or three times to get the bond cancelled and bank guarantee returned.

Suggestion: Online transfer of EODC by DGFT and linking of the said EODC with bond register now being electronically maintained may be introduced. Not only this will further the ease of doing business but also bring down the transaction cost.

6. Online reply for drawback queries:

At present, whenever drawback benefit is availed and the department raises any queries / objections, the exporter is required to submit the documents by personally visiting the customs office. This adds to the transaction cost of exports.

Suggestion: It is therefore suggested that the two way electronic communication through which the exporter can reply the queries / objections raised in drawback matters by customs officers.

7. Online Payment of other charges through TR 6 challan

At present any payment of miscellaneous charges such as overtime charges, provisional assessment duty etc., is paid by way of TR 6 challan to be deposited through nominated bank branches.

Suggestion: As a further ease of doing business, it is suggested that the present system of online payment of customs duty may be extended to the payment of miscellaneous payment such as overtime charges, cost recovery charges

8. Amendment of bill of entry / shipping bill. Need for online amendment on ICEGATE

At present, request for amendment of bill of entry / shipping bill is done considering the provisions of section 149 / 154 of the Customs Act and the extant guidelines. However upon consideration of such request, a certificate of amendment is given to the exporter. In these days where the EDPMS is the system through which the bill of entry / shipping bills data is settled by online uploading of data by banker, certificate of amendment presently issued does not serve purpose.

Suggestion: It is therefore suggested that amendment of bill of entry / shipping bill should be integrated with ICEGATE so that amended bill of entry / shipping bill can be submitted to banker for uploading the necessary details on to EDPMS on ICEGATE.



9. Introducing option to download old bill of entry / shipping bill

Chances of importer / exporter losing / misplacing the bill of entry/ shipping bill copies can't be ruled out. In such a case, the importer / exporter is required to approach the port of clearance to get bill of entry / shipping bill copies. There is no system whereby the exporter / importer can download the old bills of entry / shipping bill

Suggestion: It is therefore suggested that an option to download copies of bills of entry / shipping bill for old period for a limited purpose of submission to banks for payment settlement and not for any other purpose may be introduced. With online transfer of shipping bill data on to DGFT server and EDPMS running in full force, requirement of bill of entry / shipping bill for any other purpose is very rare/ minimal.

10. Doing away with requirement of original copy of bill of entry for finalization of provisional assessment arising out of investigation reports by SVB cell:

Upon issuance of positive investigation report by SVB cell the importer approaches the port(s) of import for finalization of import bill of entry as a step towards seeking refund of Extra Duty Deposit (EDD, for short) paid or security given to the department during pendency of SVB proceedings. At this stage, the assessing authorities insist for original bills of entry which would not be available at times. Without submission of original bills of entry the assessing officer does not proceed further. This problem very much exists for pre-2016 cases.

Suggestion: Assessing officer can access the data of importer by keying in IEC number and get the bills of entry details which are provisionally assessed. Based on electronically available data, the finalization of assessment can be carried on without insisting for original bills of entry.

11. Electronic maintenance of refund module in customs:

At present refund of customs duty arising out of various occasions such as excess duty payment, finalization of provisional assessment, favourable orders by the adjudicating authority, appellate authority (ies) or courts exist. However the work relating to filing of refund claim, handling of refund claim and settlement of refund claim is not computerized / made online.



As a result, the importer / exporter is required to submit the original bills of entry accompanied by TR 6 challans, import invoices etc., Depending on the volume of transactions and period for which refund is claimed the number of bills of entry to be submitted along with refund claim increases. Requirement of submission of original bills of entry and TR 6 challans has its basis from section 27 of the Customs Act, 1962 introduced decades ago.

With computerization and electronic maintenance of records including the bills of entry and online payment of customs duty, it is felt that old system of requirement to submit original bills of entry and TR 6 challan should be revisited.

Suggestion: It is therefore suggested that Refund of customs duty process should be put on to electronic mode through which entire process of submission of refund claim, handling and settlement of refund including passing of order in original. This will go a long way in not only increasing the ease of doing business to the importer but also increases the productivity at department end.

12. Framing of rules for justifiable implementation of provisions of section 28DA of the Customs Act, 1962:

In order to plug the alleged misuse of Certificate of Origin to avail concessional rate of customs duty / exemption of customs duty by Indian importers, the government introduced provisions relating to this by way of “Administration of Rules of Origin under Trade Agreement” and inserted chapter VAA to the Customs Act. Section 28DA (3) empowers the proper officer to entertain “ reasons “ to believe that country of origin criteria has not been met” and as a consequence thereof to require the importer to furnish further information, consistent with the trade agreement, in such manner as may be provided by rules.

Section 28DA(4) also empowers the proper officer to (i) cause further verification consistent with the trade agreement in such manner as may be provided by rules and (ii) pending verification, temporarily suspend the preferential tariff treatment to such goods. However no rules prescribing the procedure to be followed in exercising the powers u/s 28 DA(3) and (4) are framed yet.

Suggestion: In order to ensure that the exercise of power under section 28DA(3) and (4) are on justified grounds, it is suggested that proper rules may be framed in exercise of the said provisions.



13. Bring out filing of Annual Return concept under Customs Law

Bill of Entry is filed at the time of import of goods into India. Similarly, Shipping Bill/ Bill of Export is filed for export of goods from India. The duties of Customs are paid at the import of goods by filing of Bill of Entry. Similarly for dutiable export of goods the customs duties are paid at the time of filing of Shipping Bill/ Bill of Export.

The assessee maintains each copies of Bill of Entry or Shipping Bill at their records. Sometimes, at the time of assessment of Income Tax the assessing officer asking the party to substantiate the value of import of goods by showing Bill of Entry Copy.

Suggestion: As on date no such return monthly/ annual returns concept in Customs Act prevailing like Goods & Services Tax, Income Tax etc.

The new concept of filing of annual return under Customs Law may be brought out where all details of Bill of Entry for import of goods, Shipping Bill/ Bill of Export for Export of Goods as well as payment of taxes & duties are incorporated along with duty free import of goods under Advance Authorisation/ EPCG Scheme.

This consolidated information of import and export of goods will also help the assessing office under GST law for assessment of tax of the assessee and also be helpful for income tax assessment.

- a. Amendment of notification 18/2015 dated 01st April 2015, 20/2015 dated 01st April 2015, 21/2015- Customs Dated 01/04/2015, to include the name of cost accountants for certifying quantum of the imported goods used in export of goods.
- b. Certification of Quantum of Value of imported goods consumed in manufacturing of goods or used in providing of services, quantum of goods re-exported and closing stock thereof by a cost accountant:

Central Government vide notification no 68/2017 Dated 30th June 2017 has notified rule “Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017”.

Rule 6(2) of the said rule says:

“The importer who has availed the benefit of an exemption notification shall maintain an account in such manner so as to clearly indicate the quantity and value of goods imported, the quantity of imported goods consumed in accordance with provisions of the exemption notification, the quantity of goods re-exported, if any, under rule 7 and the quantity remaining in stock, bill of entry wise and shall produce the said account as and when required by the Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service”

Amended required:



“The importer who has availed the benefit of an exemption notification shall maintain an account in such manner so as to clearly indicate the quantity and value of goods imported, the quantity of imported goods consumed in accordance with provisions of the exemption notification, the quantity of goods re-exported, if any, under rule 7 and the quantity remaining in stock, bill of entry wise and shall produce the said account **along with the certification from a cost Accountant regarding the quantum stock details** as and when required by the Deputy Commissioner of Customs or, as the case may be, Assistant Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service”

14. The Goods or Services on which Customs Duty should be reduced or exempted

Chemical and Equipment related to Petroleum Enhanced Oil Recovery –Polyacrylamide which is being used in refinery company to Enhance oil recovery and for running the business , that company has to import some Raw Material and machinery from different countries.

Suggestion - If customs duty is being reduced or exempted then the company can be more efficient and cost competitive and can enhance oil recovery and as a result requirement to import of petroleum product might be reduced in the line of Atma Nirbhar Bharat.