

Staying Updated

Customs, FTP and WTO newsletter

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Notifications and circulars

- Tariff concessions increased in respect of specified goods imported under the India-Japan Comprehensive Economic Partnership Agreement w.e.f. 1 April, 2016.
- Kakrawah, Siddharthnagar District, in Uttar Pradesh has been notified as a land customs station.

Case law

Valuation

- Sole distribution rights fee paid to foreign supplier on an annual basis cannot be included in assessable value.
- Royalty is not a condition of sale when the importer has an option to purchase raw material from other suppliers.

Foreign trade policy

Notifications and circulars

- Central Government has defined e-commerce for the purpose of Merchandise Exports from India Scheme (MEIS).

Case law

- Circulars issued by CBEC cannot impose an additional restriction for availing benefit of exemption notifications issued under the Act.
- The Central Government, in the name of 'greater scrutiny', cannot restrict the benefit under Incremental Export Incentivisation Scheme.

Anti dumping/safeguard duty

Notifications and circulars

- Anti-dumping duty levied on imports of Normal Butanol or N-Butyl Alcohol, originating in or exported from European Union, Malaysia, Singapore, South Africa and United States of America, for a period of five years from 13 April, 2016.
- Levy of anti-dumping duty extended on imports of Synchronous Digital Hierarchy Transmission Equipment, originating in or exported from the People's Republic of China and Israel, for a period of five years from 26 April, 2016.

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Notifications and circulars

- The Central Government has increased the tariff concessions in respect of specified goods imported under the India-Japan Comprehensive Economic Partnership Agreement w.e.f. 1 April, 2016.

(Notification No. 28/2016- Customs, dated 31 March, 2016)

- The Central Government has simplified the procedure for import of parts and testing equipment at concessional rate, required by units engaged in Maintenance, Repairs and Overhaul of aircraft.

(Notification No. 29/2016- Customs, dated 26 April, 2016)

- The Central Government has notified Kakrawah, Siddharthnagar District, in the State of Uttar Pradesh as land customs station for the purpose of clearance of baggage, passenger vehicles and tourist vehicles.

(Notification No. 42/2016-Customs (N.T.) dated 29 March, 2016)

- The Central Government has issued instructions to field formations on requirements under newly introduced “Integrated Declaration” System at bill of entry level, invoice level and item level.

(Instruction F. No. 450/ 147/ 2015-Cus-IV, dated 31 March, 2016)

- The Central Government has clarified that exemption on fuel in tanks is available to all Indian airlines subject to fulfilment of specified conditions.

(Instruction F. No. 528/15/2016-STO (TU), dated 8 April, 2016)

Case law

Classification

- In MRF Ltd v CC (2016-TIOL-828-CESTAT-MAD), the Chennai Tribunal held that imported software was classifiable under Customs Tariff Heading (CTH) 8524 as “Information Technology Software” since it qualified the definition of “Information Technology Software” given in the exemption notification.

Valuation

- In Volkswagen Group Sales India Pvt Ltd v CC (2016 (334) ELT 69), the Mumbai Tribunal held that the sole distribution rights fee paid to foreign supplier on an annual basis could not be included in assessable value of imported consignment of promotional materials since such fees did not relate to imported goods.

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- In *CC v Bekaert Industries Pvt Ltd* (2016-TIOL-996-CESTAT-MUM), the Mumbai Tribunal held that royalty was not a condition of sale when importer had an option to purchase raw material from other suppliers.

Others

- In *Micromax Informatics Limited v Union of India & Ors* (WP (C) 523/2016), the Delhi High Court held that a claim for refund had to be entertained by Customs Authorities even when order for assessment had not been modified or reviewed in terms of Section 27 of Customs Act *post* its amendment on 8 April, 2011.

Foreign trade policy

Notifications and circulars

- The Central Government has defined “e-commerce” as buying and selling of goods and services, including digital products, conducted over digital and electronic network. Further, for the purpose of MEIS, ‘e-commerce’ has been defined as the export of goods, hosted on a website accessible through the internet to a purchaser.

(Notification No. 2/2015-2020, dated 11 April, 2016)

- The Central Government has approved nine new Pre-shipment Inspection Agencies (PSIA) for issuance of Pre-shipment Inspection Certificates for a period of three years.

(Public Notice No. 02/2015-20, dated 8 April, 2016)

- The Central Government has clarified that the correct ITC (HS) code of “Tamarind Kernel Powder” is 1302 32 90 and not ITC (HS) code 1106 30 10, and accordingly, MEIS benefit is not available on this product.

(Trade Notice No. 2/2016, dated 19 April, 2016)

Case law

- In *Printwell Offset v Union of India* (2016-TIOL-633-HC-AHM-CUS), the Gujarat High Court held that if the exporter had obtained Export Obligation Discharge Certificate (EODC) by misrepresentation of facts, due to which goods were seized by the Customs Authorities, the same could be released provisionally in case the importer was in a position to fulfil the export obligation within the period still pending in terms of the FTP provisions.
- In *Lifelong India Pvt. Ltd. v Union of India* (2016 (334) ELT 410), the Delhi High Court held that the adjudicating authority could not pass an order without considering the fact that the assessee had fulfilled the Export Obligation and applied for issuance of EODC, but the Directorate General of Foreign Trade had not issued the EODC.
- In *Allen Diesels India Pvt. Ltd. v Union of India* (2016 (334) ELT 624), the Delhi High Court held that Circulars issued by Central Board of Excise & Customs could not impose an additional restriction for availing benefits of exemption notification issued under the Act, as such Circulars were *ultra vires* the Act and were not legally sustainable.

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- In *Jindal Saw Ltd. v CCE* (2016 (334) ELT 172), the Ahmedabad Tribunal held that Special Additional Duty of Customs would not apply to goods cleared by an Export Oriented Unit to a sister unit in Domestic Tariff Area on stock transfer basis.
- In *JSW Steel Ltd. v Union of India* (2016 (334) ELT 222), the Mumbai High Court held that Central Government could not, in the name of 'greater scrutiny', restrict the benefit under Incremental Export Incentivisation Scheme, since such an amendment was arbitrary and against the objective of the policy.

Anti-dumping/Safeguard duty

Notifications and circulars

- The Central Government has levied anti-dumping duty on imports of Normal Butanol or N-Butyl Alcohol falling under CTH 290513 00 of Chapter 29 of Customs Tariff Act (CTA), originating in or exported from European Union, Malaysia, Singapore, South Africa and United States of America, for a period of five years from 13 April, 2016.

(Notification No. 13/2016- Customs (ADD) dated 13 April, 2016)

- The Central Government has extended the levy of anti-dumping duty on imports of Barium Carbonate, falling under CTH 283660 00 of Chapter 28 of CTA, originating in or exported from the People's Republic of China, for a period of five years from 21 April, 2016.

(Notification No. 14/2016- Customs (ADD) dated 21 April, 2016)

- The Central Government has extended the levy of anti-dumping duty on imports of Synchronous Digital Hierarchy Transmission Equipment, falling under Chapter 85 of CTA, originating in or exported from the

People's Republic of China and Israel, for a period of five years from 26 April, 2016.

(Notification No. 15/2016- Customs (ADD) dated 26 April, 2016)

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