



## Tax Insights

12 January 2023

### Government notifies Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023

#### In brief

The Finance Act, 2022, through amendment in section 14 of the Customs Act, 1962 placed an additional onus on the importer in cases where the imported goods are likely to be undervalued. In terms of this amendment, rules were to be notified outlining added responsibility of the importer concerning a class of imported goods whose value is not declared correctly, the criteria of selection of such goods and the checks to be exercised for such goods.

In line with the above, last year, the CBIC shared the draft Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2022 (CAVR, 2023) inviting stakeholder consultations for their suggestions.

Basis the inputs provided and examination of the same, CBIC has now notified CAVR, 2023<sup>1</sup>. These will be operationalised from 11 February 2023. The key highlights of CVAR, 2023 are outlined below.

#### In detail

The CVAR, 2023 propose a mechanism for the CBIC to determine the class of goods to be notified for additional obligations and checks related to undervaluation. The new provisions are to be executed through specifically constituted bodies, i.e. the Screening Committee and the Evaluation Committee, in the following manner:

- The Screening Committee and Evaluation Committee will comprise the senior-most officials of the Director General of Valuation, Director General of Revenue Intelligence, Director General of Analytics and Risk Management and National Assessment Centre, etc and have been constituted to bring in specialisation. The Screening Committee will be a higher-level committee providing recommendations to the CBIC.
- A written reference by any person (including the Customs officer or Government department) to the CBIC providing a complete description of the goods along with the manner of undervaluation and documentary evidence, reliable source of information for the examination of the reference and suggestions, if any, in terms of additional obligations or checks.
- Preliminary examination by the Screening Committee of the reference to decide whether it, or a part

<sup>1</sup> Notification No. 03/2023-Customs (N.T.) read with Circular No. 01/2023-Customs dated 11 January 2023

thereof, is a case to be taken up for detailed examination. The preliminary evaluation is to be completed within 15 days but not later than 21 days from the date of forwarding of the written reference by the CBIC.

- Basis the preliminary findings, where the written reference is found suitable for detailed examination, the reference, or a part of it, will be taken up for detailed examination on the date on which preliminary findings were recorded. In the alternative, where the reference is not found suitable for detailed examination, the reasons are to be recorded for the closing of such reference.
- Detailed examination by the Evaluation Committee of the findings of the Screening Committee with reliance on various parameters as specified, including expert reports, is to be provided within 30 days, which is further extendable by 30 days on a case-to-case basis.
- The Evaluation Committee, based on review, either closes the reference or recommends action in the form of a detailed examination report containing specified information or details such as the description of goods with 8-digit HS code, precautionary unit value to be used to fulfil the additional obligation, checks to be undertaken, the duration for which such checks and obligations are to be applied, including exemptions, if any, to the Screening Committee.
- The Screening Committee will examine the report in terms of completeness and recommend to the CBIC within 15 days of receipt of the report from the Evaluation Committee.
- The CBIC will thereafter evaluate the recommendation made by the Screening Committee and may issue a notification under rule 5 of the CVAR, 2023, specifying the identified goods requiring checks and compliances under the CAVR, 2023.
- Once such a notification identifying the goods has been issued, the importers will be liable to undertake additional compliances or disclosures at the time of the filing of the Bill of Entry and may be subject to additional checks.
- On non-compliance by the importer or where the proper officer has reasonable doubt on the accuracy of the information, further proceedings for rejection will be followed as per rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Certain other highlights of the CAVR, 2023 apart from the determination mechanism by the CBIC and the additional obligations on the importer are as under.

- The validity of the aforesaid notifications covering the class of goods issued will be a minimum of one year and a maximum of two years in the first instance.
- The notifications will be subject to a mid-term review, or if needed in specific cases earlier, for ascertaining the need for de-notification or an extension of the validity period.
- The CAVR, 2023 will not apply to a listed category of goods such as:
  - imports not involving duty;
  - goods for which tariff values have been fixed by the CBIC or which attract duty on a specific rate basis;
  - imports where parties are being investigated by the Special Valuation Branch (SVB) or an SVB report that already exists;
  - imports made in terms of authorisation or license issued under the duty exemption scheme of the Foreign Trade (Development and Regulation) Act, 1992;
  - project imports; and
  - any other imports as specified by the CBIC.
- The processes specified in the CAVR, 2023 will be enabled and processed on an electronic application, being developed by the Directorate General of Valuation. In the interim, written references are to be shared with the CBIC on a dedicated email, [cbic-valuation@gov.in](mailto:cbic-valuation@gov.in).

### The takeaways

Through these rules, authorities seek to address the concern of undervaluation of import of goods impacting customs duty assessment on such goods. The trade needs to evaluate the rules as they will have a bearing on compliances in terms of incremental obligation on clearance of goods where value is not correctly declared. Going forward, the trade also needs to put in place systems and processes to undertake compliances, including justification of value declared in case their imports are subject to additional scrutiny and checks by the customs authorities because of the notification issued under the rules.

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