

Staying Updated

Customs, FTP and WTO newsletter

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- Anti-dumping duty levied on imports of all kinds of Synchronous Digital Hierarchy Transmission, originating in or exported from China PR and Israel, till 7 December, 2015
- Anti-dumping duty levied on imports of Melamine, originating in or exported from People's Republic of China, till 18 February, 2016

Customs

Notifications and circulars

- The Central Government has extended the benefit of exemption from filing of Bank Guarantee in respect of Advance License/ EPCG Schemes, even where the importer has been penalised during the previous three financial years, subject to satisfaction of the jurisdictional Commissioner of Customs, regarding revenue's interest.

(Circular No. 15/2014-Customs dated 18 December, 2014)

- The Central Government, in order to simplify custom procedures, has provided an option to importers/ exporters for filing a combined commercial invoice-cum -packing list, provided the same contains the specified fields of normal packing list.

(Circular No. 1/2015-Customs dated 12 January, 2015)

Case law

Classification

- In Reliance Communications Infrastructure Ltd v CC (2015-TIOL-177-CESTAT-MUM), the Mumbai Tribunal held that optical fibre cables which are not made of individually sheathed fibres, merited classification under Customs tariff heading (CTH) 9001 which covered 'Optical fibre cables other than those of heading 8544' and not under CTH 8544

covering 'Optical fibre cables made up of individually sheathed fibres'.

- In Darshan Singh and Co v CC (2015-TIOL-36-CESTAT-DEL), the Delhi Tribunal held that a wheel rim for harvester combines had to be classified under CTH 8433 90 00 of Customs Tariff Act, 1975 and not under chapter 87, which covered wheel rims for commercial vehicles. The Tribunal further held that classification of past imports could not be changed on the basis of doubt due to current consignment.

Valuation

- In CC v Buying Overseas (2015-TIOL-146-CESTAT-MUM), the Mumbai Tribunal held that at the time of re-determining value of imported goods on the basis of contemporaneous imports, adjustments have to be made for quantity difference.
- In Can-Pack (India) Pvt Ltd v CC (2015-TIOL-158-CESTAT-MUM), the Mumbai Tribunal held that lumpsum payment of royalty with respect to the usage of trade mark and transfer of technical know-how could not be added to the value of the imported raw material, so long as the agreements did not stipulate any condition with regard to the source of procurement of raw materials from a specified foreign supplier or related party.

Others

- In *Bhatia Global Trading Ltd and Others v CC* (2014-TIOL-2637-CESTAT-Mum), the Mumbai Tribunal held that effective from 6 August, 2014, the Tribunal was barred from entertaining any appeal unless the pre-deposit as mentioned in the amended section 129E of the Customs Act, 1962 was made.
- In *Shri Vinod Agarwal and Others v CC* (2014-TIOL-133-CESTAT-KOL), the Kolkata Tribunal held that *mens rea* was not required as a condition precedent for levying personal penalty under section 112 (a) of the Customs Act, 1962.
- In *Standard Conduits Pvt Ltd v CC* (2015-TIOL-200-CESTAT-MUM), the Mumbai Tribunal held that refund of SAD in terms of Notification No. 102/2007, dated 14 September, 2007, could not be rejected merely on the ground that at the time of filing of refund claim, the appellant had not discharged VAT liability, even though VAT liability was discharged subsequently within the specified period. Once the appellant had complied with all the substantive conditions, rejection of refund claim on technical grounds was not sustainable in law.

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Foreign trade policy

Notifications

- The Central Government has prohibited the import of GSM mobile handsets with duplicate International Mobile Station Equipment Identity (IMEI) or fake IMEI and CDMA mobile handsets with duplicate Electronic Serial Number (ESN)/Mobile Equipment Identifier (MEID) or fake ESN/MEID.

(Notification No. 107(RE-2013)/2009-14 dated 16 January, 2015)

- The Central Government has removed all the restrictions on import of GSM/CDMA based vehicle tracking system having a valid IMEI/ ESN/MEID number. Now, no licence is required for such imports.

(Notification No. 105(RE-2013)/2009-14 dated 1 January, 2015)

Case law

- In Ultratech Cement Ltd v CCE (2015 (315) ELT 238), the Mumbai Tribunal held that goods supplied from DTA to contractors of SEZ units/ developers without payment of duty had to be treated as export in view of the Special Economic Zone Act, 2005, read with rule 6(6)(i) of the CENVAT Credit Rules, 2004.
- The Kerala High Court, in GTN Textiles

Limited v Union of India (2015 (315) ELT 191), held that the benefits under the Focus Market Scheme(FMS) could not be denied merely for the reason that Directors of exporter company held a substantial interest in some other company which had a liability towards Export Promotion Capital Goods Scheme (EPCG).

- In VVF Ltd v CCE (2015 (315) ELT 303), the Mumbai Tribunal held that the exemption of SAD was available on stock transfer of goods from EOU to DTA, in case there was no exemption from levy of VAT by the State government, as the condition of exemption notification was fulfilled.
- The Madras High Court in CC v Pattu Exports Pvt Ltd (2014-TIOL-2340-HC-MAD-CUS), held that in case of failure to fulfil export obligation under erstwhile Duty Exemption Entitlement Certificate Scheme (DEEC), penalty can be imposed even if the payment of duty and interest is made by the assessee on non-fulfilment of export obligation.
- In New Era Fabric Ltd v CCE (2015 (315) ELT 225), the Mumbai Tribunal held that on clearance of capital goods from EOU, duty was payable on the depreciated value in case such capital goods were once installed and put to use by the unit.

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- The Delhi Tribunal, in *Cheema Spintex Ltd v CC* (2015 (315) ELT 140), held that the conversion of shipping bills from one export promotion scheme to another could not be denied if the exporter had given the intimation in time and such conversion was justified and fair.

Anti-dumping duty

Notifications

- The Central Government has extended the levy of anti-dumping duty on imports of all kinds of Synchronous Digital Hierarchy Transmission equipment, falling under CTH 8517 62 or 8517 70 of the Customs Tariff Act, originating in or exported from China PR and Israel, upto 7 December, 2015.

(Customs (ADD) Notification No. 01/2015 dated 5 January, 2015)

- The Customs has imposed a safeguard duty on import of Sodium Citrate into India, falling under CTH 2918 15 20 of the Customs Tariff Act, at the rates mentioned below from all countries other than developing countries, including China.

Period of Import	Rate of Safeguard duty
31 December, 2014 to 30 December, 2015	30 % <i>ad valorem</i>
31 December, 2015 to 30 December, 2016	20 % <i>ad valorem</i>
31 December, 2016 to 30 December, 2017	10 % <i>ad valorem</i>

(Notification No. 04/2014-Customs (SG) dated 31 December, 2014)

- The Central Government has extended the levy of anti-dumping duty on imports of melamine, falling under chapter 29 of the Customs Tariff Act, originating in or exported from People's Republic of China, upto 18 February, 2016.

(Customs (ADD) Notification No. 02/2015 dated 7 January, 2015)

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Service tax

VAT/Entry tax/Sales tax

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