

Staying Updated

Customs, FTP and WTO newsletter

April 2015: Volume 18 Issue 01

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- Arbitrary loading of 1% of CIF value as "loading, unloading and handling charge", held unsustainable where actual charges could be ascertained
- Payment of technical fee for setting up of plant not includable in value of imported goods since it was not related to import of goods and was a post-importation activity

Others

- Exemption/concession of CVD on fulfilment of condition of non availment of CENVAT credit on raw material held to be available on imported goods since

imported goods satisfied this condition

Foreign trade policy

Notifications and circulars

- The Central Government has notified Country Groups containing list of Countries and ITC (HS) code wise list of products with reward rates under the Merchandise Exports from India Scheme (MEIS), introduced by the new Foreign Trade Policy 2015-2020
- The Central Government has notified the procedure for implementation of the Track and Trace system for export of Pharmaceutical and drug consignments

Case law

- The clearances made in the DTA against Advance Authorisation, where payment was not received in foreign currency held admissible for the purpose of fulfilment of export obligation

Anti-dumping duty

- Anti-dumping duty levied on imports of Acetone, originating in or exported from Chinese Taipei and Saudi Arabia for a period of five years from 16 April, 2015

Customs

Notifications and circulars

- The Central Government has notified a new Inland Container Depot (ICD) at Khurja, District Bulandshahr for "unloading of imported goods and loading of export goods".

(Notification No. 36/2015-Customs (NT) dated 7 April, 2015)

- The Central Government has clarified that going forward importers can file refund claim of 4% SAD at each of the customs stations where imports are made within one Commissionerate.

(Circular No. 12/2015-Customs dated 9 April, 2015)

- The Central Government has instructed Chief Commissioner of Customs and Excise to set up a Custom Clearance Facilitation Committee at every major Customs seaport and airport with following objectives amongst others, in relation to clearance of imported and export goods:
 - Ensuring and monitoring expeditious clearance;
 - Identifying and resolving bottlenecks in clearance;
 - Resolving grievances of members of

trade and industry in relation to clearance.

(Circular No. 13/2005-Customs dated 13 April, 2015)

Case law

Valuation

- In *Wipro Limited v Assistant Collector of Customs* (2015-TIOL-79-SC-CUS), the Supreme Court of India held that arbitrary loading of 1% of CIF value as "loading, unloading and handling charge" was unsustainable where the actual charges could be ascertained.
- In *CC v Essar Steel Ltd* (2015-TIOL-79-SC-CUS), the Supreme Court of India held that payment of technical fee for setting up of plant was not includible in the value of plant since it was not related to import of goods, and was a post-importation activity.

Others

- In *SRF Limited v CC* (2015-TIOL-74-SC-CUS), the Supreme Court of India held that exemption/concession of excise duty on fulfilment of condition of non-availment of CENVAT credit on raw material was available on imported goods, since imported goods satisfied this condition.

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- The Delhi Tribunal, in *CC v Met Trade (India) Ltd.* (2015 (318) ELT 131), held that re-export of imported goods was allowed, provided there was no evidence of intention of the importer to import the wrongly supplied goods in case the material sent by foreign supplier was different from the material ordered.
- In *Devki Nandan J Gupta v CC (Appeals)* (2015 (318) ELT 167), the CESTAT held that multiple refund claims for SAD could not be denied for the reason that the Circular prescribed a single refund in a month and Notification No. 102/2007-Customs provided time limit of one year for filing the refund claim.
- In *Marque Enterprises v CC* (2015-TIOL-592-CESTAT-DEL), the CESTAT held that declared transaction value could be rejected only when sufficient and tangible evidence was available on the basis of provisions of the Customs Valuation Rules, 2007. The declared transaction value could not be rejected merely on the basis of variation in value as per Chartered Engineer's report, as variation could be due to other business considerations.
- In *Supreme Petrochem Limited v CC* (2015-TIOL-606-CESTAT-MUM), the CESTAT held that refund of SAD in

terms of Notification No. 102/2007-Customs could not be denied in case of clearance of part of bulk cargo, even if sales invoices were raised prior to out-of-charge order for complete consignment.

Foreign trade policy

Notifications

- The Central Government has notified Country Groups containing list of Countries and ITC (HS) code-wise list of products with reward rates under the Merchandise Exports from India Scheme (MEIS), introduced by the new FTP 2015-2020.

(Public Notice No. 2/2015-2020 dated 1 April, 2015)

- The Central Government has notified the list of eligible services, rates and conditions for rewards under the new Services Exports from India Scheme (SEIS), introduced by the new FTP 2015-2020.

(Public Notice No. 3/2015-20 dated 1 April, 2015)

- The Central Government has notified the procedure for implementation of the Track and Trace system for export of Pharmaceutical and drug consignments.

(Public Notice No. 4/2015-20 dated 1 April, 2015)

- The Central Government has issued notification providing exemption from all duties of Customs on goods imported against Service Export from India Scheme duty scrip issued by the

Regional Authority on fulfilment of conditions specified in the said notification.

(Notification No. 25/2015-Customs dated 8 April, 2015)

- The Central Government has issued notification providing exemption from all duties of Customs on goods imported against duty scrip issued by Regional Authority under the Merchandise Exports from India Scheme on fulfilment of conditions specified in the said notification.

(Notification No. 24/2015-Customs dated 8 April, 2015)

- The Central Government has issued a notification providing exemption from all duties of Customs on goods imported against a valid Duty Free Import Authorisation (DFIA) on fulfilment of conditions specified in the said notification.

(Notification No. 19/2015-Customs dated 1 April, 2015)

- The Central Government has notified that visiting hours for non-officials/ members of trade for meeting with officials at DGFT Headquarters would be from 3 pm to 5 pm each working day.

(Trade Notice No. 1/2015 dated 20 April, 2015)

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- The Central Government has reduced the rate of duty to be levied on import of goods into India from Japan under the India-Japan CEPA Agreement.

(Notification No. 13/2015-Customs dated 30 March, 2015)

Case law

- The Ahmedabad Tribunal, in *Exechon v CC* (2015 (318) ELT 336), held that the supplies made under para 6.9 of chapter 6 of the Exim policy had to be included while calculating Net Foreign Exchange. Clearances made in DTA against Advance Authorisations, where payment were not received in foreign currency, were also admissible for the purpose of fulfilment of export obligation.
- The Andhra Pradesh High Court, in *GMR Hotels and Resorts Ltd v Union of India* (2015 (318) ELT 80), held that the Directorate General of Foreign Trade (DGFT) could not introduce something which was not envisaged in the provisions of FTP, and could not impose any additional restriction.

Anti-dumping duty

Notifications

- The Central Government has extended the levy of anti-dumping duty on imports of Coumarin, falling under the Customs Tariff Heading (CTH) 2932 21 00 of Customs Tariff Act (CTA), originating in or exported from People's Republic of China, up to 22 March, 2016.

(Notification No. 08/2015-Customs (ADD) dated 7 April, 2015)

- The Central Government has levied anti-dumping duty on imports of Flexible Slabstock Polyol of molecular weight 3000-4000, falling under chapter 39 of CTA, originating in or exported from Australia, European Union and Singapore for a period of five years from 7 April, 2015.

(Notification No. 09/2015-Customs (ADD) dated 7 April, 2015)

- The Central Government has levied anti-dumping duty on imports of Poly Vinyl Chloride Paste Resin, falling under chapter 39 of CTA, originating in or exported from Norway and Mexico for a period of five years from 7 April, 2015.

(Notification No. 10/2015-Customs (ADD) dated 7 April, 2015)

- The Central Government has levied anti-dumping duty on imports of Electrical Insulators of Glass or Ceramic/ Porcelain, whether assembled or unassembled, falling under chapter 85 of CTA, originating in or exported from the People's Republic of China for a period of five years from 16 September, 2014.

(Notification No. 11/2015-Customs (ADD) dated 11 April, 2015)

- The Central Government has levied anti-dumping duty on imports of Acetone, falling under chapter 29 of CTA, originating in or exported from Chinese Taipei and Saudi Arabia for a period of five years from 16 April, 2015.

(Notification No. 13/2015-Customs (ADD) dated 16 April, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Phenol, falling under CTH 2907 11 10 or 2707 99 00 of CTA, originating in or exported from Thailand and Japan, up to 18 April, 2016.

(Notification No. 14/2015-Customs (ADD) dated 17 April, 2015)

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