

Staying Updated

Customs, FTP and WTO newsletter

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- Conversion of free shipping bill to reward scheme shipping bill was allowed in case where the containers were stuffed in the presence of Customs officers

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- Anti-dumping duty levied on imports of Graphite Electrodes of all diameters, originating in or exported from the People's Republic of China for a period of five years from 13 February, 2015
- Anti-dumping duty levied on imports of Acetone, originating in or exported from Korea RP, for a period of five years from 18 February, 2015

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Notifications and circulars

- The Central Government has allowed re-export of goods imported under bona fide mistake of importer, with the permission of customs officer on merits as per their adjudication powers, as against permission from Commissioner of Customs required earlier.

(Circular No. 4/2015-Customs dated 20 January, 2015)

- The Central Government has exempted import of 'Urea' falling under Custom Tariff Heading ('CTH') 3102 10 00 under the Urea Off-take Agreement, between the Government of India and Oman India Fertilizer Company S.A.O.C., from full basic custom duty and countervailing duty under section 3(1) of the CTA, as it is in excess of the amount calculated on the declared value of Urea as agreed under the said agreement.

(Notification No. 4/2015-Customs dated 16 February, 2015)

Case law

Classification

- In EPSON India Pvt Ltd v CC (2015-TIOL-210-CESTAT-MAD), the Madras Tribunal held that software for printer is rightly classifiable under CTH 8524 and not under CTH 8471 60 as printer, since in terms of erstwhile note 6 to chapter

85 of Customs Tariff Act, 1975 (CTA) software and hardware are separately classifiable.

Valuation

- In KF Bioplants Pvt Ltd v CC (2015-TIOL-248-CESTAT-MUM), the Mumbai Tribunal held that charges paid for the right to reproduce variants of imported goods in the country of importation were specifically excluded under customs valuation rules for determining the value for the imported goods. Therefore, royalty paid by the appellants for reproduction of variants the imported clumps in India could not be added to the value of the imported clumps.
- In Topsia Estates Pvt Ltd v CC (2015-TIOL-351-CESTAT-MAD), the Madras Tribunal held that import value as declared by the importer could not be rejected when contemporaneous import at a higher value from same country of export was not available.

Others

- In Arkema Catalyst India Pvt Ltd and Others v CC (2015-TIOL-212-CESTAT-MUM), the Mumbai Tribunal held that extension of stay could be granted by Tribunal beyond the period of 365 days and till the disposal of appeal when delay was not on account of any commission or omission on the part of the appellant.

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- In *Cipla Ltd v CC (2015-TIOL-201-CESTAT-MUM)*, the Mumbai Tribunal held that the refund of excess duty paid by mistake was admissible without challenging the assessment of bill of entry.
- In *Samsung India Electronics Pvt Ltd v CC (2015-TIOL-230-CESTAT-MUM)*, the Mumbai Tribunal held that refund of Special Additional Duty (SAD) could not be denied on non-mention on sales invoices that credit of SAD was not available since this was only a procedural lapse.
- In *Morgan Techtronics Ltd v CC (2015 (316) ELT 276)*, the Delhi Tribunal held that the confiscation of mobile parts imported in fully assembled condition was not justifiable even if at the time of import, importer declared the goods under semi-knocked down condition, in a case where the SEZ unit was undertaking activities such as testing and adjusting the parameters of phone, because there could not be an intention to evade payment of duty by mis-declaration of description by SEZ unit.

Foreign trade policy

Notifications

- The Central Government has issued a new format for issuance of Importer Exporter Code (‘IEC’) numbers in electronic form based on online applications in Appendix 18B-1.

(Public Notice No. 84 (RE-2013)/2009-2014 dated 10 February, 2015)

- The Central Government has clarified that, only one IEC shall be issued against a single PAN and multiple IEC’s already issued against a single PAN, if not surrendered before 31 March 2015, will be de-activated.

(Public Notice No. 87 (RE-2013)/2009-2014 dated 17 February, 2015)

- The Central Government has issued list of various products of which export has declined during 2013-14 as compared to 2012-13 so as to re-fix average export obligation under Export Promotion for Capital Goods Scheme.

(Policy Circular No. 16 (RE-2013)/2009-14 dated 19 January, 2015)

- The Central Government has issued various guidelines to all Regional Authorities for verification of various particulars of IEC applications.

(Policy Circular No. 17 (RE-2013)/

2009-14 dated 30 January, 2015)

Case law

- In *Asha Industries v CC (2015-TIOL-321-CESTAT-MUM)*, the Mumbai Tribunal held that the conversion of free shipping bill to reward scheme shipping bill could be allowed in case the containers were stuffed in the presence of Customs officers and some goods had been examined by the Customs officials at the time of export.
- In *CC v Skyline Air Logistic Ltd (2015-TIOL-340-CESTAT-MUM)*, the Mumbai Tribunal held that Customs House Agent could be penalised for collusion in import of illegal goods under Customs House Agents Licencing Regulations and not under the provisions of the Customs Act.
- In *CC v Art Asia Sankalp International (2015 (316) ELT 283)*, the Delhi Tribunal held that the benefit of exemption on input required for manufacture of handicrafts to be exported was allowed when such requirement was approved by Export Promotion Council of handicraft, and in such a situation Customs had no jurisdiction to allege that importer was not eligible to avail such exemption.

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- The Central Government has levied anti-dumping duty on imports of Sodium Nitrate, falling under chapter 28 or 31, originating in or exported from the European Union, the People's Republic of China, Ukraine and Korea RP for a period of five years from 19 March, 2014.

(Customs (ADD) Notification No. 03/2015 dated 10 February, 2015)

- The Central Government has levied anti-dumping duty on imports of Graphite Electrodes of all diameters, falling under the CTH 8545, originating in or exported from the People's Republic of China for a period of five years from 13 February, 2015.

(Customs (ADD) Notification No. 04/2015 dated 13 February, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Acetone, falling under CTH 2914 11 10 of CTA, originating in or exported from Korea RP, for a period of five years from 18 February, 2015.

(Customs (ADD) Notification No. 05/2015 dated 18 February, 2015)

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VAT/Entry tax/Sales tax

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