

Staying Updated

Customs, FTP and WTO newsletter

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Notifications and circulars

- The Central Government has notified Kamalasagar in Tripura as Land Customs Station for trade with Bangladesh.

(Notification No. 50/2015-Customs (NT) dated 3 June, 2015)

- The Central Government, in the interest of expediting decision-making and faster settlement of outstanding disputes, has delegated the power of the Central Board of Excise and Customs (CBEC) to appoint common adjudicating authority in cases investigated by DRI to Principal Director General of Revenue Intelligence (Principal DG, DRI).

The following are the key decisions taken by the CBEC in this regard:

1. Following cases initiated by DRI shall be assigned to Additional Director General (Adjudication)-DRI:
 - Cases involving duty of INR 50 Mn and above;
 - Groups of cases on identical issues involving aggregate duty of INR 50 Mn or more;

- Cases involving seizure value of INR 5 Mn or more;
- Cases of over-valuation irrespective of value involved; and
- Existing DRI cases with erstwhile Commissioner (Adjudication).

2. Cases other than at (1) above, involving more than one Customs Commissionerate would be assigned to the Jurisdictional Commissioner of Customs on the basis of the maximum duty evaded;
3. Cases other than at (1) above involving a single Customs Commissionerate would be assigned to the Jurisdictional Commissioner of Customs.

(Circular No. 18/2015 dated 9 June, 2015 and Notification No. 60/2015-Customs, dated 4 June, 2015)

Case law

Valuation

- The Supreme Court of India, in *CC v Hindalco Industries Ltd. (2015 (320) ELT 42 (SC))*, held that fees paid for licence, training and technical services related to post-import activity should not to be added when calculating value of imported goods.

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- In *Bharat Petroleum Corporation Ltd v CC (2015 (320) ELT 294)*, the Tribunal held as under:
 - Customs duties other than NCCD had to be computed on transaction value, even if quantity actually received was less than quantity exported by the overseas supplier (due to loss in transit), since the same transaction value will be the value for quantity received
 - NCCD was levied at specific rate so it had to be levied on actual shore quantity received
 - Excess payment of duty against one Bill of Entry (BOE) could not be adjusted against subsequent BOE, since under Customs law, each transaction had to be examined separately, and there was no provision for clubbing of clearance.
- The Supreme Court of India (SC), in *CC v Kanhaiyalal and Co (2015 (319) ELT 615 (SC))*, held that where currency of exporting country devalued, the reduced import value was acceptable.
- In *Habasit Lakoka Pvt Ltd v CC (2015-TIOL-141-SC-CUS)*, the SC held that transaction value of goods imported from related party was liable to be rejected when similar goods after

adjustment of additional work were imported at a higher price by any independent third party in India.

Others

- In *Madhucon Bina Puri v CC (2015 (320) ELT 458)*, the Tribunal held that excess customs duty shown as recoverable in balance sheet was sufficient evidence to pass the test of unjust enrichment.
- In *Tata Steel Limited v CC (2015 (320) ELT 462)*, the Tribunal held that benefit of project import scheme was not available when new machinery was installed for manufacture of new product by removing the machinery used for manufacturing a different old product, since there was no substantial expansion.
- The SC, in *CC v Diascans (India) Ltd (2015 (320) ELT 177 (SC))*, held that CESTAT could not reduce penalty without giving reasons, merely by observing that the penalty ‘appear to be excessive’.
- In *CC v Glencore India Pvt Ltd (2015 (319) ELT 555 (SC))*, the SC held that appeal against the Tribunal’s order relating to determination of question as to whether the assessment was provisional or final, should have

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been filed before the HC and not before the SC. Only cases involving classification and valuation issues could be filed directly with the SC.

- The SC, in *Ahujasons Shawlwale (P) Ltd v CC (2015 (319) ELT 576 (SC))*, held that CVD was not leviable on imported Shawls and Scarves when no excise duty was levied on similar goods produced domestically.
- In *Union of India v Param Industries Ltd (2015-TIOL-140-SC-CUS)*, the SC held that notifications come into force on fulfilment of two mandatory conditions viz:
 1. Notification was published in the official gazette; and
 2. The Gazette copy was offered for sale by concerned department.

Foreign trade policy

Notifications and circulars

- The Central Government has notified certain amendments to bring clarity to certain points, and to amend certain provisions in Foreign Trade Policy (FTP) and Hand Book of Procedures, 2015-20 (HBP) relating to mandatory documents required for import/ export, ineligible categories for Merchandise Export from India Scheme (MEIS) and Service Export from India Scheme (SEIS), export obligations related to various duty exemption/ remission schemes etc.

(Notification No. 08/2015-2020 dated 4 June, 2015 and Public Notice No. 16/2015-20 dated 4 June, 2015)

- The Central Government has clarified that:
 - benefit of SEIS is not available for services provided by a unit located in DTA to SEZ; and
 - benefit of SEIS is available for services provided from a SEZ unit to other countries.

(Public Circular No. 1/2015-20, dated 11 June, 2015)

- The Central Government has notified that following applications can be filed manually with DGFT till 30 September, 2015:

- application for Status Holder Certificate in ANF 3C;
- application for bond waiver in ANF 4F; and
- application for Nominated Agency Certificate in ANF 4-I.

(Public Notice No. 17/2015-20, dated 4 June, 2015)

- The Central Government has notified new format of Bank Guarantee, to be executed with DGFT, for recognition as Pre-Shipment Inspection Agency (PSIA).

(Public Notice No. 21/2015-20, dated 23 June, 2015)

- The Central Government, in order to facilitate 'ease of doing business in India', has released beta version of online ANF 3A with facility to upload application form along with supporting documents for MEIS.

(Trade Notice No. 05/2015, dated 16 June, 2015)

- The Central Government, in order to facilitate 'ease of doing business in India' has released beta version of online ANF 5A with facility to upload application form along with supporting documents for issuance of Export Promotion Capital Goods (EPCG) authorisation.

(Trade Notice No. 03/2015, dated 1 June, 2015)

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- The Tribunal, in *Beetel Teletech Ltd v CC (2015 (320) ELT 137)*, held that benefit under EPCG scheme could not be availed, if the goods exported were not manufactured in the factory where imported capital goods under EPCG scheme were installed.
- In *Laxmi Organic Industries Ltd v Union of India (2015 (319) E.L.T 667)*, the Bombay HC has held that where exemption from filing a Bank Guarantee under the scheme of FTP has been denied in terms of provisions of FTP, there was no violation of right to equality and right to trade.
- In *Nagesh Hoisery Exports Ltd v DGFT, Union of India (2015 (320) ELT 95)*, the Punjab and Haryana HC has held that in a case where an assessee had discharged export obligation under Advance Licence as amended by DGFT, then Customs Authorities could not demand differential duty.
- The Tribunal, in *Ruchika International v CC (2015-TIOL-1224-CESTAT-MUM)*, held that no penalty was leviable on Customs officers in case of over-valuation of goods by an exporter, when they have taken due care and allowed export on the basis of evidence, since this could not be taken as an abetment of offence under Customs Law.

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Notifications

- The Central Government has levied anti-dumping duty on imports of Purified Terephthalic Acid, including its variants, Medium Quality Terephthalic Acid (MTA) and Quality Terephthalic Acid (QTA), falling under Customs Tariff Heading 2917 36 00 of Customs Tariff Act (CTA), originating in or exported from the People's Republic of China, European Union, Korea RP and Thailand for a period of five years from 25 July, 2014.

(Notification No. 23/2015-Customs (ADD) dated 27 May, 2015)

- The Central Government has levied anti-dumping duty on imports of electronic calculators of all types, excluding calculators with attached printers, commonly referred to as printing calculators; calculators with ability to plot charts and graphs, commonly referred to as graphing calculators; programmable calculators, falling under chapter 84 of CTA, originating in or exported from the People's Republic of China for a period of five years from 29 May, 2015.

(Notification No. 24/2015-Customs (ADD) dated 29 May, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Poly Vinyl Chloride Paste Resin, falling under chapter 39 of CTA, originating in or exported from Korea RP, Taiwan, People's Republic of China, Malaysia, Thailand and Russia, for a further period of one year up to 25 July, 2016.

(Notification No. 25/2015-Customs (ADD) dated 1 June, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Poly Vinyl Chloride Paste Resin, falling under chapter 39 of CTA, originating in or exported from European Union, for a further period of one year up to 24 June, 2016.

(Notification No. 26/2015-Customs (ADD) dated 1 June, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Acrylic Fibre, falling under chapter 55 of CTA, originating in or exported from Korea RP and Thailand for a period of five years from 1 June, 2015.

(Notification No. 27/2015-Customs (ADD) dated 1 June, 2015)

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- The Central Government has levied anti-dumping duty on imports of Hot Rolled Flat Products of Stainless Steel, of ASTM grade 304 with all its variants, falling under chapter 72 of CTA, originating in or exported from People's Republic of China, the Republic of Korea and Malaysia, for a period of five years from 5 June, 2015.

(Notification No. 28/2015-Customs (ADD) dated 5 June, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Vitamin E, falling under chapter 29 and 23 of CTA, originating in or exported from the People's Republic of China, for a period of five years from 10 June, 2015.

(Notification No. 29/2015-Customs (ADD) dated 10 June, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Nylon Tyre Cord Fabric, falling under chapter 59 of CTA, originating in or exported from the People's Republic of China for a period of five years from 12 June, 2015.

(Notification No. 30/2015-Customs (ADD) dated 12 June, 2015)

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Service tax

VAT/Entry tax/Sales tax

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