

Staying Updated

Customs, FTP and WTO newsletter

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Anti-dumping duty

- Anti-dumping duty extended on imports of Barium Carbonate, originating in or exported from the People's Republic of China upto 22 March, 2016
- Anti-dumping duty levied on imports of Sodium Citrate, originating in or exported from the People's Republic of China for a period of five years from 20 May, 2015

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Notifications and circulars

- The Central Government has dispensed with the requirement of attaching SDF form with shipping bill in case of export taking place through the EDI ports, provided a specified declaration for receipt of export proceeds is made in the shipping bill itself.

(Circular No. 15/2015-Customs dated 18 May, 2015)

Case law

Valuation

- In *CC v Pioneer Impex* (2015 (319) ELT 355), the Supreme Court of India held that when comparable goods were imported at a higher price by other importers, then it was open for custom authorities to re-determine the value of imported goods on the basis of contemporaneous imports.

Classification

- In *Secure Meters Ltd v CC* (2015-TIOL-100-SC-CUS), the Supreme Court of India held that Liquid Crystal Devices (LCD) used as parts in electricity supply meter would be classifiable under Custom Tariff Heading (CTH) 9013 80 as Liquid Crystal Devices (LCD) and not as 'parts and accessories of electricity

meters' under CTH 9028 90 10, since these products constitute 'articles' falling under CTH 9013.

Others

- In *Aban Exim Pvt Ltd v CC* (2015 (319) ELT 430), the Delhi High Court held that seeking bank guarantee upto 30% of the differential duty was sufficient for provisional release of goods, considering precedents of the Supreme Court in similar matters.
- In *Puja Enterprises v CC* (2015 (319) ELT 82), the Mumbai Tribunal held that the test of unjust enrichment was not qualified where Chartered Accountant certificate indicates that duty burden had been passed on to the customer.
- In *Prabhat Steel Traders Pvt Ltd v CC* (2015 (319) ELT 90), the Mumbai Tribunal held that the refund of SAD in terms of Notification No. 102/2007-Customs dated 14 September, 2007 could not be denied for demand of additional documents not specified in the said notification.
- In *Page Industries Ltd v CC* (Appeals-II) (2015-TIOL-1231-HC-MAD-CUS), the Madras High Court held that writ before the High Court was not maintainable when alternative remedy of filing appeal before the Tribunal was available.

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- In *M P Steel Corporation v CCE* (2015-TIOL-89-SC-CUS), the Supreme Court of India held that time taken to pursue the appeal in the wrong forum had to be excluded as mentioned in section 14 of the Limitation Act, even if the Customs Act provided for a specific period for which delay can be condoned, since implications of principles contained in section 14 of the Limitation Act will advance the cause of justice.
- In *Dream Yachts Pvt Ltd v Union of India and Ors* (2015-TIOL-1175-HC-MUM-CUS), the Bombay High Court held that the order passed by the Settlement Commission without providing copy of the Customs Commissioner's report to the applicant, was a violation of the principles of natural justice, and hence the order was liable to be set aside.
- In *CC v Reliance Industries Ltd* (2015-TIOL-112-SC-CUS), the Supreme Court of India held that appeal before the Supreme Court was not maintainable when the matter was remanded by the Tribunal due to non-availability of adequate factual material.
- In *Uniexcel Polychem Pvt Ltd v CC* (2015-TIOL-1086-HC-DEL-CUS), the Delhi High Court held that Customs officers were under an obligation to

perform their statutory duties and were also required to act expeditiously.

Foreign trade policy

Notifications

- The Central Government has freely allowed import of Industrial Urea/ Technical Grade Urea (TGU) with subject to actual user condition.
(Notification No. 04/2015-2020 dated 28 April, 2015)
- The Central Government has withdrawn the Duty Free Import Authorisation (DFIA) scheme on import of 'raw sugar' with effect from 1 May, 2015.
(Notification No. 05/2015-2020 dated 1 May, 2015)
- The Central Government has amended the policy, treating import of High Speed Diesel (HSD) and Light Diesel Oil (LDO), brought on board in old ships/ vessels for purpose of breaking, and which are incidental to such ships/ vessels as "Free".
(Notification No. 07/2015-2020 dated 20 May, 2015)
- The Central Government has reduced the Export Obligation period for "raw sugar" imported under Advance Authorisation scheme to six months from the date of clearance of each consignment by customs authority.
(Public Notice No. 08/2015-2020, dated 1 May, 2015)

- The Central Government has notified ANF3B-2 for claiming benefit of Served From India Scheme (SFIS) for foreign exchange earned in the year 2014-15.
(Public Notice No. 14(RE 2013)/2009-14, dated 25 May, 2015)
- The Central Government has notified a revised procedure to be followed for issue of Pre-Shipment Inspection Certificates (PSICs), with effect from 1 June, 2015.
(Public Notice No. 12/2015-2020, dated 18 May, 2015)

Case law

- The Supreme Court of India, in *CC v Alsa Marine and Harvests Ltd (2015 (319) ELT 237)*, held that an EOU, having fulfilled all the conditions of erstwhile exemption notification, would be eligible for availing exemption on goods transferred to another EOU for export from such unit.
- In *Asian Hotels (North) Ltd v CC (2015 (319) ELT 141)*, the Mumbai Tribunal held that the production of 'Type Approval Certificate' issued by the manufacturer of car at the time of import was a procedural requirement to claim the benefits under EPCG scheme. As the certificate was eventually produced, though after import, benefit of exemption on import could not be denied.

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- In *Alstom India Ltd v Union of India* (2015 (319) ELT 434), the Delhi High Court held that in case the supplier had not availed the exemption from Terminal Excise Duty (TED) on deemed export in terms of erstwhile FTP, he was eligible for refund of TED.
- In *Motherson Sumi Electric Wires v Union of India* (2015 (319) E.L.T 441), the Delhi High Court held that scope of section 15(1) of the Foreign Trade (Development and Regulation Act), 1992 (FTDRA, 1992) was quite large and covered an appeal against the rejection of refund for TED.
- In *Gopal Agarwal v CC* (2015-TIOL-907-CESTAT-DEL), the Delhi Tribunal held that there was no bar under the Customs Act, 1962, to lend the Importer Exporter Code (IEC), as further lending of IEC to a third party was not an offence under the Customs Act, 1962.

Anti-dumping duty

Notifications

- The Central Government has extended the levy of anti-dumping duty on imports of Barium Carbonate, falling under the CTH 2836 60 00 of Customs Tariff Act (CTA), originating in or exported from the People's Republic of China, up to 22 March, 2016.

(Notification No. 15/2015-Customs (ADD) dated 22 April, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Acetone, falling under the CTH 2914 11 00 of CTA, originating in or exported from Japan and Thailand, up to 8 April, 2016.

(Notification No. 16/2015-Customs (ADD) dated 22 April, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Morpholine, falling under the CTH 2933 39 17 of CTA, originating in or exported from the People's Republic of China, European Union and the United States of America, up to 19 September, 2016.

(Notification No. 18/2015-Customs (ADD) dated 18 May, 2015)

- The Central Government has levied anti-dumping duty on imports of

Sodium Citrate, falling under the CTH 2918 15 20 of CTA, originating in or exported from the People's Republic of China for a period of five years from 20 May, 2015.

(Notification No. 19/2015-Customs (ADD) dated 20 May, 2015)

- The Central Government has levied anti-dumping duty on imports of Cast Aluminium Alloy Wheels or Alloy Road Wheels used in Motor Vehicles, whether or not attached with their accessories, of sizes in diameters ranging from 12 inches to 24 inches, falling under chapter 87 of CTA, originating in or exported from the People's Republic of China, Korea RP and Thailand for a period of five years from 11 April, 2014.

(Notification No. 21/2015-Customs (ADD) dated 22 May, 2015)

- The Central Government has levied anti-dumping duty on imports of USB Flash Drives, falling under chapter 84 and 85 of CTA, originating in or exported from the People's Republic of China and Chinese Taipei for a period of five years from 22 May, 2015.

(Notification No. 22/2015-Customs (ADD) dated 22 May, 2015)

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