

Staying Updated

Customs, FTP and WTO newsletter

December 2015: Volume 18 Issue 09

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Customs

Notifications and circulars

- The Central Government has notified Village Janoli-Bhagola, Tehsil Palwal, in the State of Haryana as Inland Container Depot for the purpose of unloading of imported goods and loading of export goods.
- Customs Duty exemption increased on specified goods, when imported into India under Comprehensive Economic Co-operation Agreement between India and Singapore.
- The Central Government has issued instructions for withdrawal of cases pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matters.
- The Central Government has amended the monetary limit for filing appeals by the Department, before Tribunal, High Courts and Supreme Court.

Case law

Valuation

- In the absence of cogent reason, invoice value based on agreement with foreign supplier could not be rejected.

Other

- Prohibition/ restriction under any other law

on the movement of goods within India could not be made ground for confiscation of such goods under Customs Act, 1962.

Foreign trade policy

Notifications and circulars

- Import of reconditioned/ second hand aircraft parts is now freely allowed.

Case law

- Benefit under Export Promotion Capital Goods (EPCG) scheme could be allowed on the basis of actual user condition. However, capital goods could be used for the purpose, other than for condition specified in EPCG licence.

Anti-dumping duty

Notifications and circulars

- Levy of anti-dumping duty extended on import of Cold Rolled Flat Products of Stainless Steel, falling under Chapter 72 of Customs Tariff Act (CTA), originating in, or exported from the People's Republic of China, Korea, European Union, South Africa, Taiwan, Thailand and USA for a period of five years.
- Provisional anti-dumping duty levied on Purified Terephthalic Acid, falling under Chapter 29 of CTA, originating in, or exported from the Peoples Republic of China, Iran, Indonesia, Malaysia and Taiwan for a period of six months.

Customs

Notifications and circulars

- The Central Government has notified Village Janoli-Bhagola, Tehsil Palwal, in the State of Haryana as Inland Container Depot for the purpose of unloading of imported goods and loading of export goods.

(Notification No. 137/2015-Customs (N.T.) dated 7 December, 2015)

- The Central Government has increased the tariff concessions in respect of specified goods, when imported into India under the Comprehensive Economic Co-operation Agreement between India and Singapore.

(Notification No. 53/2015-Customs, dated 23 November, 2015)

- The Central Government has issued instruction for withdrawal of appeals pending before Tribunal/ High Court on the basis of earlier Supreme Court's decision on identical matter, which has been accepted by Department.

(Instruction No. F. No. 390/Misc./67/2014-JC, dated 18 December, 2015)

- The Central Government has issued instructions in order to reduce Government litigation by providing revised monetary limits as mentioned in the table below, for filing appeals by the department before Tribunal, High Courts and Supreme Court.

Sr. No.	Appellate Forum	Monetary Limit
1	CESTAT	10,00,000/-
2	High Court	15,00,000/-
3	Supreme Court	25,00,000/-

(Instruction No. F. No. 390/Misc./163/2010-JC, dated 17 December, 2015)

- The Central Government has amended guidelines for appointment of common adjudication authority to the effect that following cases initiated by Directorate of Revenue Intelligence (DRI) shall be assigned to Additional Director General (Adjudication) – DRI:
 - Cases involving duty of INR 50 million and above;
 - Group of cases on identical issues involving aggregate duty of INR 50 million or more;
 - Cases involving seizure value of INR 250 million or more;
 - Cases involving wrong avilment of export incentives INR 50 million or more;
 - Group of cases on identical issues involving wrong avilment of export incentives aggregating to INR 50 million or more;
 - Cases involving over-valuation of INR 250 million or more; and
 - Existing DRI cases with erstwhile Commissioner (Adjudication).

(Circular No. 30/2015- Customs, dated 4 December, 2015)

Case law

Classification

- In *Samsung India Electronics Pvt. Ltd. v. CC* (2015 (326) ELT 161), the Delhi Tribunal held that parts of LCD comprising of driver, circuit, backlight and inverter would be classifiable under CTH 9013 (i.e. Liquid crystal devices not constituting articles provided for more specifically in other headings) instead of CTH 8529 (i.e. Parts suitable for use solely or principally with apparatus of headings 8525 to 8528).

Valuation

- In *Suvee Impex Pvt. Ltd. v. CC* (2015-TIOL-2611-CESTAT-BANG), the Bangalore Tribunal held that invoice value declared based on agreement entered with foreign supplier, could not be re-determined in the absence of cogent reason for rejection of invoice value.
- In *Moti Polymers v. CC* (2015-TIOL-2545-CESTAT-MUM), the Mumbai Tribunal held that the imported goods were not comparable, if they were not “identical goods” or “similar goods” to goods imported by other importers. In the present case tissue paper of 18 GSM was not considered identical/ similar to

tissue paper of 14 or 16 GSM.

- In *Mahindra Renault Pvt. Ltd. v. CC* (2015-TIOL-2486-CESTAT-MUM), the Mumbai Tribunal held that royalty related to spare parts manufactured in India had no relation with imported parts and hence would not be included in assessable value of imported parts.

Others

- In *UOI & ORS v. Adani Power Ltd* (2015-TIOL-281-SC), the Supreme Court held that the Notification No. 25/2010-Customs, dated 27 February 2010, was ultra vires to section 30 of the SEZ Act and Article 265 of the Constitution of India. Accordingly, no duty would be payable on electricity energy transferred from Special Economic Zone to Domestic Tariff Area.
- In *Santosh Handloom v. CC* (2015-TIOL-2661-HC-DEL), the Delhi High Court, held that SCN under section 110(2) of the Customs Act, 1962, served on Custom House Agent did not meet the requirement of law, since service of agents was completely done away under customs law and notice issued was required to be served on the person for whom it was intended.

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- In *Automark Industries (I) Pvt. Ltd. v. CC (2015-TIOL-2564-CESTAT-MUM)*, the Mumbai Tribunal held that Special Additional Duty refund amount shown as receivable in balance sheet was sufficient proof that burden had not been passed on and test of unjust enrichment was clear, where Chartered Accountant certificate indicate that duty burden had not been passed on.
- In *Doosan Infracore India Pvt. Ltd. v. CC (2015-TIOL-2475-CESTAT-MAD)*, the Chennai Tribunal held that Extra Duty Deposit could not be increased from 1% to 5%, when in the past years Special Valuation Branch section had accepted the transaction value of imported goods specifically, when importer was co-operating with Authority.
- In *Roshanlal Gupta And Sons Pvt. Ltd. v. UOI (2015-TOIL-2822-HC-AHM)*, the Gujarat High Court held that provisions of pre-deposit would not apply in case a separate appeal was filed for a Customs matter which had already been included in an Excise appeal. Further, provisions of section 129E of Customs Act, 1962 warrants mandatory deposit of 7.5% of duty demanded would not be applicable, since matter related to period governed by older provision.
- In *MD Raju Hussain v. CC (2015-TIOL-2539-CESTAT-KOL)*, the Kolkata Tribunal held that prohibition/ restriction under any other law on the movement of goods within India could not be made ground for confiscation of such goods under Customs Act, 1962.

Foreign trade policy

Notifications and circulars

- The Central Government has amended Standard Input Output Norm A1663, for export of all types of truck tyres (tube type).

(Public Notice No. 49/2015-20, dated 17 December, 2015)

- The Central Government has freely allowed import of reconditioned/ second hand aircraft parts falling under CTH 8803.

(Notification No. 27/2015-20 dated 16 December, 2015)

- The Central Government has clarified that Interest Equalisation Scheme of Pre and Post Shipment Rupee Export Credit is applicable from 1 April, 2015. Accordingly all eligible exporters who have availed credit facility post 1 April, 2015 can contact their bank for this benefit.

(Trade Notice No. 09/2015, dated 08 December, 2015)

Case law

- In Hotel Excelsior Ltd. v. CC (2015-TIOL-2661-CESTAT-DEL), the Delhi Tribunal held that benefit under EPCG scheme could be allowed on the basis of actual user condition. However, capital goods could be used for the purpose,

other than for condition specified in EPCG licence.

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Anti-dumping duty

Notifications

- The Central Government has extended the levy of anti-dumping duty on import of Cold Rolled Flat Products of Stainless Steel, falling under Chapter 72 of CTA, originating in, or exported from the People's Republic of China, Korea, European Union, South Africa, Taiwan, Thailand and USA for a period of five years with effect from 11 December, 2015.

(Notification No. 61/2015- Customs (ADD) dated 11 December, 2015)

- The Central Government has levied provisional anti-dumping duty on Purified Terephthalic Acid, falling under Chapter 29 of CTA, originating in, or exported from the People's Republic of China, Iran, Indonesia, Malaysia and Taiwan for a period of six months with effect from 10 December, 2015.

(Notification No. 60/2015- Customs (ADD) dated 10 December, 2015)

- The Central Government has extended the levy anti-dumping duty on import of all kinds of plastic processing or injection moulding machines, having clamping force not less than 40 tonnes and not more than 1000 tonnes, falling under Chapter 84 of CTA, originating in or exported from the People's Republic

of China for a period of five years with effect from 4 December, 2015.

(Notification No. 57/2015- Customs (ADD) dated 4 December, 2015)

- The Central Government has levied anti-dumping duty on Phthalic Anhydride, falling under Chapter 29 of CTA, originating in, or exported from Japan and Russia for a period of five years with effect from 4 December, 2015.

(Notification No. 56/2015- Customs (ADD) dated 4 December, 2015)

- The Central Government has levied anti-dumping duty on Melamine Tableware and Kitchenware products, falling under Chapter 39 of CTA, originating in, or exported from the People's Republic of China, Thailand and Vietnam for a period of five years with effect from 4 December, 2015.

(Notification No. 55/2015- Customs (ADD) dated 4 December, 2015)

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Delhi

Vivek Mishra/Gautam Khattar
Ph: +91 (124) 3306000

Mumbai

Dharmesh Panchal/S Satish
Ph: +91 (22) 6689 1000

Kolkata

Pulak Saha/Gopal Agarwal
Ph: +91 (33) 4404 3098/4404 6000

Bangalore

Pramod Banthia
Ph: +91 (80) 4079 6000

Hyderabad

Ananthanarayanan S
Ph: +91 (40) 4424 6363

Chennai

Harisudhan M
Ph: +91 (44) 4228 5000

Pune

Nitin Vijaivergia
Ph: +91 (20) 4100 4444

Ahmedabad

Dharmesh Panchal/Niren Shethia
Ph: +91 (22) 6689 1000

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