

# Staying Updated

## Customs, FTP and WTO newsletter

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**pwc**

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#### *Customs*

##### **Notifications and circulars**

- The Central Government has notified Pantnagar, District Udham Singh Nagar, in the State of Uttarakhand as an Inland Container Depot (ICD).
- The Central Government has notified Powarkheda, District Hoshangabad, in the State of Madhya Pradesh as an ICD.
- Customs duty exemption increased on import of goods into India under Comprehensive Economic Partnership Agreement between India and Korea.
- Customs duty exemption increased on import of goods into India under Comprehensive Economic Cooperation Agreement between India and Malaysia.
- Customs duty exemption increased on import of goods into India under India-ASEAN Free Trade Agreement.
- The Central Government has extended 24\*7 customs clearance facility to Krishnapatnam sea port in Nellore, in the State of Andhra Pradesh.

#### **Case law**

##### *Other*

- Department cannot indefinitely delay or suspend drawback claims on the pretext of pending investigation without even issuing a show cause notice.

- Custom Authorities cannot impose loading on imported goods considering identical goods having difference in commercial levels and in quantity of goods imported.

#### **Foreign trade policy**

##### **Notifications and circulars**

- The procedure for modification/change in Branch Office/Registered Office address in IEC involving a shift in jurisdictional Regional Authority has been laid down by DGFT.
- Central Government has permitted the export of Finished Leather, Wet Blue and EI tanned Leather through ICD at Kheda.
- In order to facilitate reporting of trade statistics relating to export/import of services, the Central Government has urged all exporters of services to voluntarily obtain IEC.
- Central Government has deleted the name of “Panama Republic” from list of Countries under Group – C of MEIS Schedule with effect from 1 April, 2015, as the same was covered under list of Countries specified in Group – B of the said Schedule.

#### **Case law**

- Excess payment of duty due to clerical error is in the nature of deposit and thus the provisions of unjust enrichment are not attracted.
- Foreign brands having base in India and providing services out of India are not eligible for SFIS benefit.

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**Customs**

**Notifications and circulars**

- The Central Government has notified Pantnagar, District Udham Singh Nagar, in the State of Uttarakhand as an ICD for the purpose of unloading of imported goods and loading of export goods.

*(Notification No. 148/2015-Customs (N.T.) dated 29 December, 2015)*

- The Central Government has notified Powarkheda, District Hoshangabad, in the State of Madhya Pradesh as an ICD for the purpose of unloading of imported goods and loading of export goods.

*(Notification No. 145/2015-Customs (N.T.) dated 18 December, 2015)*

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

*(Notification No. 60/2015-Customs, dated 30 December, 2015)*

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

*(Notification No. 59/2015-Customs, dated 30 December, 2015)*

- The Central Government has increased the

tariff concessions in respect of specified goods, when imported into India under the India-ASEAN Free Trade Agreement. *(Notification No. 58/2015-Customs, dated 30 December, 2015)*

- The Central Government has added crude stored in caverns, into the list of volatile goods, on which remission of duty is allowed on deficiency in quantity at the time of delivery from a warehouse on account of natural loss.

*(Notification No. 03/2016- Customs (N.T.), dated 11 January, 2016)*

- The Central Government has extended the facility of 24\*7 customs clearance to Krishnapatnam sea port in Nellore, in the State of Andhra Pradesh for specified imports, viz., goods covered by 'facilitated' Bills of Entry and specified exports, viz., factory stuffed containers and goods exported under free Shipping Bills.

*(Circular No. 01/2016- Customs, dated 6 January, 2016)*

- The Central Government has reduced the rate of Custom duty from 5% to "Nil" leviable on "iron ore pellets" exported out of India.

*(Notification No. 01/2016-Customs, dated 4 January, 2016)*

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**Case law**

*Valuation*

- In Daimler Chrysler India Pvt. Ltd. v CC (2016-TIOL-67-CESTAT-MUM), the Mumbai Tribunal held that valuation for the purpose of levy of Customs duty on imported cars had to be on Transaction Value basis, even if at the time of import under ATA Carnet, a higher commercial value related to country of export was declared.
- In Richemont India Pvt. Ltd. v CC (2016-TIOL-205-CESTAT-DEL), the Delhi Tribunal held that Custom Authorities could not impose loading on the basis of identical goods in case there was a difference in commercial levels and in quantity of goods imported in terms of Rule 4 of the Customs Valuation Rules, 2007.

*Others*

- In JSR International v Union of India (2016-TIOL-25-HC-AHM), the Gujarat High Court held that department could not indefinitely delay drawback claims merely on the basis of pending investigation into mis-declaration of weight or classification without even issuing a show cause notice.
- In Rico Gems Corporation & Ors. v CC

(2016-TIOL-23-CESTAT-MUM), the Mumbai Tribunal held that once value of imported goods had been enhanced applying the contemporaneous value of import, no further enhancement is permissible on the basis of already existing information.

## Foreign trade policy

### Notifications and circulars

- The Central Government has notified that import of Natural Rubber of all varieties/forms covered under Customs Tariff Heading 4001 is allowed freely, but only through sea ports of Chennai and Nhava Sheva.  
*(Notification No. 32/2015-Customs (N.T.) dated 20 January, 2016)*
- The Central Government has notified that facility for import of Natural Rubber under Advance Authorisation issued or revalidated on or after 21 January, 2016 will not be available during the period 21 January, 2016 to 31 March, 2016.  
*(Notification No. 33/2015-Customs (N.T.) dated 21 January, 2016)*
- The Central Government has laid down the procedure for modification/ change in Branch Office/ Registered Office address in IEC involving a shift in jurisdictional Regional Authority. It has been clarified that when there is a change in Jurisdiction of Regional Authority (RA) due to change in address, then amendment application is to be filed with the new RA.  
*(Public Notice No. 53/2015-20, dated 5 January, 2016)*
- The Central Government has deleted the name of “Panama Republic” from the list of countries under Group-C of

Merchandise Exports from India Scheme (MEIS) Schedule with effect from 01 April, 2015, since the same was covered in the list of countries under Group-B of the said Schedule.

*(Public Notice No. 51/2015-20, dated 28 December, 2015)*

- The Central Government has notified that dates of implementation of Track and Trace systems for export of drug formulations along with maintaining the Parent Child relationship in packing have been extended to 01 April, 2016 for non-SSI manufactured drugs, and to 01 April, 2017 for SSI manufactured drugs.  
*(Public Notice No. 52/2015-20, dated 5 January, 2015)*
- The Central Government has permitted the export of Finished Leather, Wet Blue and EI tanned Leather through the ICD at Kheda.  
*(Public Notice No. 55/2015-20, dated 6 January, 2016)*
- To facilitate reporting of trade statistics relating to export/import of services, the Central Government has urged that all those exporters of services who do not possess IEC, should voluntarily obtain IEC from Regional Authorities of Directorate General of Foreign Trade (DGFT).  
*(Trade Notice No. 13/2015-20, dated 15 January, 2016)*

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- The Central Government has asked for strict adherence to the notification, wherein mandatory documents required for export and import were notified. Also, the concerned RA may, in exceptional cases, seek additional documents as deemed necessary to ensure legal compliance.

*(Trade Notice No. 15/2015-20, dated 21 January, 2016)*

### **Case law**

- In Temple Packing Pvt Ltd. v CE (2016-TIOL-192-CESTAT-AHM), the Ahmedabad Tribunal held that credit of Special Additional Duty paid on goods imported under Export Promotion Capital Goods scheme was allowed since the notification & the FTP provided for the same.
- In VRA Cotton Mills Pvt. Ltd. v CC (2016-TIOL-2339-CESTAT-AHM), the Ahmedabad Tribunal held that the conversion of shipping bill from Duty Free Import Authorisation (DFIA) to drawback was permitted without any time limit even after export of goods. In terms of Section 149 of Customs Act, 1962, any limit prescribed in the Circular for conversion of shipping bill was beyond the provisions of said Section.
- In Wind World India Ltd. v CC (2016-TIOL-268-CESTAT-MUM), the Mumbai

Tribunal held that provisions of unjust enrichment were not applicable on excess payment of interest due to clerical error, since excess interest paid was in the nature of deposit, and not duty.

- In Naman Hotels Pvt. Ltd. v Union of India (2015 (326) ELT 513), the Mumbai High Court held that foreign brands having base in India, and providing services out of India, were not eligible for Served From India Scheme benefit.

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