

Staying Updated

Customs, FTP and WTO newsletter

August 2018 Volume 21 Issue 5

pwc

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

In the issue

Customs

Notifications and circulars

- Procedure for filing application of Authorised Economic Operator Tier 1 (AEO –T1) simplified.
- Central Board of Indirect Taxes and Customs (CBIC) suspended the collection of safeguard duty on solar cells.
- Courier Imports and Exports (Clearance) Amendment Regulations, 2018 and Courier Imports and Exports (Electronic Declaration and Processing) Amendment Regulations, 2018 notified.
- Customs (Finalisation of Provisional Assessment) Regulations, 2018 notified.

Case laws

- In absence of any technical catalogue of a product, the classification available on the website of the manufacturer or an

expert opinion should be considered.

- If the question of fulfilling the conditions of an exemption benefit does not arise, then it shall be treated as if the conditions have been satisfied.
- In relation to payment of duty through duty entitlement pass book (DEPB), no correlation needs to be established whether DEPB license/ scrip was obtained subsequent to the shipping of the imported goods or prior to that.

Foreign trade policy

Notifications and public notices

- Provisions in relation to import export code procedures amended.
- Threshold limit for export on free of cost basis by status holders for export promotion amended from INR 10 million to 2% of average annual export realisation of preceding three licensing years.

Customs

Notifications and circulars

- In reference to Notification No. 49/2018-Customs, dated 20 June, 2018 amended Notification No. 50/2017 – Customs, dated 30 June, 2018 date of levy of duties in relation to goods originating from United States of America has been extended from 04 August, 2018 to 18 September, 2018. **(Notification No. 56/2018-Customs, dated 21 August, 2018)**
- Effective rate of basis customs duty (BCD) on Screw or SIM socket/ other mechanical items (metal) for cellular mobile phone has been decreased from 25 percent to 15 percent. **(Notification No. 57/2018-Customs, dated 21 August, 2018)**
- Effective rate of BCD on 328 tariff lines of carpets, apparels, and other textile products has been increased from 10 percent to 20 percent. **(Notification No. 58/2018-Customs, dated 21 August, 2018)**
- BCD and IGST exempted on goods imported for the purpose of donation to the flood affected areas in the State of Kerala upto 31 December, 2018 subject to certain conditions.

(Notification No. 59/2018-Customs, dated 7 August, 2018)

- The monetary limit of consignments for exporting goods notified under Appendix 3C of merchandise export from India scheme (MEIS) has been increased from INR 25,000 to INR 5,00,000.

(Notification No. 68/2018 Customs (N.T.), dated 21 August, 2018, and Notification No. 69/2018-Customs (N.T.), dated 21 August, 2018)

- Customs (Finalisation of Provisional Assessment) Regulations, 2018 has been notified. Now, provisional assessments will be finalised within two months from the receipt of requisite information or completion of investigation.

(Notification No. 73/2018-Customs (N.T.), dated 7 August, 2018)

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Customs

Notifications and circulars

- CBIC has expressed its views that bonds executed by nominated agencies/ banks for import of gold for the purpose of gold/ silver/ platinum jewellery/ articles should be discharged within two months of submission of export documents..

(Circular No. 25/2018-Customs, dated 08 August, 2018)

- The procedure for filing AEO – Tier 1 application has been simplified. Accordingly, Annexures A, B, D and E1 to E4 has been replaced with Annexures 1 and 2 to curtail the detailed information requirements.

(Circular No. 26/2018-Customs, dated 10 August, 2018)

- CBIC has clarified that export oriented units (EOUs) are not required to file continuity bond separately as per sub-rule (2) of Rule 5 of ‘Import of goods at concessional rate of duty’ rules, 2017. B-17 bond executed by EOUs will serve the requirement of continuity bond.

(Circular No. 27/2018-Customs, dated 14 August 2018)

- In reference to interim direction of Orissa High Court (HC), CBIC has issued

instructions for suspending collection of safeguard duty on solar cell, falling under tariff item 8541.40.11, till further directions, levied *vide* Notification No. 01/2018-Customs (SG), dated 30 July, 2018.

(Instruction No. 12/2018-Customs, date 13 August 2018)

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Customs

Case laws

- In **2018-TIOL-2511-CESTAT-MAD**, the Chennai bench of the Tribunal held that in absence of any technical catalogue of a product, the classification available on the website of the manufacturer or an expert opinion should be considered.
- In **2018-TIOL-1735-HC-DEL-CUS**, Delhi HC held that when levy of a duty from an original notification is maintained by a subsequent notification, then such levy shall continue to be effective from the date of original notification.
- In **2018-TIOL-2717-CESTAT-KOL**, the Kolkata bench of the Tribunal held that
 - If the question of fulfilling the conditions of an exemption benefit does not arise then it shall be treated as if the conditions have been satisfied and the exemption benefit shall be allowed.
 - If the exemption was not claimed at the time of filing of the Bill of Entry, the appellant would not be deprived from claiming such benefit at a later stage.
- In **2018-TIOL-2575-CESTAT-MAD**, the appellant imported turbine for setting up of a power generation plant for captive consumption and claimed concessional rate of duty under project import classification. The Chennai bench of the Tribunal held that power generating plant used for captive purpose cannot be considered as power generation project and disallowed the benefit of concessional rate of duty.
- In **2018-TIOL-1687-HC-AHM-Customs**, the Gujarat HC held that the goods imported and applied directly for the purpose of power plant project, cannot be said to be 'manufactured in India'. Therefore, the condition, for claiming deemed export drawback, for emergence of new product with distinct name, use and characteristics from the imported goods remain unsatisfied as the power project itself cannot be considered as goods. Hence, the deemed export drawback disallowed.
- In **2018-TIOL-2545-CESTAT-KOL**, the Kolkata bench of the Tribunal held that the benefit of advance license, issued by the licensing authority after the expiry of warehousing period, will be available to the importer at the time of release of warehoused goods after the expiry of bond.

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Customs

Case laws

- In **2018-TIOL-2760-CESTAT-AHM**, Ahmedabad bench of the Tribunal held that utilisation of credit of DEPB is as good as cash payment. No correlation needs to be established for payment of finally assessed duty (post clearance) through DEPB scrips with the existence of DEPB scrips at the time of import and subsequent provisional clearance of goods. The period of obtaining the DEPB license/ scrip is not relevant.
- In **2018-TIOL-2713-CESTAT-HYD**, the Hyderabad bench of the Tribunal held that refund of special additional duty (SAD) paid on import of rice bran will not be allowed against the sale invoices of rice bran oil or de-oiled bran, extracted from further processing of the imported rice bran.
- In **TS-398-HC-2018-DEL-CUST**, Delhi HC held that collection of cost recovery charges from custodian towards customs official deputation at inland container depots/ container freight stations/ air cargo complexes/ export processing zones is within the jurisdiction of the revenue and is not against the constitution of India.

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Foreign trade policy

Notifications and public notices

- Provisions relating to import export code have been amended and details of the procedure are shifted to para 2.08 of handbook of procedures 2015-20 from para 2.05 of foreign trade policy 2015-20. Also, for export of service, IEC shall be mandatory only where service provider is taking the benefits under the foreign trade policy and requirement of DSC for submitting IEC application has been done away.

(Notification No. 24/2015-20, dated 08 August, 2018, Public Notice No. 27/2015-2020, dated 08 August, 2018 and Trade Notice No. 23/2018-19, dated 8 August, 2018)

- Import policy of pet coke under chapter 27 of ITC(HS) 2017 has been amended to allow such imports only for cement, lime kiln, calcium carbide and gasification industries, when used as feed stock or in the manufacturing process on actual user condition.

(Notification No. 25/2015-20, dated 8 August, 2018)

- Export policy of beach sand minerals under chapter 26 of Schedule 2 of ITC (HS) has been amended. Export of beach sand minerals have been bought under state trading enterprise and shall be canalised through Indian rare earths limited (IREL) only.

(Notification No. 26/2015-20, dated 8 August, 2018)

- Import policy of biofuels, namely ethyl alcohol, petroleum oils, bio diesel, etc. under chapter 22, 27 and 38 of ITC (HS), 2017, is amended to 'restricted' from 'free'. Imports is allowed only for non-fuel purposes subject to actual user condition.

(Notification No. 27/2015-20, dated 8 August, 2018)

- Para 3.24(j) of [FTP 2015-20](#) for exports on free of cost basis for export promotion by Status Holders has been amended to allow such exports upto 2% of average annual export realisation during the preceding three licensing years from erstwhile monetary limit of INR 10 million.

(Notification No. 28/2015-20, dated 8 August, 2018)

- In pursuance of order of Madras HC, restriction on import of peas classified under Exim code 0713.10, extended *vide* Notification No. 15/ 2015-20, dated 02 July, 2018 has been withdrawn.

(Notification No. 31/2015-20, dated 29 August, 2018)

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Foreign trade policy

Notifications and public notices

- “Others” category has been added in the list of service sectors of Service Export Promotion Council (SEPC), under Serial number 22 of Appendix 2T, under which SEPC issues registration cum membership certificate.

(Public Notice No. 26/2015-2020, dated 1 August, 2018)

- The MEIS rates, under Appendix 3B, for certain items under ITC HS 2017 code 7323, 2502, 0305, 0307 and 6214 have been increased for exports made on or after 01 November, 2017.

(Public Notice No. 28/2015-2020, dated 8 August, 2018)

- The ITC HS code 63029100 for cotton products namely bed linen, table linen, toilet linen, kitchen linen has been made eligible for MEIS benefit under Appendix 3B, without late cut, with the same eligibility condition as applicable for HS code 63029190, for exports made for the period 01 April, 2015 to 30 September, 2015.

(Public Notice No. 29/2015-2020, dated 9 August, 2018)

- Director General of Foreign Trade has provided one time relaxation and condonation of delay for the submission of installation certificate to the authorities under export promotion capital goods scheme, for the authorisations issued

before 31 March, 2015, without payment of penalty provided that the installation has happened within 18 months of date of import and export promotion capital goods (EPCG) authorisation is not under any investigations adjudicated by RA/ customs authority/ any other investigative agency.

(Public Notice No. 30/2015-2020, dated 14 August, 2018)

- Para 5.14(b) of Hand book of Procedures 2015-20 has been amended to facilitate intimation of block-wise fulfilment of export obligation under EPCG scheme, to regional authorities without digital signature.

(Public Notice No. 32/2015-2020, dated 29 August, 2018)

- In reference to, Notification No. 04/2015-20, dated 25 April, 2018 and Trade Notice No. 19/2018-19, dated 05 July, 2018, Director General of Foreign Trade (DGFT) has allowed import of Peas under Exim Code 0713.10.00 upto 125 MT (5 FCL) per contract irrespective of advance payment made before 25 April, 2018.

(Trade Notice No. 25/2018-19, dated 16 August, 2018)

- DGFT has clarified that with effect from 9 September, 2018 applicant's photograph is not required on IEC.

(Trade Notice No. 27/2018-19, dated 16 August, 2018)

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Anti-dumping/ Safeguard duty

Notifications and circulars

- Anti-dumping duty (ADD) has been continued on imports of Methylene Chloride originating in or exported from European Union and United States of America, upto 20 October, 2019.

(Notification No. 38/2018-Customs (ADD), dated 02 August, 2018)

- ADD on imports of Paracetamol originating in or exported from China PR has been continued upto 26 April, 2019.

(Notification No. 39/2018-Customs (ADD), dated 20 August, 2018)

In the issue

Customs

Foreign trade policy

Anti-dumping/Safeguard duty

Contacts

Contacts

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping/Safeguard duty

Contacts

Delhi

Pratik Jain/ Gautam Khattar/ Rahul Shukla
Ph: +91 (124) 3306000

Mumbai

Dharmesh Panchal
Ph: +91 (22) 6689 1000

Kolkata

Pratik Jain/ Gopal Agarwal
Ph: +91 (33) 4404 3098/4404 6000

Bangalore

Pramod Banthia/ Kunal Wadhwa
Ph: +91 (80) 4079 6000

Hyderabad

Ananthanarayanan S
Ph: +91 (40) 4424 6363

Chennai

N Madhan
Ph: +91 (44) 4228 5000

Pune

Nitin Vijaivergia
Ph: +91 (20) 4100 4444

Ahmedabad

Jatin Arora
Ph: +91 (22) 6689 1000

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 236,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

In India, PwC has offices in these cities: Ahmedabad, Bangalore, Chennai, Delhi NCR, Hyderabad, Jamshedpur, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit www.pwc.com/in

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity in separate lines of service. Please see www.pwc.com/structure for further details.



For private circulation only

This publication does not constitute professional advice. The information in this publication has been obtained or derived from sources believed by PricewaterhouseCoopers Private Limited (PwCPL) to be reliable but PwCPL does not represent that this information is accurate or complete. Any opinions or estimates contained in this publication represent the judgment of PwCPL at this time and are subject to change without notice. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. PwCPL neither accepts or assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take.

© 2018 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.