

### ***CBEC revises customs valuation norms relating to inclusion of the landing charges at the place of import***

Value of imported good for assessment of Customs duty is 'transaction value' i.e. the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation. The transaction value also includes, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, loading, unloading and handling charges to be ascertained in the manner prescribed in the relevant Customs valuation rules. The rules prescribed adding one percent of the free on board value of goods plus the cost of insurance and freight to be added to valuation towards loading, unloading and handling charges.

A dispute arose on inclusion of one percent of free on board value towards loading, unloading and handling charges on delivery of imported goods at the place of importation in terms of Customs Valuation (Determination of Value of Imported Goods) Rules, 1988 irrespective of whether actual cost was ascertainable or not. The issue was examined by the Supreme Court (SC) in the matter of **Wipro Ltd. v. Assistant Collector** reported in 2015 (319) E.L.T. 177 (S.C.).

The SC held that addition of charges on fictional basis even where actual cost paid was available is arbitrary and ultra vires of law. The argument that it will enable Customs Authorities apply uniform rate was rejected as it held that this provision can only apply if actual charges are not ascertainable.

Pursuant to the decision of the SC and basis public consultation, the CBEC has notified specific amendment to Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR 2007) *vide* Notification No. 91/2017 –Customs (N.T.) dated 26 September, 2017. CBEC has also issued a Circular No. 39/2017-Cus dated 26 September, 2017 clarifying the amendments made in CVR 2007.

The key aspects of the revised valuation guidelines as clarified by the Circular is as below.

- The term 'place of importation' used in CVR 2007 is now defined and means the customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse.
- In view of the above definition, the transaction value of imported goods will include cost incurred upto the place of importation.
- Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods **to the place of importation** will be included in the transaction value. Therefore, loading, unloading and handling charges associated with the delivery of the imported goods **at the place of importation**, shall no longer be added to the CIF value of the goods. This is in line with the provisions of WTO agreement relating to valuation on which CVR 2007 is based.
- In case cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is not ascertainable then such cost shall be twenty percent of the free on board value of the goods.
- In case where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost of insurance to the place of importation is ascertainable, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall be twenty percent of such sum.
- Similarly, where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is ascertainable, the cost of insurance to the place of importation shall be 1.125 percent of such sum.

- In case imported goods are transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded. Earlier this was limited to cost of transport of goods from port to Inland Container Depot or Container Freight Station.

## **PwC comments**

Issuance of revised guidelines and clarification in light of the SC judgment is a welcome initiative in line with trade facilitation measures taken by CBEC. These guidelines will help in streamlining the assessment of imported goods and remove potential disputes/ issues on methodology to be adopted in specific cases. At the same time it will help the importer as well to assess the factual position and correctly declare the transaction value as part of self-assessment regime. In case, there are any issues faced by the importers due to the change in the method of valuation, the same should be escalated to the customs authorities for examination and issue of suitable clarification.

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