



MINISTRY OF FINANCE :: DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER OF CUSTOMS
Custom House, New Harbour Estate, Tuticorin – 628 004
Tel: (0461) 2352655, 2352633 / Fax: 2352019

PUBLIC NOTICE No: 01/ 2013

The following Circulars are issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise & Customs is enclosed for guidance of the officers / Exporters / Importers/ Clearing Agents and Trading Public.

Sl.No.	Reference No. & Date	Subject
01	Circular No. 1/2013-Customs F.No.528/48/2012-STO(TU) dated 01-01-2013	Classification of cordless infrared Devices for the Remote Control- Reg.
02	Circular No.2/2013-Customs F.No.354/94/2011- TRU dated 01.01.2013	Replacement of fixed deposit receipts (FDRs) furnished in r/o provisional mega or ultra mega projects with Bank Guarantees- Reg.
03	Circular No.3/2013-Customs F.No.450/13/2012- DIR (CUS) dated 01.01.2013	Installation of Close Circuit Television Systems(CCTV)- Reg.
04	Circular No.4/2013-Customs F.No.401/179/2012- CUSIII dated 15.01.2013	Disposal of fire arms imported as baggage under transfer of residence- Reg.
05	Circular No.30/2013-Customs F.No.DGEP/G&J/27/2012 dated 31.01.2013	Single Revolving Bank Guarantee for different transactions for import of Silver or Gold or Platinum – Reg.
06	Circular No.167/2/2013-ST F.No.B-1/2/2010- TRU dated 01.01.2013	Service tax on services by way of transportation of goods by rail/vessel- transportation of milk- Reg.
07	Circular No.06/2013-Customs F.No.494/4/2012-Cus.VI dated 06.02.2013	Issue of Custom House Agent License- Reg.

Dated: .02.2013
Custom House, Tuticorin


(D.RANJITHKUMAR)
ASSISTANT COMMISSIONER

(Issued from file C.No. VIII / 48/ 07 /2012-Cus.Pol)

To
As per Mailing List I & II, III
Copy submitted to the Chief Commissioner of Customs (Preventive), Trichy - for kind information.

F.No. 528/48/2012-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

229-A, North Block, New Delhi
1st January, 2013

To

All Chief Commissioners of Customs/ Customs (Prev.)/ C&CE,
All Directors General of CBEC,
All Commissioners of Customs / Customs (Prev.) / C&CE
All Commissioners of Customs & Central Excise (Appeals).

Sir / Madam,

Subject: Classification of Cordless Infrared Devices for the Remote Control – reg.

The issue of classification of cordless infrared devices for the remote control was taken up for discussion in the May, 2012 Mumbai Conference of Chief Commissioners of Customs and Directors General. The entries in National Import Data Base (NIDB) in tariff item 84159000 (Parts of heading 8415), 85299090 (Part of TV, etc), indicated that cordless infrared devices for the remote control is often being treated as a part of the main device / equipment, while the entry in heading 85437099 – “Other”, under the heading 8543 provided that it is treated as, “electrical machines and apparatus having individual functions, not specified or including elsewhere in this chapter”. During the conference it was decided to further examine this issue in the Board.

2. Accordingly, this issue was examined in the Board. It emerged that when cordless infrared devices for the remote control are imported along with the main equipment as a set, then the “essential character rule” of GRI 3(b) has to be applied in order to determine under which single heading the set had to be classified. However, when this product is presented separately, then the classification is to be determined by application of the General Rule for the Interpretation (GRIs) of the First Schedule to the Customs Tariff Act (CTA), 1975. GRI 1 requires that in classifying articles, for legal purpose it shall be determined according to the terms of the headings and any relative Section or Chapter Notes,..”. Hence, all relevant legal texts must be considered.

Chapter Note 1(m) to Chapter 95 reads as:

“Pumps for liquids (heading 84.13), filtering or purifying machinery and apparatus for liquids or gases (heading 84.21), electric motors (heading 85.01), electric transformers (heading 85.04), discs, tapes, solid-state non-volatile storage devices, “smart cards” and other media for the recording of sound or of other phenomena, whether or not recorded (heading 85.23), radio remote control apparatus (heading 85.26) or cordless infrared remote control devices (heading 85.43);”. Heading 8543 provides for “Electrical ... apparatus, having individual functions, not specified or included elsewhere ...”.

Chapter Note 7 to Chapter 85 reads as:

“Heading 8537 does not include cordless infrared devices for the remote control of television receivers or other electrical equipment (heading 8543).

3. The Explanatory Notes to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the CTA, 1975 by offering guidance in understanding the scope of the headings and the GRIs, and for the harmonised Customs Tariff Heading 85.43, it states that, “the heading includes, “*Cordless infrared devices for the remote control of television receivers, video recorders, or other electrical equipment*”. In addition, the exclusion clause in the Explanatory Notes to Chapter 8537 provides that the heading excludes, “*Cordless infrared devices for the remote control of television receivers, video recorders, or other electrical equipment (8543)*”.

4. In view of the aforesaid, the Board of the considered view that:

(a) When cordless infrared devices for the remote control are presented in a set put up for retail sale, that is, they are put up in a manner suitable for sale directly to users without repacking, along with principal / main device

with which they are to be used, they shall be classified along with the principal / main device by application of GRI 3(b) and 6.

(b) In cases where cordless infrared devices for the remote control are presented separately, they shall be classified under heading 8543, sub-heading 8543.70, by application of GRI 1 and 6

5. Accordingly, all pending assessments, if any, may be finalized and suitable instructions may be given to the field formations.

5. Difficulties, if any, faced in the implementation of this circular, may be immediately brought to the notice of the Board.

Yours faithfully,

(Subodh Singh),
OSD (Customs), Tariff Unit
Fax: 011 – 23092173

Internal circulation – As usual.

F.No.354/94/2011 -TRU
Government of India
Ministry of Finance
(Department of Revenue)
Tax Research Unit

New Delhi, dated 1st January, 2013

To,

All Chief Commissioners of Customs.
All Chief Commissioners of Customs & Central Excise.
All Chief Commissioners of Central Excise.

Sub: Replacement of Fixed Deposit Receipts (FDRs) furnished in respect of provisional Mega or Ultra Mega Power Projects with Bank Guarantees (BGs) - reg.

Sir / Madam,

I am directed to invite your attention to notification Nos. 12/2012-Customs (S.No.507) and 12/2012-Central Excise (S.No. 337 and 338), both dated 17-03-2012, granting exemption from customs and excise duties for provisional mega and ultra-mega power projects. One of the conditions specified for availing of the said exemption is that the importer/project developer furnishes a security in the form of a Fixed Deposit Receipt (FDR) or Bank Guarantee from a Scheduled Bank for a term of 36 months or more for an amount equal to the duty payable but for this exemption. This condition was amended w.e.f 27-06-2012 when the importer/ project developer was given the option of furnishing either FDR or Bank Guarantee from a Scheduled Bank.

2. It has been represented by the Association of Power Producers that the developers should be allowed to secure release of the FDRs submitted by them prior to 27-06-2012 (i.e. date of DoR notifications) and the same should be substituted with Bank Guarantees. The matter has been examined by the Ministry. It has been felt that as long as a FDR was furnished as security, the FDR continued to operate as security. If an importer/ developer wishes to replace the FDR by a Bank Guarantee, the Bank Guarantee will operate from the date of replacement. Since under the amended notifications, FDR and Bank Guarantee are considered equally effective securities, it has been decided that there should not be any difficulty in allowing the importer/ project developer to replace the FDR with the Bank Guarantee.

3. It is requested that action may be taken accordingly to deal with such requests.

4. Difficulties, if any, faced in the implementation of the instructions may be brought to the notice of the Ministry at an early date.

Yours faithfully,

(P.K.Mohanty)
Joint Secretary (TRU)
Telephone: 011 23092687

Circular No.03/2012-Customs

F. No.450/13/2012-Dir (Cus.)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

Room No.229 A, North Block
New Delhi, dated 1st January, 2013

To,

All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs & Central Excise.
Director General of Revenue Intelligence.
Directorate of Logistics.

Subject: Installation of Close Circuit Television Systems (CCTV) - regarding.

Sir / Madam,

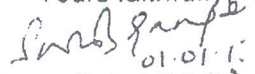
Attention is invited to para 5(1)(i)(n) of the 'Handling of Cargo in Customs Areas Regulations, 2009' which stipulates that Customs Cargo Service provider (CCSP) or the applicant shall provide security and access control to prohibit unauthorized access to the premises.

2. Security of imported and export goods in Customs area is of utmost importance and any unauthorized access / entry should be prohibited at any cost. One methodology is to use Video Cameras and CCTVs Systems. CVC has also emphasized the utility of Video Cameras and CCTVs Systems from the view point of preventive vigilance. It has however been noticed that Video Cameras and CCTVs Systems are not installed by many Custodians / CCSPs.

3. Accordingly, Board has decided that Commissioner of Customs, at the time of notification / Order under Section 8 of the Customs Act, 1962 for specifying Customs area for loading and unloading of imported or export goods and appointment of Custodian under Section 45 of the Customs Act, 1962, should ensure that Video Cameras and CCTVs Systems are installed in the Customs area for security and to prohibit unauthorized access to the premises. The video footage should be available to Customs, which shall regularly monitor the same. This should be ensured by the Custodians / CCSPs within one month of issue of this Circular.

4. The above instructions may be brought to the notice of all the concerned immediately through appropriate Public Notice / Standing orders.

Yours faithfully


(S.C. GANGER)
U.S. (Customs III)

Copy to:

F.No.401/179/2012 –Cus III
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

New Delhi, dated 15th January, 2013

To,

All Chief Commissioners of Customs.
All Chief Commissioners of Customs & Central Excise.
All Chief Commissioners of Central Excise.

Sir / Madam,

Subject: Disposal of firearms imported as baggage under transfer of residence – reg.

The undersigned is directed to refer to Ministry's letter F.No. 497/57/87-Cus-VI, dated 05.01.1998 whereby it was clarified firearms imported as baggage are not allowed to be transferred to any person for consideration or otherwise during the lifetime of the importer and to state that this issue has been re-examined in the context of a reference requesting permission to dispose an imported firearm on ground of old age.

2. In this regard it is observed that DGFT has revised the import policy on disposal of imported firearms vide Public Notice No. 82/2009-2014(RE-2010), dated 17.10.2011. Accordingly, Para 2.43.2 of the Handbook of Procedures Vol.I, 2009-2014 stands modified and amongst other changes it now provides that transfer of imported firearms will not require permission from DGFT after ten years of import. Imports under baggage are exempt from the normal provisions of the Foreign Trade Policy in terms the Foreign Trade (Exemptions from Application of Rules in Certain Cases) Order, 1993. Thus, the said DGFT's Public Notice dated 17.10.2011 does not apply to imports as baggage. The implication is that the relaxation provided by DGFT does not apply to firearms imported as baggage under transfer of residence and the restriction that these cannot be disposed in any manner during the lifetime of the importer continues to apply. This places persons importing firearms as baggage at a disadvantage viz-a-viz other importers.
3. DGFT was consulted in order to address the inequitable situation aforementioned. DGFT has clarified that the relaxation at their end in regard to allowing the disposal of imported firearms was made in consultation with the Ministry of Home Affairs, amongst others. DGFT has also recommended that it is desirable to liberalize the provision of disposal of firearms imported as baggage and harmonize it with their Public Notice.
4. In view of the above, I am directed to state that Government has decided to allow passengers importing a firearm as baggage on transfer of residence to dispose the same after ten years of import. The disposal will be to persons legally entitled to possess the firearm. The condition that no disposal can take place till ten years of import may be endorsed on the arms licence of the passenger at the time of granting the facility under transfer of residence.
5. Further, in view of the sensitive nature of the item viz. firearm, Government has

decided that an eligible person would be allowed to import only one firearm under transfer of residence in his/her lifetime. In other words, even though the facility of transfer of residence can be availed every three years at present, a firearm can be imported only once.

6. Board's instruction vide F.No. 497/57/87-Cus-VI dated 05.01.1988 and subsequent Circulars including Circular No. 63/1995 Cus., dated 07.06.1995 stand modified to the aforementioned extent.
7. The change in Government policy may be brought to the notice of all concerned. Difficulty, if any, in implementing this decision may be immediately informed to the Board.

Mailing List: As usual

**(S.C. Ganger)
Under Secretary**

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F.No. DGEP/G&J/27/2012
Govt. of India
Ministry of Finance,
Department of Revenue,
Central Board of Excise & Customs
Directorate General of Export Promotion

New Delhi, the January 31, 2013

All Chief Commissioners of Customs/Central Excise,
All Commissioners of Customs/ Central Excise.

Madam/ Sir,

Sub: Single Revolving Bank Guarantee for Different Transactions for Import of Silver or Gold or Platinum- reg.

Representations have been received from the Gem & Jewellery sector to allow their exporters to execute revolving Bank Guarantee to be used for import of gold/ silver/ platinum, alloys, findings and mountings of gold/silver/ platinum and plain semi-finished gold/silver/platinum jewellery.

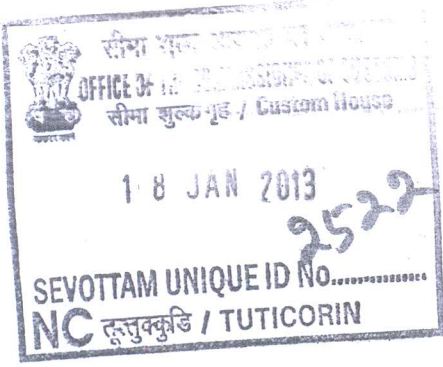
2. Notification No. 56/2000-Cus dated 05.05.2000, as amended, exempts gold/silver/platinum, alloys, findings and mountings of gold/silver/platinum and plain semi-finished gold/silver/platinum jewellery falling within Chapter 71 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), **when imported into India by, *inter alia*, status holders, or exporters of three years' standing having an annual average turnover of five crore rupees during the preceding three licensing years** under the scheme for 'Export Against Supply by Foreign Buyer' as referred to in **paragraph 4A.8** of the Foreign Trade Policy, from the whole of the duty of customs leviable under the First Schedule to the Customs Tariff Act, and from the whole of the additional duty leviable under section 3 of the said Tariff Act, subject to the conditions specified in the said notification. Duty free import is allowed for manufacturing and export of gold/silver/platinum jewellery or articles as laid down in the said notification subject to furnishing a Bond of an appropriate amount and Bank Guarantee for a sum equivalent to one and half times of the Customs duty leviable on the said goods imported.

3. The matter has been examined. The request of the Gem & Jewellery sector is to allow revolving use of the Bank Guarantee. After considering the representations from the trade & industry, it has been decided that the Bank Guarantee furnished by the importer can be used for subsequent consignments, if the importer has fulfilled the export obligation and export proceeds realized in respect of the earlier consignments. The bank guarantee may be so used for subsequent import consignments, provided it is sufficient to cover the duty involved and has validity for sufficient time period with self-renewal in-built provision. The field formations need to take care to ensure that the Bank Guarantee remains valid till the export proceeds are realised.

4. Receipt of this circular may kindly be acknowledged.

Yours faithfully,

(Ram Tirath)
Director General



Circular No.167/2 /2013 - ST

F.No.B-1/2/2010 -TRU
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Tax Research Unit

Handwritten signature/initials

153, North Block,
New Delhi, 1st January, 2013

Sub. Policy
To
Chief Commissioners of Central Excise and Customs (All), Director General (Service Tax), Director General(Systems), Director General (Central Excise Intelligence), Director General (Audit), Commissioners of Service Tax (All), Commissioners of Central Excise (All), Commissioners of Central Excise and Customs (All)

Madam/Sir,

Subject: Service tax on services by way of transportation of goods by rail/vessel – transportation of milk - regarding.

Representation has been received from the Indian Railways seeking clarification as to whether service by way of transportation of milk by rail is covered by Notification No.25/2012-ST dated 20.06.2012, serial number 20(i).

2. The representation has been examined. The expression 'foodstuff' appearing in Notification No.25/2012-ST dated 20.06.2012, serial number 20(i) includes milk. Therefore, it is clarified that the service by way of transportation of milk by rail or a vessel from one place in India to another, is covered by the Notification No.25/2012-ST dated 20.06.2012.

3. Trade Notice/Public Notice may be issued to the field formations and tax payers. Please acknowledge receipt of this Circular. Hindi version follows.

S. Jayaprasad
(S. Jayaprasadam) 1.1.13.
Technical Officer, TRU
Tel: 011-23092037

F. No. 494/4/2012-Cus.VI
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Room No.253-A, North Block,
New Delhi, dated the 6th February, 2013

To,

All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs & Central Excise.
All Director Generals under CBEC.

Subject: Issue of Custom House Agent License.

Sir/ Madam

Attention is invited to Board's Circular No. 9/2010- Customs dated 08.04.2010 on the above cited subject.

- 2 The Hon'ble Supreme Court in Civil Appeal Nos. 4053-4061 of 2012 [arising out of SLP (C) Nos 19124-19132 of 2010] in the case of Sunil Kohli and others vs. Union of India and others vide order dated 27.04.2012 has held that those who had passed the examination under Customs House Agents Licensing Regulations, 1984 not have to again appear for examination under the Customs House Agents Licensing Regulations 2004 (CHALR 2004).
3. In order to implement the aforementioned decision of Hon'ble Supreme Court, Board has decided to delete Para 8.1 and Para 8.2 of Circular No. 9/2010- Customs dated 08.04.2010. The implication of this modification of Board Circular No. 9/2010- Customs dated 08.04.2010 is that the Custom shall no longer insist that persons who have passed the examination under the 1984 Regulations have to additionally qualify in the new subjects given below.
 - (a) The Patents Act, 1970 and Indian Copyright Act 1957;
 - (b) Central Excise Act, 1944;
 - (c) Export promotion schemes;
 - (d) Procedure on appeal and revision petition;
 - (e) Prevention of Corruption Act, 1988;
 - (f) Online filing of electronic Customs declarations;
 - (g) Narcotics Drug and Psychotropic Substances Act, 1985; and
 - (h) Foreign Exchange management Act, 1999.

Thus, subject to fulfilment of all others requirements such persons will now be directly eligible for grant of CHA license.

4. These instructions may be brought to the notice of the trade by issuing suitable Trade / Public Notices. Suitable Standing orders/instructions may be issued for the guidance of the field officers. Pending court cases, if any, may also be suitably handled.

5. Difficulties faced, if any, may be brought to the notice of the Board immediately.

Yours faithfully,

(S.C.Ganger)
Under Secretary (Customs)

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