

Public Notice No. 5/2006  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
OFFICE OF THE COMMISSIONER OF CUSTOMS  
CUSTOM HOUSE, NEW HARBOUR ESTATE, TUTICORIN – 628 004

PUBLIC NOTICE NO. 05/2006

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

Sl.No  
Circular No/File No  
Subject

- 1  
CBEC Circular 33 of 2005 Dated 02.08.2005  
Valuation of export goods
- 2 CBEC's Instructions vide F.No. 493/124/86 Cus VI Dated 04.01.1988 Valuation of second hand machinery
- 3 CBEC instruction vide F.No. 609/89/90 - DBK Dated 26.11.1990 Frequency of drawal of sample for export
- 4 CBEC Circular No. 6 of 2002 Dated 23.01.2002 Examination norms

(Issued from file C.No:VIII/9/1/2004-Cus. Pol)

Encl: As above.  
Dated 10.05.2006

(M.PACKIAM)  
JOINT COMMISSIONER OF CUSTOMS

CIRCULAR NO. 33/2005-CUSTOMS  
2nd August, 2005

F.NO.605/3/2004-DBK  
Government of india  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE & CUSTOMS

Sub: Seizure of goods entered for exportation on account of misdeclaration of quantity, value etc. – provisional release instructions – reg.

The undersigned is directed to invite your attention to the above mentioned subject and to state that an issue has been raised as to whether goods entered for exportation, which are seized for mis-declaration of quantity, value etc, can be released provisionally pending investigation, adjudication and appeal proceedings.

2. It has come to the notice of the Board that sometimes goods entered for exportation are detained or seized by the field formations for mis-declaration of quantity, value, etc. Such goods are not allowed to be exported even on a provisional basis pending completion of investigation,

adjudication or appeal proceedings. However, these proceedings usually take a considerable time to conclude; in the meanwhile, the goods deteriorate and lose their intrinsic value. Consequently, issues like payment of demurrage charges to the custodians and export benefits to the exporters arise. Detention or seizure of goods also adds to congestion in ports, ICDs, etc. It has been observed that such a course of action benefits neither the department nor the exporter. On the contrary, if the consignments are allowed to be exported on a provisional basis, pending completion of investigation and adjudication proceedings, the country would earn valuable foreign exchange and the exporter would get the appropriate price for goods.

3. The matter has been examined by the Board. Having regard to the problems associated with the seizure of export goods, it has been decided that except for prohibited/contraband goods, the seized goods should be released provisionally and allowed to be exported on execution of a bond for an amount equivalent to the value of seized goods and probable fine and penalty which might be imposed. However, no export benefits shall be allowed in such cases until the matter is finally decided, and the bond to be executed for provisional release shall contain a clause to this effect.

4. A suitable Standing Order may be issued for the guidance of the staff. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board at an early date.

Receipt of the Circular may kindly be acknowledged.

M. SUBRAMANYAM  
DEPUTY SECRETARY(DBK)  
TELEFAX:23360581

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F.NO.493/124/86 -Cus VI Dated 04.01.1988

Government of india  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE & CUSTOMS  
NEW DELHI

Sub : Valuation of second-hand machinery and fixing up scales of depreciation

Attention is invited to Ministry's instructions of even number dated 19.11.1987 wherein rates of depreciation were fixed for the purpose of arriving at the assessable value of second-hand machinery.

2. In para 3 of the above-mentioned letter, it was stated that the depreciation will be calculated on the original value of the machinery under import and that officers of the Customs Houses would have to determine the original value of the machinery on the basis of the current c.i.f value of the machinery as shown in the certificate of the Chartered Engineer. In this regard, it has been reported to the Board that a Chartered Engineer's certificate generally mentions the price of the new machinery and does not indicate clearly as to whether this is the current price or it is the price of the new machine in the year of its

manufacture. Accordingly, where a certificate mentions the current price of the new machinery only, the Customs Officers do not have sufficient evidence to deduce the original value of the machinery as in its year of manufacture.

3. It has accordingly been decided that where the Chartered Engineer's certificate does not specifically mention the price of the new machinery as in its year of manufacture, the scale or depreciation should be calculated on the basis of the price of the new machinery as declared in the Chartered Engineer's certificate without going into the question as to whether the price pertains to the current c.i.f price in the year of its manufacture. The earlier instructions dated 19.11.1987 are modified to the above extent.

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F.NO.609/89/90 - DBK Dated 26.11.1990

Government of India  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE & CUSTOMS  
NEW DELHI

Sub ; Drawal of samples from export consignments for chemical test for the purpose of determining drawback duties

It has been decided that the following general principles may be followed in deciding the frequency of drawal of samples in respect of individual sub-serial number of drawback schedule ;

GENERAL PRINCIPLES :

The requirements of testing of samples or products specified in each sub-serial numbers of the Drawback Schedule should be guided by the following general principles.

- (a) Products with brand name and brand rate of drawback

Where goods are exported under brand name of the individual manufacturer and in respect of which brand rate has been prescribed samples may be drawn once in a year.

- (b) Products with generic names and brand rate of drawback

Where goods are of generic nature but brand rates have been prescribed for an individual exporter ; sample may be drawn once in six months

- (c) Specification based items

For items not falling in (a) or (b) above where all industry rates of drawback prescribed are based on parameters such as count of fabric, composition etc., samples may be drawn for every consignment.

However, samples may be drawn once in six months if any specifications certificate is produced from usually acceptable agencies, such as SAMIRA, CLRI etc.

- (d) Generic items with all industry rates :

For other generic items in respect of which all industry rates of drawback have been prescribed,  
Custom

House may rely on manufacturer's certificate, declaration of the product in the shipping bill,  
manufacturer's  
literature and Ar-4, if any, Samples may be drawn once in six months or in case of specific doubt.

In respect of the four categories above, if there is AR - 4 form where the specification required for drawback purpose is available in party's declaration and is also accepted and verified by the Central Excise Officer, then that can be accepted and to that extent the need for drawing of samples is to be dispensed with

(e) Others :

No sample is needed to be drawn in these cases unless, of course, there are reasons to believe that some fraud is afoot.

#### METHOD OF DRAWING OF SAMPLES :

Drawing of samples has to be on percentage basis, that is to say, not from each and every package of similar lot. Although periodicity has been laid down, for the sake of surprise element also samples can be drawn.

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Circular No.6/2002-Cus.  
23rd January, 2002

F.No.450/126/98-Cus.IV  
Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Excise & Customs

Subject: Examination norms for export goods at port of export – reg. –

I am directed to refer to Circular No.90/98-Cus.IV dated the 8th December, 1998 as amended, wherein a procedure for clearance of export goods from factories on the basis of self-certification and scale of physical examination at port of export was prescribed. Since then several references have been received from the trade and industry, seeking reduction in percentage examination of export consignments for faster clearance of cargo. The matter was considered by the Export Promotion Board (EPB), and EPB had recommended that in case of exports where the duty benefit is above Rs. 1 lakh, 10% shipments should be checked on a random basis, and in cases where the duty benefit is below Rs.1 lakh, only surprise checks should be resorted to.

2. The proposals received in this regard have been carefully examined by the Government, and pursuant to this examination, it has been decided to revise the examination norms keeping in view the quantum of incentive, value of export goods, the country of destination etc. As such, the following decisions have been taken :

2.1 The scale of physical examination of various categories of exports at the port of export shall be as follows:

A. Factory Stuffed Export Cargo:

Category of Exports  
Scale of Examination

Export goods stuffed and sealed in the presence of the Customs/Central Excise officers at the factories of manufacture, ICD/CFS, notified warehouses and other places where the Commissioner has, by a special order, permitted examination of goods for export.

No examination except (a) where the seals are found tampered with; or

(b) there is specific intelligence in which case, permission of Deputy/Assistant Commissioner would be required before checking.

B. Export under Free Shipping Bills:

Category of Exports  
Scale of Examination

Exports under Free Shipping Bills i.e. where there is no export incentive

No examination except where there is a specific intelligence.

C. Export under Drawback/DEPB Schemes :

S.No.  
Category of Exports  
Scale of Examination

Export consignments shipped to sensitive places viz. Dubai, Sharjah, Singapore, Hong Kong and Colombo  
Others

(i)  
Consignments where the amount of drawback/DEPB involved is Rs.1lakh or less  
25%  
2%

(ii)  
Consignments where the amount of drawback/DEPB involved is more than Rs.1 lakh  
50%  
10%

D. Export under EPCG/DEEC Schemes :

S.No.  
Category of Exports  
Scale of Examination

Export consignments shipped to sensitive places viz. Dubai, Sharjah, Singapore, Hong Kong and Colombo  
Others

(i)

Consignments where the FOB value is Rs.5 lakh or less

25%

2%

(ii)

Consignments where the FOB value is more than Rs.5 lakh

50%

10%

2.2 In all cases referred to above, in respect of consignments selected for examination, a minimum of two packages with a maximum of 5% of packages (subject to a maximum of 20 packages from a consignment) shall be opened up for examination. The package number to be opened for examination will be selected by the system.

2.3 It is to be ensured that exporters do not split up consignments so as to fall within the lower examination norms. Therefore, wherever on the same day the same exporter attempts to export a consignment (other than free shipping bills) involving export incentive of Rs.1 lakh or less (Drawback/DEPB) or in other cases having the FOB value upto Rs.5 lakh to the same country, the system would alert the examining officer that this is second shipment of the same exporter. The examining officer can then decide whether to subject the second consignment for examination or not. In case the buyer in both or more consignments happens to be the same person, subsequent consignments should be examined.

2.4 It may also be noted that after the goods have been presented for registration to Customs and determination has been made whether or not to examine the goods, no amendments in the normal course are expected. However, in case an exporter wishes to change any of the critical parameters resulting in change of value, DBK, DEPB credit, port etc. such consignment should be subjected to examination.

2.5 Notwithstanding anything contained above, any export consignment can be examined by the Customs (even upto 100% examination), if there is any specific intelligence in respect of the said consignment. Further, to test the compliance by trade, once in three months a higher percentage of consignments (say for example, all the first 50 consignments or a batch of consecutive 100 consignments presented for examination in a particular day) would be taken up for examination. Out of the consignments selected for examination a minimum of two packages with a maximum of 5% of packages (subject to a maximum of 20 packages from a consignment) would be taken up for checking/examination.

3. In the case of export goods which are stuffed and sealed in the presence of Customs/Central Excise officers at the factory of manufacture, ICD/CFS, warehouses and other places where the Commissioner has, by a special order, permitted, it may be ensured that the containers are bottle sealed or lead sealed. In case of export through bonded trucks, the truck should be similarly bottle sealed or lead sealed. In case of export by ordinary truck/other means, all the packages are required to be lead sealed. In the case of goods examined by central excise/Custom officers and sealed and stuffed under their supervision at a factory or in an approved warehouse, the consignments shall be accompanied by an examination report in the form annexed (Annexure).

4. The Circular No.90/98-Cus., dated the 8th December, 1998 stands rescinded. Likewise, the Green Channel facility being allowed in some Custom Houses shall be discontinued.

5. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice/Standing Orders.

6. Difficulties, if any in implementation of these instructions, may be brought to the notice of the Board. Kindly acknowledge receipt of this Circular.

ANNEXURE C1

OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE

RANGE .....

DIVISION .....

COMMISSIONERATE

.....

C.No.

Date

Shipping Bill No.\*

Date

EXAMINATION REPORT FOR FACTORY SEALED  
PACKAGES/CONTAINER

1.

Name of Exporter

:

2.

a)

IEC No.

:

b)

Branch Code

:

c)

BIN (PAN based Business Identification Number of the exporter

:

3.

Name of the manufacturer (if different from the exporter)

:

4.

Factory address

:

5.

Date of examination

:

6.

Name & designation of the examining officer-Inspector/EO/PO

:

7.

Name & designation of the supervising officer-Appraiser/Superintendent

:

8.

(a)

Name of Commissionerate/Division/Range

:

(b)

Location Code\*\*

:

9.

Particulars of export Invoice

(a)

Export Invoice No.

:

(b)

Total No. of packages

:

(c)

Name and address of the consignee abroad

:

10.

(a)

Is the description of the goods, the quantity and their value as per particulars furnished in the export invoice? :

:

Yes/No



(b)  
Whether sample is drawn for being forwarded to Port of export?  
:  
Yes/No

(c)  
If yes, the number of the seal of the package containing the sample  
:

11.  
Central Excise/Customs Seal Nos.

(a)  
For Non-containerised cargo Seal Nos.  
No. of packages  
:

(b)  
For Containerised Cargo

Container Number  
Size  
Seal No.  
No. of Packages stuffed in container

- (1)
- (2)
- (3)
- (4)

SIGNATURE OF EXPORTER  
SIGNATURE OF INSPECTOR/EXAMINER  
SIGNATURE OF APPRAISER/ SUPERINTENDENT

NAME \_\_\_\_\_  
NAME \_\_\_\_\_  
NAME \_\_\_\_\_

DESIGNATION \_\_\_\_\_  
DESIGNATION \_\_\_\_\_  
DESIGNATION \_\_\_\_\_

STAMP

STAMP

STAMP

Note:

Invoice(s) and any other document accompanying this document should be attested by the officer supervising the examination.

\*To be filled in by the exporter before filing of this document at the time goods registration" in the export shed.

\*\*Revised 6 digit code as assigned by the Directorate of S&I, XXYYZZ

XX Commissionerate  
YY Division  
ZZ Range