Circular No. 33 /2017-Cus

F.No.450/131/2017-Cus IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise and Customs)
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New Delhi, dated the 1st August, 2017

To

All Principal Chief Commissioners/Chief Commissioners of Customs /Customs (Preventive),
All Principal Chief Commissioners/Chief Commissioners of Customs and Central Excise/ GST,
All Principal Commissioners/Commissioners of Customs / Customs (Preventive),
All Principal Commissioners/ Commissioners of Customs and Central Excise/GST.

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Sir /Madam,

Subject: Leviability of Integrated Goods and Services Tax (IGST) on High Sea Sales of imported goods and point of collection thereof-reg.

Reference has been received in the Board regarding clarity on **Leviability of Integrated Goods and Services Tax (IGST) on High Sea Sales of imported goods.**

2. The issue has been examined in the Board. 'High Sea Sales' is a common trade practice whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. After the High sea sale of the goods, the Customs declarations i.e. Bill of Entry etc is filed by the person who buys the goods from the original importer during the said sale. In the past, CBEC has issued various instructions regarding high sea sales appropriating the contract price paid by the last high sea sales buyer into the Customs valuation [Circular No. 32/2004-Cus., dated 11-5-2004 refers].

3. As mentioned earlier, all **inter-state transactions are subject to IGST**. High sea sales of imported goods are akin to **inter-state transactions.** Owing to this, it was presented to the Board **as to whether the** *high sea sales of imported goods* would be chargeable to IGST twice i.e. at the time of Customs clearance under sub-section (7) of section 3 of Customs Tariff Act, 1975 and also separately under Section 5 of The Integrated Goods and Services Tax Act, 2017.

4. GST council has deliberated the levy of Integrated Goods and Services Tax on high sea sales in the case of imported goods. The council has decided that IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance.

5. The above decision of the GST council is already envisioned in the provisions of sub-section (12) of section 3 of Customs Tariff Act, 1975 inasmuch as in respect of imported goods, all duties, taxes, cessess etc shall be collected at the time of importation i.e. when the import declarations are filed before the customs authorities for the customs clearance purposes. The importer (last buyer in the chain) would be required to furnish the entire chain of documents, such as original Invoice, high-seas-sales-contract, details of service charges/commission paid etc, to establish a link between the first contracted price of the goods and the last transaction. In case of a doubt regarding the truth or accuracy of the declared value, the department may reject the declared transaction value and determination the price of the imported goods as provided in the Customs Valuation rules.

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6. Field formations are requested to decide the cases of high sea sales of imported goods accordingly. Difficulties, in the implementation of this circular may be brought to the knowledge of the Board.

Yours faithfully

Zubair Riaz

(Zubair Riaz)
Director (Customs)