Circular No.31/2007 (Customs)

F.No.450/97/2005-Cus. IV

Government of India

Ministry of Finance

Department of Revenue

{Central Board of Excise & Customs}

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New Delhi, dated 29th August, 2007

To

All Chief Commissioners of Customs,

All Chief Commissioners of Customs & Central Excise,

All Chief Commissioner of Central Excise,

All Commissioners of Customs,

All Commissioners of Customs & Central Excise,

All Commissioner of Central Excise,

Director General of Systems & Data management,

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Sir,

Subject: Issues concerning import & export through courier mode-regarding-

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The undersigned is directed to invite your kind attention towards the issues raised by Express Industry Council of India (EICI) on the difficulties being faced by them in clearances of export & import of courier consignments through courier mode. EICI has informed that they face difficulties in following areas,-

(i) Availment of CENVAT Credit on Courier Bill of Entry;

(ii) Filing of regular Bill of Entry by Express Companies; and

(iii) Single registration with Customs so as to enable Authorised Courier to operate at all Customs locations.

2. Board has examined the issues. Circular No. 56/95-Cus. dated 30/5/95 prescribes for assessment and clearance of goods imported by Courier Mode. These general instructions are followed for clearance of courier consignments. Additional guidelines have been prescribed *vide*Circular No.85/1998-Customs dated 13/11/1998. Para 6 of the Circular No. 56/95-Cus suggest that when any consignee wishes to claim MODVAT (now CENVAT) credit, he should be advised to file the normal Bill of Entry, as per the Bill of Entry (Forms) Regulations, 1976. This will serve as the document for claim of MODVAT. In no case is the customs to issue separate certificates for this purpose. Accordingly, it is clarified that whenever consignee intends to take CENVAT credit on imported goods, normal Bill of Entry

may be filed. This Bill of Entry may be used by the importer for taking CENVAT credit on any imported goods, as per clause (c) of rule (9) of CENVAT Credit Rules, 2004.

3. EICI has informed that some field formations like Delhi allow "authorized courier" to file Bill of Entry while some other field formations are insisting that the Bill of Entry be filed by Customs House Agents. As per proviso to regulation 5(3), the Bill of Entry can be filed by authorised Courier, or with the concurrence of the Authorised Courier, the consignee or a Customs House Agent on behalf of the consignee. Further, as per definition in section 2(26) of the Customs Act, 1962, "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer. Similarly, section 2(20) of the Customs Act, 1962 defines "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter.

Regulation 13(a) of the Courier Imports and Exports (Clearance) Regulations, 1998 provides that an Authorised Courier shall obtain an authorisation, from each of the consignees of the import goods for whom such courier has imported such goods or consigners of such export goods, which such courier proposes to export, to the effect that the Authorised Courier may **act as agent** of such consignee or consigner, as the case may be for clearance of such import or export goods by the proper officer.

In view of above, it is clarified that Authorised Courier may be permitted to file regular Bill of Entry or Shipping Bill.

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4. Board had also amended Courier Imports and Exports (Clearance) Regulations, 1998 *vide* Notification No. 09 /2007-Customs (N.T.) dated 07th February, 2007 which, *interalia*, provided single registration to Couriers so as to enable them to operate at all Customs locations. As per regulation 7(2) of the Courier Imports and Exports (Clearance) Regulations, 1998, the authorised courier who is registered as per Regulations, shall transact the business in all Customs Stations within the country subject to an intimation in prescribed Form A to the Commissioner of Customs having jurisdiction over the Customs Station where he has to transact the business. Further, Regulation 12 provides that the registered authorised courier shall furnish the bond and security for each Customs station from where he has to transact the business.

Accordingly, field formations may permit the operation of Authorised Courier based on the intimation as per Regulation 12 of the Courier Imports and Exports (Clearance) Regulations, 1998 and subject to execution of specified Bond and Security. No separate registration is required.

4. The above instructions may be brought into effect immediately through appropriate Public Notice.

Yours faithfully,

(Aseem Kumar)
Under Secretary to the Government of India,
Ph.-23094182

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