Circular No. 12/2017- Customs

F.No.450/10/2017-CusIV
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

North Block
New Delhi, the 31st March, 2017

To,

All Principal Chief Commissioners/Chief Commissioners of Customs/Customs (Preventive)
All Principal Chief Commissioners/Chief Commissioners of Customs & Central Excise
All Principal Commissioners/Commissioners of Customs/Customs (Preventive)
All Principal Commissioners/Commissioners of Customs & Central Excise

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Sir/Madam,

Subject: Clarification regarding legislative changes relating to Customs Act, 1962 proposed in the Finance Bill, 2017-reg.

Kind reference is invited to proposals in the Finance Bill, 2017 relating to amendments in sections 46 and 47 of the Customs Act, 1962.**These changes would come into effect upon enactment of the said Finance Bill.**

2. Clarifications have been requested regarding applicability of the new provisions vis-à-vis arrival of goods and filing of bill of entry.

Changes in Section 46 of the Customs Act

3. The amendments in the section are aimed at prescribing a late charge for delayed filing of Bill of Entry (BoE). As per the amended Section 46 the importer shall present the bill of entry under sub-section (1) of section 46 before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or for warehousing. The free period for filing a BoE is up to the end of the next day following the day (excluding holidays) of arrival of goods **at the place where the clearance for home consumption or warehousing** is to take place.

4. In this regard, Board has amended **Bill of Entry (Electronic Integrated Declaration) Regulations, 2011 and Bill of Entry (Forms) Regulations, 1976** to prescribe late charges for delayed filing. Entry Inwards date at sea ports and date of arrival of cargo at the ICD, airports, Land Customs stations etc would be the relevant date for determining the said charges, if any. It has also been clarified in both the regulations that **no charges for late**

presentation of Bill of Entry shall be liable to be paid where the goods have arrived before the enactment of Finance Bill, 2017.
[Notification No. 26/2017-Customs (N.T) dated 31.03.2017 and Notification No.27/2017-Customs (N.T) dated 31.03.2017 refers].

5. Entry inwards or arrival of the goods (in case of sea cargo or air cargo) is captured in ICES. As is evident from the foregoing, for clearances at ICDs, date of arrival of cargo is critical for determining late charges. Board has, therefore, made amendment in the **Handling of Cargo in Customs Areas Regulations, 2009 so as to make it mandatory for the Customs Cargo Service providers to** provide the information about arrival of cargo to the Customs. [Notification No. 24/2017-Customs (N.T) dated 31.03.2017 refers].

6. Further, CBEC has amended notification No. 40/2012-Customs dated appointing Additional/Joint Commissioner rank officer as the proper officer for considering the requests for waiver of late charge under second proviso to sub-section (3) of section 46. Board expects that this power is invoked in cases where there is no wilful delay in filing the BoE so that waiver is granted only in bonafide cases. [Notification No. 25/2017-Cus (N.T) dated 31.03.2017 refers].

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Changes in Section 47 of the Customs Act

Sub-section (2) of section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed BoE or as the case may be assessed, re-assessed, provisionally assessed BoEs. The existing provision is that a time period of two days is given to an importer to pay customs duty from the time of return of bill of entry. The implication of proposed **amendment is that the importer shall have to make payment of duty on the same day in case of self-assessed BoE and in case of re-assessment or provisional assessment, within one day after the return of BoE.** In this regard, it is further clarified that:

All BoEs filed before the enactment of Finance Bill, 2017 shall be governed by the provisions of section 47 as it stood immediately before the date of such enactment except where such BoE is re-assessed, provisional assessed on or after the said enactment, the importer shall have one day (excluding holidays) instead of two days for payment of duty. BoEs filed on the date of enactment or thereafter shall be subject to the new provisions.

7. Difficulties faced, if any, may be brought to the notice of the Board at the earliest.

Yours faithfully

(Shaifali G Singh)
Under Secretary to the Government of India