Circular No. 16 /2012-Customs

F. No.450/79/2010-Cus.IV

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise and Customs

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Room No.229 A, North Block

New Delhi, dated 13th June, 2012

To,

All Chief Commissioners of Customs / Customs (Prev.).

All Chief Commissioners of Customs & Central Excise.

All Director Generals / Chief Departmental Representatives (CESTAT),

All Commissioners of Customs / Customs (Prev.).

All Commissioners of Customs (Appeals).

All Commissioners of Customs & Central Excise.

All Commissioners of Customs & Central Excise (Appeals).

Sir / Madam,

Subject: Procedure followed for import of Indian vessels and filing of Import General Manifest, Bill of Entry - regarding.

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I am directed to invite your attention to the Board's instruction issued vide F.No.450/79/2010-Cus.IV dated 23.09.2010 which state that the requirement for filing Import General Manifest (IGM) and Bill of Entry should be complied with even in cases, where goods are exempt from payment of any duty. The jurisdictional Commissioners were also instructed to review the situation, and take appropriate action for past cases, including adjudication, if warranted, in case of non-fulfillment of aforesaid filing of documents.

2. In this regard, certain difficulties have been brought to the notice of the Board by the trade and Indian Ship Owners' Association stating that the Customs field formations are insisting on filing of IGM and Bill of Entry even in respect of those vessels that were imported in the past and which were exempt from payment of import duty.

3.1 In this regard, it is stated that as the provisions of Section 29 of the Customs Act, 1962 read with Section 2 (22) and 2(25), the term 'imported goods', *interalia*, includes vessels entering India from any place outside the country (India). These vessels may fall into any of the following category (i) Foreign flag vessels i.e., vessels that have been registered outside India and which carry imported/ exported goods or passengers, during its foreign run (voyage from a port outside India to an Indian port, whether touching any intermediate port in India or not); (ii) Vessel entering India for the first time on arrival in the country, for registration as Indian Flag vessel; (iii) Vessels which are intended for conversion from foreign run to coastal run/ trade (voyage between two or more Indian ports); and (iv) Vessels which are brought into India for breaking up.

3.2 Foreign flag vessels: These are the vessels that are registered abroad and its entry into the country is for carrying cargo or passengers, as a conveyance. Hence, there is no requirement for filing an IGM, Bill of Entry for foreign flag vessel which is being used as conveyance. However, the requirement for filing an import manifest in the prescribed manner for the goods or passengers which are being carried in the vessel, on its entry into an Indian port in terms of the provisions under Section 30 of the Customs Act needs to be complied with.

3.3 Indian Flag Vessel: In terms of the provisions of Part-V of the Merchant Shipping Act, 1958, vessels entering into India for the first time, are required to be registered with specified authority of the Mercantile Marine Department as Indian ship, which can then display the national character of the ship as Indian Flag Vessel for the purpose of Customs and other purposes specified in the said Act. Such Indian ship or vessel may be used for foreign run or exclusively for coastal run/ trade. Further, any ship or vessel may be taken outside India or chartered for coastal trade in India, only after obtaining the requisite licence from the Director General of Shipping, under the provisions of Section 406 or 407, respectively, of the said Merchant Shipping Act. Hence, in all such cases the Customs declarations such as IGM, Bill of Entry is required to be filed with jurisdictional Customs authority.

3.4 Vessels for conversion into coastal run: Any vessel could be used for coastal run/ trade after obtaining requisite clearance from Director General of Shipping and on fulfilment of certain specified conditions under Section 407 of the Merchant Shipping Act, 1958. In case of foreign going vessel, exemption from import duties, including CVD, have been extended vide serial No.462 of notification No.12/2012-Cus. dated 17.03.2012, subject to prescribed conditions, which binds the importer to file fresh Bill of Entry at the time of its conversion for coastal run/ trade and payment of applicable duty on such conversion of vessel for costal run/ trade. Similarly, excise duty is also payable on vessels which are being used for coastal trade vide serial No.306 of notification No.12/2012-Cus. dated 17.03.2012. Hence, if any Indian Flag vessel which is used for time being as foreign going vessel is converted for use in coastal trade or any vessel which is to be used for coastal trade, there is a need to file a Bill of Entry for payment of applicable duty as CVD.

3.5 Vessels for breaking up: Vessel and other floating structures intended for breaking up are liable to payment of applicable duty. All vessels for the transport of persons or goods, falling under heading 8901 (excluding those which are imported for breaking up) are fully exempt from payment of import duty under vide serial No.461 of notification No.12/2012-Cus. dated 17.03.2012, subject to the condition that the importer should file fresh Bill of Entry at the time of its breaking up of the vessel after its importation. Hence, in these cases the importer has to file an IGM and Bill of Entry, claiming the exemption as may be applicable, at the time of initial import and later file fresh Bill of Entry at the time of breaking up of the vessel as per the condition attached to the aforesaid exemption.

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4. In view of the above, it is clarified that in respect of foreign flag vessels, for Indian flag vessels, there is no requirement of filing of IGM and Bill of Entry, since its usage is as conveyance. In respect of Indian flag vessels and vessels for breaking up as explained in para 3.3 and 3.5 above, the importer has to file IGM and Bill of Entry, under the provisions of the Customs Act, 1962. As regards the vessel for conversion into costal run/ trade as detailed in para 3.4, since the changes in the duty structure for levy of CVD on vessels which are being converted for coastal trade was initially imposed from 1.3.2011, and subsequently retrospective exemption has been provided for the period 1.3.2011 to 16.3.2011 vide clause 129 of the Finance Act, 2012, the requirement for filing IGM and Bill of Entry may be insisted in all such cases w.e.f. 17.03.2012, that is the date from which levy of CVD has come into force.

5. It is also clarified that all vessels including foreign going vessels for its entry into / exit from the country during its journey as foreign going vessel and the Indian flag vessel / Indian Ship for subsequent use as foreign going vessel would not require filing of IGM and Bill of Entry as conveyance, since the same are not imported goods to be cleared for home consumption.

6. Accordingly, the field formations may adjudicate the cases involving any violation where the IGM or Bill of Entry in respect of import of vessel were not filed at the time of import, on its first arrival in India or on its conversion into coastal trade and appropriate penal action be taken against the offenders.

7. The above instructions may be brought to the notice of all the concerned immediately through appropriate Public Notice.

8. Receipt of this Circular may be kindly acknowledged.

Yours faithfully,

(G. S. Sinha),
OSD (Customs IV)

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