Circular No. 15/2010-Customs

F. No.401/73/2010-Cus.III

Government of India

Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

North Block, New Delhi
29th June, 2010.

To

All Chief Commissioners of Customs / Customs (Prev.).
All Chief Commissioners of Customs & Central Excise.
All Commissioners of Customs / Customs (Prev.).
All Commissioners of Customs (Appeals).
All Commissioners of Customs & Central Excise.
All Commissioners of Customs & Central Excise (Appeals).

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Subject: Fraudulent claim of 4% SAD by unscrupulous importers - reg.

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Madam / Sir,

Attention is invited to Notification No. 102/2007-Cus dated 14.09.2007 which provides exemption in the form of refund of 4% SAD paid on goods imported and subsequently sold on payment of VAT/ST.

2. Instances have come to notice of the Board where some importers of 'timber logs' have undertaken certain processes and subsequently sold 'sawn' or 'cut logs' after payment of VAT. These importers are claiming the refund of 4% SAD paid at the time of importation of goods in terms of Notification No.102/2007-Customs dated 14.09.2007. As per the said Notification, refund of SAD is available only in case the imported goods are subsequently sold on payment of VAT, without carrying out any process. However, at the time of claiming refund of 4% SAD, these importers have manipulated the facts by showing that goods sold were imported timber logs only and not 'sawn' or 'cut logs'. In terms of the classification of the First Schedule to Customs Tariff Act, 1975, round logs/round squares are classified under the heading 4403 whereas the 'sawn' woods are classified separately under heading 4407. Thus, there is distinct classification for the imported and the final products that are sold in the market on which VAT is paid. Hence, since the goods imported and subsequently sold were different goods falling under different tariff headings, the benefit of Notification No.102/2007-Customs dated 14.09.2007 by way of refund of 4% SAD is not available to importers.

3. In certain other cases, refund claims have been filed with the department wherein forged documents were submitted for availing the refund envisaged in the notification No.102/2007-Customs dated 14.09.2007. In such cases, it is reported that the importers were preparing duplicate set of invoices of the same serial number. Scrutiny of these two sets of invoices establishes that the invoice submitted to the department shows description of goods as 'Malaysian round logs' whereas the invoices obtained from the buyer shows the description of goods as 'imported timber'. The other difference is that in the invoice submitted to the department the quantity of goods in number / pieces are not mentioned whereas in the invoices of the buyer the quantity in number/pieces is clearly mentioned. This fact of preparing duplicate invoices is further substantiated by the other documents such as related transit passes and lorry receipt. These importers are thus defrauding the government revenue by resorting to this modus operandi of submitting the forged documents for claiming refund fraudulently.

4. It is apprehended that above mentioned modus-operandi may have all India ramifications and may be prevalent in other field formations and are not limited only to a few cases. In view of the above, all field formations are directed to be alert and vigilant to ensure that unscrupulous importers do not avail fraudulent refunds of 4% SAD in terms of Notification No.102/2007-Customs dated 14.9.2007 by resorting to the above-mentioned modus operandi.

Yours faithfully,

(Vikas)
Under Secretary (Cus.III)

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