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EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 36 / 2010 - Customs (N.T.)

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New Delhi, the 5th May, 2010.
15 Vaisakha, 1932 (SAKA).

G.S.R._____ (E) - In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely:-

1. Short title and commencement. - (1) These regulations may be called the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. - (1) These regulations shall apply for assessment and clearance of imported or export goods, carried by an Authorised Courier by air, on behalf of a consignee or consignor at such Customs airports and in such form and to such extent, as the Board may, by notification, declare for the purposes of these regulations in this behalf.

(2) These regulations shall not apply to:

(a) the following imported goods requiring testing of samples thereof or reference to the relevant statutory authorities or to experts before their clearance, namely:-

(i) animals and parts thereof, plants and parts thereof;

(ii) perishables;

(iii) publications containing maps depicting incorrect boundaries of India;

(iv) precious and semi-precious stones, gold or silver in any form;

(b) import or export of goods under any export promotion scheme other than Export Oriented Unit (EOU) scheme and similar schemes referred to in Chapter 6 of the Foreign Trade Policy 2009-14.

(c) the following export goods, namely:-

(i) the goods which are subject to levy of any duty on their exports;

(ii) goods where the value of the consignment is above rupees twenty five thousand and transaction in foreign exchange is involved:

Provided that the limit of rupees twenty five thousand as provided in this sub-clause shall not apply to such export consignments where the G.R. Waiver or specific permission has been obtained from the Reserve Bank of India.

3. Definitions. -

(1) In these regulations, unless the context otherwise requires -

(a) "Act" means the Customs Act, 1962 (52 of 1962);

(b) "Authorised Courier", in relation to imported or export goods, means a person engaged in the international transportation of time-sensitive documents or goods on door-to-door delivery basis and is registered in this behalf by a Commissioner of Customs in charge of a Customs airport;

(c) "Customs airport" means the airport declared by the Board as Customs airport under sub-regulation (1) of regulation 2 of these regulations;

(d) "documents" includes any message, information or data recorded on paper, cards or photographs and of no commercial value which is for the time being not liable to any customs duty or subject to any prohibition or restriction on their export out of or import into India;

(e) "electronic declaration" means the declaration of the particulars relating to the imported or export goods, lodged in the Customs Computer System at the Customs airport, either through the data-entry facility provided at the service centre or through the data communication networking facility provided from the computer system of the Authorised Courier;

(f) "Form" means the Form appended to these regulations;

(g) "gifts" means any *bonafide* gifts of articles for personal use of a value not exceeding twenty five thousand rupees per consignment in case of export goods and ten thousand rupees per consignment in case of imported goods, which are not subject to any prohibition or restriction on their export out of or import into India and for which no transfer of foreign exchange is involved;

(h) "samples" means any *bonafide* commercial samples and prototypes of goods supplied free of charge of a value not exceeding fifty thousand rupees per consignment for exports or ten thousand rupees per consignment for imports, which are for the time being not subject to any prohibition or restriction on their export out of or import into India and for which no transfer of foreign exchange is involved;

(i) "service centre" means the place specified by the Commissioner of Customs where data entry, for the purpose of lodgement of declaration or submission of any information, is carried out;

(2) The words used and not defined in these regulations but defined in the Act shall have the meanings respectively assigned to them in that Act.

4. Packing of goods to be imported or exported by courier. - (1) For the purposes of these regulations, the imported or export goods shall be packed separately for documents and goods.

(2) Imported or export goods shall bear a declaration from the sender or consignor regarding the contents of each of the packages and the total value thereof.

5. Clearance of imported goods. - (1) The Authorised Courier or his agent shall file, in an electronic form, a manifest for imported goods prior to its arrival, with the proper officer the Express Cargo Manifest - Import (ECM-I) in Form A;

(2) (a) The Courier packages containing the imported goods shall not be dealt with in any manner except as may be directed by the Commissioner of Customs;

(b) No person shall, except with the permission of proper officer, open any packages of imported goods.

(3) The Authorised Courier or his agent who has passed the examination referred to in regulation 8 or regulation 19 of the Customs House Agents Licensing Regulations, 2004 shall make entry of goods imported by him, in an electronic declaration, by presenting to the proper officer the Courier Bill of Entry-XI (CBE-XI) for documents in Form B or the Courier Bill of Entry-XII (CBE-XII) for free gifts and samples in Form C or the Courier Bill of Entry-XIII (CBE-XIII) for low value dutiable consignments in Form D or the Courier Bill of Entry-XIV (CBE-XIV) for other dutiable consignments in Form E.

(4) The Authorised Courier shall present imported goods brought by him or by his agent, in such manner as to the satisfaction of the proper officer or as per instructions issued by the Board or Public Notice issued by Commissioner of Customs, from time to time, for inspection, screening, examination and assessment thereof.

(5) Any imported goods which are not taken clearance after the expiry of a period of thirty days of its arrival, shall be detained by proper officer and shall be sold or disposed of by the person having custody thereof, after issuing a notice to the Authorised Courier and to the declared importer, if any, and the charges payable for storage and holding of such goods shall be payable by the Authorised Courier.

6. Clearance of export goods. - (1) Notwithstanding anything contained in these regulations, the Authorised Courier or his agent shall, on or after such date as the Board may specify, by notification in the Official Gazette, file in an electronic form, a manifest for export goods before its export with the proper officer the Courier Export Manifest (CEM) in Form F.

(2) (a) The courier packages containing the export goods shall not be dealt with after presentation of documents to the proper officer in any manner except as may be directed by the Commissioner of Customs;

(b) No person shall, except with the permission of proper officer, open any package of export goods, brought into the Customs area, to be loaded on a flight.

(3) The Authorised Courier or his agent who has passed the examination referred to in regulation 8 or regulation 19 of the Customs House Agents Licensing Regulations, 2004 shall make entry of goods for export, in Courier Shipping Bill-III (CSB-III) for documents in Form G or, as the case may be, in the Courier Shipping Bill-IV (CSB-IV) for goods in Form H, before presenting it to the proper officer.

(4) The Authorised Courier shall present the export goods to the proper officer, in such manner as to the satisfaction of the proper officer or as per instructions issued by the Board or Public Notice issued by Commissioner of Customs, from time to time, for inspection, screening, examination and assessment thereof.

(5) Any export goods brought into customs area for export purpose and have not been exported within seven days of arrival of such goods into such area or within such extended period as permitted by the proper officer in case of delay due to such reasons which the proper officer considers to be beyond the control of the concerned Authorised Courier and declared exporter, may be detained by the proper officer and sold or disposed off by the person having custody thereof, after issuing notice to the concerned Authorised Courier and declared exporter provided the charges payable, for storage and handling of such goods are paid by such Authorised Courier.

7. Application for registration of Authorised Courier. -

(1) Every person intending to operate as an Authorised Courier shall make an application in the Form-I to the Commissioner of Customs having jurisdiction over the Customs airport where the goods are to be imported or exported, for registration in this behalf.

(2) The Commissioner of Customs may dispose of the application under sub-regulation (1) within forty five days of the receipt of the application.

8. Conditions to be fulfilled by the applicant. - (1) The person applying for registration as an Authorised Courier shall disclose to the satisfaction of the Commissioner of Customs that he is financially viable and in support thereof he shall produce to the said Commissioner of Customs a certificate issued by a scheduled bank or such other proof acceptable to the Commissioner of Customs evidencing possession of assets of a value not less than twenty five lakh rupees.

(2) The electronic declaration for clearance of imported or export goods shall be made by the persons who has passed the examination referred to in regulation 8 or regulation 19 of the Custom House Agents Licensing Regulations, 2004.

Provided that a transition period of six months from the date of publication of these Regulations shall be allowed for fulfillment of the condition mentioned in sub-regulation (2) by an authorised courier.

(3) The applicant shall undertake to comply with the provisions and abide by all the provisions of the Act and rules, regulations, notifications and orders issued thereunder.

9. Scrutiny of application. - On receipt of application for registration under regulation 7, the Commissioner of Customs, may make enquiries for verification of the particulars set out in the application and also such other enquiries as the Commissioner of Customs may deem necessary for such registration including enquiries about the identity, bonafides and reputation of the applicant.

10. Registration. - (1) If on scrutiny of the application filed by a person under regulation 7, the Commissioner of Customs is satisfied that the applicant fulfils the requirements of the registration, the said applicant may be registered as an Authorised Courier.

(2) The registration granted under sub-regulation (1) shall be valid for an initial period of two years, but may be renewed from time to time, in accordance with the procedure provided in sub-regulation 8.

(3) An Authorised Courier who is already registered under Courier Imports and Exports (Clearance) Regulations, 1998 on or before the date of coming into force of these regulations in a Customs airport, shall be considered as an Authorised Courier registered for the purpose of these regulations only on compliance of the conditions stipulated in regulation 8.

(4) The Authorised Courier referred to in sub-regulation (3) shall comply with the conditions within a period which shall not exceed a period of three months:

Provided that the Commissioner of Customs may extend the said period which shall not exceed a period of nine months.

Provided further that nothing contained in this sub-regulation shall apply in respect of condition prescribed under sub-regulation (2) of regulation 8.

(5) The registration granted under sub-regulation (3) shall be valid for a period of ten years.

(6) The Commissioner of Customs may, if he finds that the applicant has been convicted in any court of law, or any criminal proceedings are pending before any court of law against the applicant, reject an application filed for registration of Authorised Courier.

(7) The Authorised Courier, who is registered under sub regulation (1) or sub regulation (3), shall transact business in other Customs airports within the country subject to an intimation, as specified in Form - J, to the Commissioner of Customs having Jurisdiction over the Customs airport where he intends to transact business.

(8) The Commissioner of Customs may, on application made before the expiry of the validity of the registration under sub-regulation (2) or sub-regulation (5), renew the registration for a period of ten years from the date of expiration of the original registration or the last renewal of such registration, as the case may be, if the performance of the Authorised Courier is found to be satisfactory with reference to the absence of any complaints of misconduct including non-compliance of any of the obligations specified in regulation 12.

(9) The Commissioner of Customs may, for reasons to be recorded in writing, by order, review the registration granted under sub-regulation (1) or sub-regulation (3) before the expiry of the ten years.

11. Execution of bond and furnishing of security. - (1)The Commissioner of Customs shall require the applicant to enter into a bond with a security of ten lakhs rupees in case of major international airports of Mumbai, Delhi, Calcutta and Chennai and five lakhs rupees in case of other airports in the form of cash deposit or bank guarantee in the name of the Commissioner of Customs for complying with the provisions of the Act, rules and regulations made thereunder and the condition of the said bond shall also be that the applicant shall agree to pay the duty, if any, not levied or short levied, with interest if applicable on any goods taken clearance of by the Authorised Courier if in the opinion of the Assistant Commissioner of Customs or Deputy Commissioner or Customs the same cannot be recovered from the importer or the exporter.

(2) The Authorised Courier who has been granted a registration under regulation 10 or who has intimated in the Form J to the Commissioner of Customs having jurisdiction over the Custom airport from where he has to transact the business, shall furnish the bond and security as specified under sub-regulation (1) for each of the Customs airports.

12. Obligations of Authorised Courier. - (1) An Authorised Courier shall -

(i) obtain an authorisation, from each of the consignees or consignors of the imported goods for whom or from whom such Courier has imported such goods; or consignees or consignors 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 consignor, as the case may be, for clearance of such imported or export goods by the proper officer;

(ii) file electronic declarations, for clearance of imported or export goods, through a person who has passed the examination referred to in regulation 8 or regulation 19 of the Customs House Agents Licensing Regulations, 2004 and who are duly authorised under section 146 of the Act;

Provided that a transition period of six months from the date of publication of these regulations shall be allowed to the Authorised Courier for fulfillment of the obligation.

(iii) advise his consignor or consignee to comply with the provisions of the Act, rules and regulations made thereunder and in case of non-compliance thereof, he shall bring the matter to the notice of the Assistant Commissioner of Customs or Deputy Commissioner of Customs;

(iv) verify the antecedent, correctness of Importer Exporter Code (IEC) Number, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information;

(v) exercise due diligence to ascertain the correctness and completeness of any information which he submits to the proper officer with reference to any work related to the clearance of imported goods or of export goods;

(vi) not withhold information communicated to him by an officer of customs, relating to assessment and clearance of imported goods as well as inspection, examination and Clearance of export goods, from a consignor or consignee who is entitled to such information;

(vii) not withhold any information relating to assessment and clearance of imported goods or of export goods, from the Assessing Officer;

(viii) not attempt to influence the conduct of any officer of Customs in any matter pending before such officer or his subordinates by the use of threat, false accusation, duress or offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing or value;

(ix) maintain records and accounts in such form and manner as may be directed from time to time by an Assistant Commissioner of Customs or Deputy Commissioner or Customs for a period of five years and submit them for inspection to the Assistant Commissioner of Customs or an officer authorised by him, wherever required; and

(x) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder.

13. Suspension or revocation of registration of authorised courier. - (1) The Commissioner of Customs may revoke the registration of an Authorised Courier and also pass an order for forfeiture of security on any of the following grounds namely:-

(a) failure of the Authorised Courier to comply with any of the conditions of the bond executed by him under regulation 11;

(b) failure of the Authorised Courier to comply with any of the provisions of these regulations;

(c) misconduct on the part of Authorised Courier whether within the jurisdiction of the said Commissioner or anywhere else, which in the opinion of the Commissioner renders him unfit to transact any business in the Customs airport:

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Provided that no such revocation shall be made unless a notice has been issued to the Authorised Courier informing him the grounds on which it is proposed to revoke the registration and he is given an opportunity of making a representation in writing and a further opportunity of being heard in the matter, if so desired:

Provided further that, in case the Commissioner of Customs considers that any of such grounds against an Authorised courier shall not be established *prima facie* without an inquiry in the matter, he may conduct an inquiry to determine the ground and in the meanwhile pending the completion of such inquiry, may suspend the registration of the Authorised Courier:

Provided also that if no ground is established against the Authorised Courier, the registration so suspended shall be restored.

(2) Any Authorised Courier or the officer of the Customs authorised by the Chief Commissioner of Customs in this behalf, if aggrieved by the order of Commissioner of Customs passed under sub-regulation (1), may represent to the Chief Commissioner of Customs in writing against such order within sixty days of communication of the order to the Authorised Courier, and the Chief Commissioner of Customs shall, after providing the opportunity of being heard to the parties concerned, dispose of the representation as expeditiously as may be possible.

14. Penalty. - An Authorised Courier, who contravenes any of the provisions of these regulations or abets such contravention or who fails to comply with any provision of these regulations with which it was his obligation to comply, shall be liable to a penalty which may extend to fifty thousand rupees.

[F. No. 450/54/2008-Cus.IV**]**

(Navraj Goyal)

Under Secretary to the Government of India

Click on the links below for Forms:

Form - A	Express cargo manifest - Import (ECM-I)] (Electronic Filing)
Form - B	Courier Bill of Entry-XI(CBE-XI) for documents (Electronic Filing)
Form - C	Courier Bill of Entry - XII (CBE-XII) for Samples and gifts (Electronic Filing)
Form - D	Courier Bill of Entry - XIII (CBE-XIII) for non-documents (low value dutiable shipments) (Electronic Filing)
Form - E	Courier Bill of Entry - XIV (CBE-XIV) for dutiable goods (Electronic Filing)
Form - F	Courier Export Manifest (CEM-I) (Electronic Filing)
Form - G	Courier Shipping Bill - III (CSB-III) for documents (Electronic Filing)
Form - H	Courier Shipping Bill - IV (CSB-IV) for goods (Electronic Filing)
Form - I	Application Form for registration / renewal of authorised courier
Form - J	Form for intimation of authorised courier

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