Circular No.23 / 2010-Customs

F.No.401/104/2007-Cus.III

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise and Customs

159A, North Block,

New Delhi -110001.

29th July, 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 & Central Excise.

Subject: Refund of 4% Additional Duty of Customs (4% CVD) in pursuance of Notification No.102/2007-Customs dated 14.9.2007 - Disposal of claims in respect of cases where assessments are provisional - reg

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Sir / Madam,

Your kind attention is invited to the Notification No.102/2007-Customs dated 14.9.2007, Notification No.93/2008-Customs dated 1.8.2008 and Board's Circulars No. 6/2008-Customs dated 28.4.2008, No.16/2008-Customs dated 13.10.2008, No.6/2009-Customs dated 9.2.2009 and No.18/2010-Customs dated 8.7.2010 containing instructions on the procedure to be followed by the Customs field formations in case of 4% CVD refund claims.

2. References have been received by the Board pointing out that divergent practices are being followed as regards sanction of 4% CVD refund claims in the cases where assessments are provisional. It has been reported that in some Custom Houses, 'date of payment' of duty is being considered as date for determining the prescribed period of one year in terms of the Notification No.93/2008-Customs dated 1.8.2008, whereas in other Customs Houses, the relevant date is the date of finalization of provisional assessment and accordingly, the importers in those Customs Houses are filing refund claim within one year of finalization of assessment. It was requested that a suitable clarification be issued by the Board in order to ensure uniformity in procedure.

3. The matter has been examined in the Board. As per the Board Circular No.6/2008-Customs dated 28.4.2008, the limitation of time under Section 27 of the Customs Act, 1962 is not applicable in cases relating to refund claims of 4% CVD. The refund of 4% CVD is admissible in terms of Notification No.102/2007-Customs dated 14.9.2007 read with Notification No.93/2008-Customs dated 1.8.2008 issued under Section 25(1) of the Customs Act, 1962 subject to fulfillment of certain conditions as envisaged in the said notifications. The time limit prescribed for the purpose of 4% CVD refund claim is one year from the date of payment of duty as per the said Notifications. Hence, in cases where the assessment is provisional, for the purpose of sanction of refund of 4% CVD, the date of payment of duty would be, the date of payment of CVD at the time of import of goods and not the date of finalization of provisional assessment. The Importer, therefore, would be eligible to get the refund, if the claim is filed within one year of the date of actual payment of 4% CVD i.e. the date of payment of duty at the time of clearance of imported goods.

4. Board, has, accordingly decided that all pending 4% CVD refund claims under Notification No.102/2007-Customs dated 14.9.2007 and Notification No. 93/2008-Customs dated 1.8.2008 should be disposed of despite the fact that the assessment continues to be provisional without awaiting for finalization of assessments.

5. A suitable Public Notice and Standing Order may be issued for the guidance of the trade and staff.

6. Difficulties faced, if any, in implementation of this Circular may be brought to the notice of the Board at an early date.

Yours faithfully,

(R. P. Singh)
Director (Customs)

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