CIRCULAR NO. 44/2005-Cus

F.No.450/66/2004-CUS-IV

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

November 24th, 2005

Subject: Delayed, incomplete or incorrect filing of Import Manifest or Import Report- Reg.

I am directed to invite your attention to Board's Circular No. 13/2005-Cus, dated 11.03.2005. The intention of the prevailing Circulars/instructions is to ensure correct filing of Import General Manifest/report, complete in all respects, so as to reduce overall dwell time of cargo. Further, the nature of amendments were also classified in two broad categories 'major' and 'minor' to enable for immediate approval.

2. It has been brought to the knowledge of Board that all cases requiring "major amendments" in import manifest are being put up to proper officer for adjudication. The process of adjudication entails delay in the clearance of goods as a proper hearing has to be given and a speaking order has to be issued after taking into account full facts of the case and submissions made by the concerned agencies. Ministry of Shipping and various Industry Associations have represented on this issue. It has been suggested that major amendments which do not affect the Customs revenue **substantially**, should be permitted by the proper officer according to the merits of the case.

3. The matter was re-examined**.** It has been decided by the Board that all amendments to the Import General Manifest (IGM) may be considered on the basis of the provisions contained in section 30(3) of the Customs Act, 1962. The said section (sub-section 3) provides that if the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented. Hence the need for adjudication will arise only in cases where there are major amendments involving fraudulent intention or **substantial** revenue implication arising from the amendments. Further it is possible that in certain special situations such as mother/daughter vessel operation for lighterage on account shortage of draft, congestion of port, natural calamity, the final quantity of goods covered by the IGM would be known only after completion of such lighterage operation, requiring amendment in quantity originally declared at the time of filing IGM. These exceptional situations need to be taken care so that penal action is not initiated mechanically in such situations.

4. The Board's Circular No. 13/2005-Cus, dated 11.03.2005 should be read as amended to the above extent. The above instructions may be brought to the notice of the Trade immediately through appropriate Public Notice.

5. Receipt of this Circular may kindly be acknowledged.