Circular No. 33/2010-Customs

F. No.450/ 77 /2010-Cus.IV

Government of India

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

North Block, New Delhi
7th September, 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: Courier Regulations for the manual and the electronic mode - regarding.

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Sir/ Madam,

I am directed to invite your attention to Notification No.36/2010-Cus (NT) dated 5th May, 2010 vide which the Board has notified Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010. These Regulations have been framed to enable electronic filing and processing of customs declarations with regard to import and export consignments carried by courier companies. Further, vide Notification No.75/2010-Cus (NT) dated 12th August, 2010, consequential changes have also been made in the Courier Imports and Exports (Clearance) Regulations, 1998, which regulate the procedure for clearance of courier consignments in the manual mode.

2. Following are some of the salient features of both courier Regulations-electronic as well as manual mode:

(i) Declarations by authorized persons: Compliance with various requirements of Customs Act, 1962 and other allied laws is enforced by requiring the importer/exporter or his authorized agent to make proper declarations before customs. In this regard, Section 146 of the Act provides that no person shall carry on business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs-station unless such person holds a license granted in this behalf in accordance with the Regulations. Therefore, it has been provided under the courier Regulations that declarations before customs, for clearance of imported or export goods, shall be filed 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 is duly authorised under Section 146 of the Act. Further, keeping in view the difficulties that may be faced by the trade in complying with these new requirements, a transition period of six months has been provided from the date of coming into effect of the respective notifications.

(ii) KYC Norms: In the context of increasing number of offences involving various modus-operandi such as fraud and duty evasion by bogus IEC holders etc., an obligation has been cast on the Authorized Courier to verify the antecedents, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information. In this regard, the detailed guideline on the list of documents to be verified and obtained from the client/ customer laid down as per the Annexure to Board's Circular No. 9/2010 dated 8th April, 2010 may be adhered to. It would be obligatory for the client/ customer to furnish to the Authorised Courier any two of the listed documents in the annexure. However, it is clarified that there is no requirement for the client/ customer to furnish a photograh separately to the Authorised Courier.

(iii) Requirement of security and net worth: The requirement for security for acting as an Authorised Courier has been enhanced to ten lakhs rupees in case of major international airports of Mumbai, Delhi, Calcutta and Chennai and five lakhs rupees in case of other airports. Similarly, the requirement of net worth or financial viability to act as an Authorised Courier has been enhanced to possession of assets of a value not less than twenty five lakh rupees. Further, it is clarified that the requirement for enhanced Bond and Bank Guarantee applies to existing Authorised Couriers as well.

3. Further, there are certain features that are unique to the courier Regulations for the electronic mode. Some of these are:

(i) The 100% EOU shipments have been allowed as the EOU module has been developed under the proposed automation system and data requirements have enhanced.

(ii) New forms for filing customs declarations have been notified such as the Courier Bill of Entry-XI (CBE-XI) for documents in Form B, the Courier Bill of Entry-XII (CBE-XII) for free gifts and samples in Form C, the Courier Bill of Entry-XIII (CBE-XIII) for low value dutiable consignments in Form D, the Courier Bill of Entry-XIV (CBE-XIV) for other dutiable consignments in Form E for import consignments. Similarly, Courier Shipping Bill-III (CSB-III) for documents in Form G and Courier Shipping Bill-IV (CSB-IV) for goods in Form H have been notified for export consignments.

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(iii) No restriction regarding weight or value have been prescribed since the data elements prescribed for submission of Bill of Entry include complete details as are required for filing a normal Bill of Entry.

(iv) The Import-Export Code (IEC) Number will be required to be declared in case of declarations filed in Form C or Form D or Form E. Further, a transition period of six months has been prescribed in case of declarations filed in Form D for complying with the requirements of IEC number. It is also clarified that in case of import of goods for personal use not connected with trade or manufacture or agriculture, the permanent IEC number given under the Handbook of Procedures (Vol.I) notified by the DGFT may be used.

(v) The requirement for value declarations by the importer in case of Courier Bill of Entry-XIV (CBE-XIV) for other dutiable consignments in Form E has been prescribed.

(vi) As the Export Manifest Module is yet to be developed under the EDI, the provisions of Regulations 6(1) are to become operational from a date which will be notified in due course. Accordingly, it is clarified that the existing procedure being followed in respect of courier Regulations for manual mode shall apply in this regard.

(vii) Examination norms, concerning import or export through courier mode, as laid down vide Board Circular No. 23/2006-Cus dated 25thAugust, 2006 shall apply till such time RMS module becomes operational.

(viii) Regulation (12) (1) (i) provides that an Authorised Courier shall obtain an authorization from each of the consignee or consignors of imported as well as export goods. It is clarified that this provision does not seek to provide for any new requirement, and that an Authorised Courier shall obtain an authorization from each of the consignee in case of imports and consignor in case of exports.

4. Apart from the changes as outlined at Para 2 above, some additional changes have been brought in the Regulations for the manual mode:

(i) On the lines of similar requirement for Customs Cargo Service Providers (CCSP) under the Handling of Cargo in Customs Areas Regulations, 2009, a provision has been made prescribing the requirement of prior permission of customs if the Authorised Courier wants to sub-let/outsource any of the components in the door-to-door supply chain. This is necessary since an Authorized Courier is defined as one, who, in relation to import or export of goods, is a person engaged in the international transportation of goods for export and imports on door-to-door delivery basis, and is registered in this behalf by the jurisdictional Commissioner. Also, the basic reason

for expeditious clearance facilities being extended to them is that express companies have put in place verifiable and secure work processes on a global basis backed by an elaborate IT infrastructure for knowledge and information management. These companies have their own in-house mechanisms to guard against use of express supply chain by unscrupulous elements. Therefore, any unauthorized sub-letting or outsourcing of any of the components in the door-to-door supply chain may defeat the very purpose behind facility of expeditious clearance. Hence, the Commissioners of Customs should review the facilities available with the Authorised Couriers appointed under their charge to ensure compliance. Further, while allowing, any sub-letting or outsourcing due care should be taken to ensure that it does not go against the very purpose behind facility of expeditious clearance.

(ii) Regulation13 (a) provides that an authorized courier shall obtain authorization from the consignee of the import goods for clearing the goods through customs. However, it has been brought to the notice of the Board by both the field formations and the trade that insisting for authorization from each of the consignee/importer is not feasible in all such cases, and it defeats the very objective of ensuring expeditious clearance. Accordingly, it has been decided that in case of import consignments having a declared value of ten thousand rupees or less, the authorization may be obtained at the time of delivery of the consignments to consignee. Such authorizations shall be retained for record by an Authorised Courier for a period of one year or date of inspection by customs whichever is later. Further, the Authorised Courier is obliged under the Regulations to 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 and submit them for inspection to the Assistant Commissioner of Customs or an officer authorised by him, wherever required. Accordingly, the Board desires that such inspection be done on periodical basis, at least once in a year, and during inspection it should be invariably seen, inter alia, if the Authorised Courier is obtaining these authorizations.

(iii) Clause (vi) has been inserted in second proviso to Regulation 5(3) to provide that in case of goods having a declared value of more than one lakh rupees, a normal Bill of Entry as prescribed under the Bill of Entry (Forms) Regulations, 1976 shall be filed.

5. The existing procedure for testing of samples requires the Customs officers to draw samples in terms of Section 144. In this regard, Commissioners of Customs have also been provided the flexibility to send samples either to CRCL or to Government approved Laboratories. In case any import consignment under courier require any such testing of samples, then the Customs officers shall require such goods to be tested immediately so that imports under courier mode do not get held up nor the express clearance facility misused for non-compliant imports.

6. Further, it is clarified that facility of transshipment between two customs stations will continue as per the provisions of the Customs Act, 1962, Goods Imported (Conditions of Transhipment) Regulations, 1995 and existing instructions of the Board. Many times consignments imported through courier mode may also need to be transferred to cargo terminal of the same airport for clearance purposes. Such transfer is akin to local movement of cargo from one custom area of the customs station to another custom area of the same station. As clarified vide Board's Circular No. 18/2009-Cus dated 8th June, 2009, such movement is covered by local procedure evolved by the jurisdictional Commissioner of Customs.

7. For removal of doubts, it is clarified that similar to Bill of Entry Regulations for the manual and electronic mode, the two courier Regulations-electronic as well as manual mode prescribe the procedure for filing and processing of declarations. While manual Regulations apply to courier clearances at specified places, the electronic Regulations would apply wherever the automation facilities are being setup. Further, at places where automation facilities have become operational many a times the documents may be required to be filed and processed manually due to any break-down in the electronic server or other unforeseen circumstances. Moreover, even at these places the shift to electronic mode will take place gradually with the launch of pilot project, and till such time automation facilities become fully operational at a place, some consignments may need to be processed manually as may be determined by the jurisdictional Commissioners.

7.1 The existing Authorised Couriers who are registered or transacting business in terms of Regulation 12 of the Courier Imports and Exports (Clearance) Regulations 1998 at locations where automated clearance facilities become operational shall be eligible to file declarations under the electronic mode without any requirement for fresh appointment or fresh intimation, subject to the fulfillment of other conditions or requirements imposed under courier Regulations for the electronic mode. In short, once a person is registered as an Authorized Courier, he can file declarations under both the modes subject to compliance of other requirements of the respective Regulations.

8. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice / Standing Order.

9. Difficulties, if any, in implementation of the Circular may be brought immediately to the notice of the Board.

Yours sincerely,

(Navraj Goyal)
Under Secretary (Customs)

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