Circular No.22/2011-Customs

F.No.528/38/2008-Cus.(TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

227-B, North Block.
New Delhi-110001.
4th May, 2011.

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).
All Directors General under CBEC.

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Subject: Project Imports Regulations, 1986 (PIR) - Instructions - regarding.

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Sir / Madam,

Attention is invited to the provisions of Project Imports Regulations, 1986 (PIR) and various circulars and instructions issued by the Board on the above subject from time to time.

2. The Comptroller & Auditor General of India (C&AG) had conducted a review of the working of 'Project Imports' scheme with a view to ascertaining the level of compliance, effectiveness of internal control and whether finalization has been done by field formations within a reasonable time frame. The audit review has revealed some systemic as well as compliance weaknesses relating to grant of project imports benefits and finalization of project imports cases. The C&AG has taken a serious view on the weak monitoring of the Project Imports and on the substantial delay in finalization of Project Imports as detailed in their Performance Audit Report No. PA 24 of 2009-10. In the light of various shortcomings pointed out in their report, the C&AG has recommended for a comprehensive review of the working of the scheme including the internal control and monitoring mechanism in vogue which govern the project imports, and to further strengthen this mechanism.

3.1. The matter has been examined and the recommendations made by C&AG have been carefully gone through by the Board. One of the recommendations made by C&AG is that the Government should fix a realistic time frame for finalization of assessments of project import

cases after submission of the requisite documents by the importers to ensure that there is no loss of revenue. In this regard, it has been decided by the Board that finalization of assessments under Project imports should completed within a period of 60 days from the date of submission of required documents by the importer. However, in exceptional circumstances where it is not possible to complete the finalization within the time limit for justifiable reasons, the time limit may be extended by the jurisdictional Commissioner of Customs for such further period as may be decided by him and for the reasons to be recorded in writing.

3.2. It may also be recalled that as per Board's Circular No.12/2001-Customs dated 1.3.2011 issued from File No.334/3/2011-TRU, the field formations were advised not to renew the bank guarantee in respect of project imports, on completion of a period of six months from the date of submission of necessary documents from the jurisdictional Central Excise authority or any other specified authority, as proof of utilization / installation of goods for the finalization of the contract. It is hereby clarified that the above said relaxation is applicable, only if all the required documents including certificate for installation of imported goods at the Plant/ Project site, utilization of imported goods in the manufacture of declared goods etc. are submitted up to the satisfaction of proper officer for finalisation of contract. The Commissioner shall therefore ensure that the aforesaid time limit for finalization of Project Imports under PIR, 1986 is adhered to in all cases, so that such finalization is completed within the validity period of the bank guarantee in order to ensure that the government revenue is safeguarded. However, in cases where the importers have not submitted the requisite documents in time, it may be ensured that the bank guarantees are kept alive until finalization of project imports so that resultant delay does not adversely affect the interests of revenue.

4. It has also been recommended by C&AG that in order to improve compliance, penal provisions may be invoked for delay in submission of reconciliation statements and other requisite documents by importers. In this regard, you may refer to the Regulation 7 of PIR, 1986, which stipulates that importer shall submit a statement indicating details of goods to be imported together with necessary documents as proof regarding the value and quantity of the goods imported within three months from the date of clearance of the last consignment along with any other documents that may be required by the proper officer for finalization of the Project Imports cases. While the provisions contained in the Regulations are explicit, it has been brought to the notice of the Board that there are a large number of cases where project imports have not been finalized on account of non-submission of Statement by importers which indicate that the implementation of these provisions has been far from satisfactory. In order to address this issue and to deter the importers from non-submission or delayed submission of relevant documents, the Commissioners should ensure that in cases where the requisite Statement / documents under Regulation 7 of PIR, 1986 is not submitted in time or submitted incomplete, then necessary action for enforcing bond / undertaking, cash security/ bank guarantees executed in this regard, issue of notice for demand of duty, penalty for non-compliance with the provisions of the Regulations may be initiated against the importer. The adjudicating authority is expected to appreciate the evidence on record including documents submitted, if any, to arrive at a decision whether duty is to be confirmed and / or penalty imposed.

5. In respect of goods cleared under Release Advice (RA), at ports other than the port where the contract for project imports is registered, it has been reported by field formations

that provisionally assessed Bills of Entry are not finalized expeditiously, causing delay in finalization of Project Imports. It has, therefore, been decided that importer and his Custom House Agent should ensure that the provisionally assessed Bills of Entry for the imported goods at the ports other than the port of registration of project imports are finally assessed and audited at the respective ports, and should be submitted along with the documents submitted for finalization of Project Imports. In these cases the concerned Commissioner should ensure that such Bills of Entry are finalized without undue delay.

6. In terms of the provisions of Regulation 7 of PIR, 1986 read with Board's instructions for finalization of project imports, the importer is also required to submit a certificate from a registered Chartered Engineer certifying the installation of imported items of machinery along with other documents. In this regard, all importers may be advised to produce this document without any delay so as to ensure timely finalization of Project Imports. Further, in order to ensure that the imported goods have actually been used for the projects for which goods have been imported, Plant Site Verification (PSV) is required to be done in cases where value of project exceeds Rs. 1 crore and in other cases at least 10% of the project imports registered will be subject to such plant verification. All the relevant particulars of the contract giving complete details of the goods imported shall be communicated to the jurisdictional Central Excise Office to confirm whether the same have been installed at the registered plant site in time. It has been decided by Board that jurisdictional Central Excise Commissionerate should ensure that Plant Site Verification, where ever applicable, is completed within 15 days of submission of relevant documents by the importers. However, in cases of Government Departments and Public Sector Undertakings, the requirement of PSV under project imports can be fulfilled by means of issuing appropriate Certificate by the Head of PSU / Government Undertaking in the rank of Chairman / Executive Director.

7. On the recommendation of C&AG for developing appropriate accounting and monitoring modules and integrating these with the EDI system to facilitate effective monitoring of project imports, the matter has been taken up with the Directorate General of Systems for further action. However, in the meantime the existing facility for processing the Bill of Entry, Bond module system under Customs EDI System shall be followed so as to monitor the validity of bank guarantees, bonds and to ensure that they are renewed periodically. Further, proper records of the Contracts registered under Project Imports along with requisite particulars, amendments to contracts, if any, as required under Regulation 5 of PIR shall be maintained by the respective Custom Houses for the purpose of monitoring.

8. The C&AG has further recommended that the Board should strengthen the internal control and monitoring mechanism in respect of Project Imports to reduce the risk of irregularities. In order to ensure compliance of PIR, 1986 and to provide an institutional mechanism to monitor the pendency of project imports on a monthly basis, the Board hereby further directs that the concerned Commissioner of Customs should monitor the pendency of project imports cases and submit a monthly report to the Chief Commissioner of Customs in charge of the Zone, in the prescribed format enclosed along with this circular as in **Annexure-I**. The Chief Commissioner of Customs will monitor the pendency and send a quarterly consolidated report of the Zone by 15th of next month to the Directorate General of Inspection (Customs & Central Excise), New Delhi in prescribed format as in **Annexure-II**. The DGIC&CE will in turn monitor the pendency at All India level, in centralized manner

and will report to the Board on a quarterly basis about the progress made in finalization of project imports, trend of compliance etc. and suggest corrective measures to be taken, if any.

9. Board's Circular No.12/2011-Customs dated 1.3.2011 stands modified to the above extent.

10. These instructions should be brought to the notice of all the concerned by way of issuance of instructions / trade notice.

11. Difficulty faced, if any, may be brought to the immediate notice of the Board.

Yours faithfully,

(R. P. Singh)
Director (Customs)

Encl: As stated above.

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ANNEXURE - I

Chief Commissioner Customs (Zone)

Pending Project Finalization Report

Sl.No.	Project Registration No. & Date	Name of Importer	Value of the Project registered	Security Deposit / Bank Guarantee amount taken	Date of submission of reconciliation statement	Action Taken	Estimated period / time required for finalisation
1.							
2.							
3.							
4.							
5.							
6.							
7.							

ANNEXURE - II

Chief Commissioner Customs (Zone)

Pending Project Finalization Report

Sl.No.	Year	Total no. of Project contract registered	No. of Project contracts where last consignment is cleared	No. of project contracts where documents are submitted	No. of project contracts where documents are not submitted and adjudication proceedings started	No. of project contracts where documents are not submitted and adjudication proceedings not started.	Reasons for no action
1.							
2.							
3.							
4.							
5.							
6.							
7.							

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