Circular No. 56/95-Cus.
dated 30/5/95

F.No. 446/18/94 CUS - IV

Government of India, Ministry of Finance
Department of Revenue (C.B.E.C.), New Delhi

Subject : Assessment and clearance of goods imported by Courier Mode- Courier Imports (Clearance) Regulation 1995 - Reg.

I am directed to say that the Finance Bill 1995 has received the assent of the President of India on 26.5.1995 and with the coming into force of the Finance Act 1995 Chapter 98 of the Custom Tariff Act, 1975 stands amended such that vide NOTE 4" goods imported through courier service" are excluded from the said Chapter. Accordingly, Imports by courier shall **NOT** henceforth be classified as baggage under heading 98.03 of Tariff for the purpose of assessment to duty and clearance thereof. The practice of charging a uniform duty of 80% *ad valorem* on articles imported through couriers in terms of exemption notification No. 86/ 94- Cus dated 1.3.1994 should be DISCONTINUED WITH IMMEDIATE EFFECT. The said notification No. 86/ 94 dated 1.3.1994 has also been accordingly rescinded.

2. Imports by courier shall shall now be classified on merits in the respective Customs Tariff Headings. To illustrate, imports of an "instrument" and "machinery" by a courier will be classified under Chapter 90 and Chapter 84 respectively and the duty charged suitably and not at a uniform rate as baggage. Thus, the courier imports will now be subject to "merit" assessment.

3. For implementing the new system of assessment and clearance of goods imported by couriers the Board has framed the Courier Imports (Clearance) Regulations, 1995 notified vide Notification No. 35/95 Customs (NT) dated 26.5.1995. The salient features of these regulations are as follows.

(i) The new scheme of assessment of imports by couriers applies only to imports by "Authorised couriers at the customs airports of Bombay, Delhi, Calcutta and Madras. Thus the facility is for the time being restricted to the Airports where the couriers normally operate at present. This is in terms of the requirements of the courts grace.

(ii) The new scheme shall also apply **ONLY** to imports by couriers when carried by the couriers representative on incoming scheduled passenger flight. Hence it would not be applicable to imports either as cargo (including unaccompanied baggage) or by charter / freighter flights.

(iii) To qualify for the facility of assessment under the regulations the applicant must register himself as a "authorised courier" with the concerned Commissioner of Customs at the airport of import. For eligibility of registration the conditions are that the applicant must establish his financial viability (Rs. 5 lakhs) and furnish a security (Rs. 1 lakh) besides fulfilling other conditions such as execution of bond etc. Further, the regulations impose certain obligations on the courier who may also in certain situations be "deregistered" by the Commissioner of Customs.

(iv) For the purpose of the scheme the goods imported by courier have been divided into three categories, namely (a) documents; (b) samples and free gifts; and (c) dutiable goods. These goods are to be packaged distinctly as the scheme of assessment and clearance of the goods is different for the three categories. Essentially, goods in the first two categories are duty free here simplified Bills of Entry have been specified (Form III and IV of the Regulations) for their clearance. One single Bill of Entry (Form III and IV of the Regulations) for their clearance. One single Bill of Entry (Form III or IV as the case may be) will be sufficient for the clearance of any number of such goods imported by any authorised courier on a particular flight. It is however necessary the for the purpose of clearance of "documents" the manifest filed by the authorised courier (Regulation 5) specifies the nature of document, which may be letters, brochures etc. This is necessary to verify that indeed the item of import viz. "document" is duty free and correctly cleared as per Form III of the regulations. It may also be seen that for the purpose of duty free clearance of goods in category of samples and gifts the value limit has been now made Rs. 2000/- by notification No. 100/ 95-Customs dated 26.5.1995. This value is exclusiveof freight and insurance element.

(v) For the category of dutiable goods the Bill of Entry shall be in an aggregated Bill of Entry (Form V) for a number of individual consignments imported by one courier on behalf of more than one consignee. However, here a detailed assessment is provided for no revenue considerations.

(vi) It is to be observed that the scheme of clearance of imports by courier mode introduces certain procedural relaxations as regard the customs clearance procedures. Such imports will however continue to be governed by the EXIM Policy provisions applicable to imports of the various items. Thus it is to be ensured that all imports by the courier mode satisfy the provisions of the EXIM Policy and any other law for the time being in force.

(vii) A crucial element of the new scheme is that the authorised courier is obliged to obtain an authorisation from the consignees for acting as his agent in clearance of the goods. This has implications on liability of the parties in terms of the Customs Act, 62 and for this the Bill of Entry's provide for certain declarations which must be ensured. In the normal course, it is not necessary for the customs to insist upon the production of consignee's authorisation in support of the declaration of the courier.

(viii) It may also be seen that vide regulation 7 the goods imported by an authorised courier may with has concurrence be also cleared through customs by the consignee. It is further provided that for certain goods such as the goods requiring a licence, or imports of Export Oriented Undertakings, DEEC imports etc., the normal Bill of Entry as per the Bill of Entry (Forms) Regulations, 1976 is to be necessarily filed. A normal bill of entry may also be directed to be filed by the Deptt. in certain situations such as where the assessing officer requires corroboration of the declaration and where an enquiry may be necessary before finalising the assessment (under valuation, misdeclaration of description etc.).

4. As may be seen the new system of assessment is aimed at facilitating the expeditious clearance of imports by courier. This is a necessary requirement of the trade. Therefore it is provided that certain categories of goods may be cleared on a simple Bill of Entry with the minimum of declarations. However, while the endeavor of the customs shall be to ensure against the hold up of any goods, the right to verify the declarations by screening of packages or examination is not diluted in any manner. At the same time in view of the time sensitive nature of imported goods it is to be ensured that the checks are carried out only in cases of *bona fide* doubt or suspicion. The dutiable goods will however be subject to the normal procedure of assessment.

5. The important aspect of the clearance facility which is not covered by the regulation is that the manner of payment of duty on the imported goods. It is suggested that the courier companies may be asked to maintain account current (deposit account) so that the payment of duty round the clock is facilitated. However, the Commissioners of Customs concerned will evolve a suitable procedure keeping in mind the local conditions. The duty collection must take into account the convenience of the trade as well as the fact of round the clock clearances.

6. Another aspect to be noted is that in certain cases the consignee of the imported goods may seek certification from the customs regarding the duty paid on the said goods for the purpose of claiming Modvat benefit. In this regard it may be seen that the scheme of courier import clearance provides for the filing of a Bill of Entry as per the Bill of Entry (Forms) Regulations, 1976. It is accordingly expected that when any consignee wishes to claim Modvat benefit then in such case he should be advised to file the normal Bill of Entry, which document will serve as the document for claim of modvat. In no case is the customs to issue separate certificates for modvat purpose.

7. There may also be situations where the courier imports goods which are expressly not covered as per the new regulations (Regulation 2). In such cases the courier concerned in to be advised that such goods shall be dealt with on merits, in terms of the legal provisions, on the filing of a normal Bill of Entry as per the Regulations of 1976. For this purpose the courier may also like to transfer the goods to the Air Cargo Complex for which the customs may have no objection.

8. As may be seen the scheme of clearance of courier goods envisages the constant interaction of the customs with the IAAI which is to provide the infrastructure facility as well as with the courier companies and the airlines to ensure expeditious movement of imported goods unloaded from the aircraft to the facility for clearance. The Board desires that this matter be personally attended to by the Commissioner of Customs.

9. It is also necessary that particularly at the start of the new facility the associations of courier companies be taken into confidence and consulted so that the new scheme of customs clearance is understood by all concerned without any element of doubt. This may be done by organising seminars etc. where opportunity is given to both the couriers as well as Department officers to interact.

10. As may be appreciated the objective of the new scheme of courier imports clearance is to ensure timely clearance without any delay whatsoever. At the same time there may be occasions when the import goods may not be cleared immediately and have to be necessarily detained by the customs. On such occasions it is important that the consignee be courteously addressed by the customs explaining the reasons for the detention and requesting for remedial action by the consignee to facilitate immediate clearance of the goods. This approach will be helpful to the trade as the mode of courier import is normally resorted to for time sensitive goods and any hold up would not be appreciated.

11. It is expected by the Board that the new system of courier import will facilitate the trade. However, for this the concerned officers to be posted at the earmarked courier terminals, **on cost recovery expense of the courier association** most be specially briefed regarding the new procedure and emphasis on speedy clearance. In this direction the Board expects that seasoned officers will be posted for attending to the work. The work must also be supervised by senior officers on day to day basis. Needless to say the Commissioner of Customs are expected to keep the Board informed of any procedural difficulty that may be noticed.

12. I am directed to say that the Board desires that the aforesaid instructions may be immediately implemented. The fact of issue of the new regulations and the starting of the new system of courier import clearance procedure may be brought to the notice of the trade by issue of suitable public notice / Trade notice. The Department officers be also apprised of the scheme emphasising their responsibilities by issue of a suitable Standing order/ departmental order. Copies of all these Notices/ Orders may be endorsed to the Board.

Sd/-
(S.M. Bhatnagar)
Under Secretary to the Govt. of India

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