Circular No. 58/2001-CUS.
25th October,2001

F.No.450/21/98-CUS.IV
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

Subject: Application of PFA Act, 1954 and other Acts for the clearance of consignments of food articles - instructions - regarding -

I am directed to refer to the Board"s Circular No. 36/2001-Cus., dated 15th June, 2001 on above-mentioned subject. The said Circular provides detailed guidelines for examination and testing of food items prior to Customs clearance. It has been provided that no food item would be allowed clearance unless it is tested under the Prevention of Food Adulteration Act, 1954 and other allied laws. In this connection, a number of representations has been received from the hotel industry stating that they are facing difficulties in clearance of perishable food items due to mandatory testing of all consignments. The Federation of Hotel and Restaurant Association of India has requested for restoration of the exemption granted earlier to hotels from 100% testing under Circular No.103/2000-Cus., dated 15th December, 2000 (which was superseded by Circular No. 36/2001-Cus., dated 15/6/2001).

2. The matter has been examined by the Board. Considering the difficulties being faced by the trade, the following decisions have been taken for clearance of food articles.

2.1 The Customs shall undertake the following general checks in addition to testing of samples in terms of sub-paragraph 2.2 or 2.3 and paragraph 3 prior to clearance of food items, and if the product does not satisfy these requirements, clearance shall not be allowed:-

(a)	The condition of the hold in which the products were transported should be checked to see whether they meet the requirements of storage, as per the nature of the product, and does not in any way cause deterioration or contamination of the products.
(b)	Physical/ visual appearance in terms of possible damage - whether it is swollen or bulged in appearance; and also for rodent/insect contamination or presence of filth, dirt etc. - should be checked.
(c)	The product should meet the labelling requirements under the Prevention of Food Adulteration Rules and the Packaged Commodities Rules. This includes ensuring that the label is written not only in any foreign language, but also in English. The details of ingredients in descending order, date of manufacture, batch no., best before date etc. are mandatory requirements. All products will also have to indicate details of best before on all food packages. (Reference Ministry of Health notification No. GSR 537(E) dated 13th June 2000).

2.2 All the consignments of edible/food products imported through ports, airports, ICDs, CFSs, Land Customs Stations shall be referred to PHOs for testing and clearance shall be allowed only after receipt of the test report. Pending receipt of test report, such consignments may be allowed to be stored in warehouses under section 49 of the Customs Act, 1962. If the product fails the test, the Customs authorities will ensure that the goods are re-exported out of the country by following the usual adjudication procedure or destroyed as required under the relevant rules.

2.3 The perishable food items like fruits, vegetables, meat, fish, cheese, etc. have quick turn over and which, once opened, can lead to quick spoilage, if not kept in refrigerated conditions. On import of such items for direct use by the importers such as, hotels, etc., notwithstanding anything contained in para 2.2 above, the consignments should not be subject to drawal of samples and testing prior to clearance of the same. Such items should be cleared after conducting the checks as mentioned in sub-para 2.1 above and relying on the certificates from the internationally known testing labs or government labs about these products conforming the food safety and quality of such products. However, if perishable items such as raw meat, fish etc. are not meant for direct use by the importer, samples shall be taken and tested prior to clearance of the same as mentioned in para 2.2 above.

2.4 As regards ICDs/CFSs/ports/airports/LCSs, where Port Health Officers are not available, the Customs shall draw the samples and get these tested from the nearest Central Food Laboratory or a laboratory authorised for such testing by the Directorate General of Health Services.

2.5 The Customs shall also develop a data base regarding importers and import sources and products which are found to consistently fail the tests and give some feedback on the nature of the shortcomings noted to the DGHS to serve as input for policy formulation.

3. In addition to testing of food items under the PFA Act, 1954, these items shall also be subject to examination/testing to ensure compliance of the requirements of other Acts, regulations, and orders such as Meat Food Products Order, 1973, Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989, the Livestock Importation Act etc. for the time being in force if these are also covered by these Acts/orders, before these are allowed clearance into the country.

4. The Board"s Circular No.36/2001-Cus., dated 15/6/2001 stands rescinded.

5. These instructions, issued in continuation of Member (Customs)"s D.O. letter No. R-2604/M(Cus.& EP)/2001 dated 21/4/2001, may be brought to the notice of all concerned by way of issuance of a suitable Public Notice/ Standing Order.

6. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Board. Kindly acknowledge receipt of this Circular.

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