Circular No.20/2008-Customs

F.No. 450/67/2003-Cus.IV (Pt)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

North Block, New Delhi.
2nd December, 2008.

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 & Central Excise.
The Director General of Revenue Intelligence.
The Director General of Central Excise Intelligence.

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Subject: Guidelines for compounding of offences under Customs (Compounding of Offences) Rules, 2005 - regarding.

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Sir / Madam,

Please refer to notification No.118/2008-Customs (N.T) dated 12.11.2008 whereby certain amendments have been carried out in the Customs (Compounding of Offences) Rules, 2005. Further, considering the recommendations made by the Committee on Subordinate Legislation (Rajya Sabha) and to make a meaningful impact on the Scheme of Compounding of Offences, the following changes have been made in the scheme of Customs (Compounding of Offences) Rules, 2005 and the guidelines issued in this regard.

2. The compounding amount prescribed under Rule 5 of the said Rules has been revised downwards. A new proviso has been inserted in this rule, which provides that if a person has, in respect of same goods, committed offences falling under more than one category, i.e., Sl.No.1 to 8 of the table specified in this rule and where amount of duty evasion or amount of drawback or exemption from duty, or amount of market value of the goods is same for all such offences, then the compounding amount, in such cases, shall be the amount determined for the offence for which a higher compounding amount has been prescribed.

3. Further, in rule 4, a new provision has been added, whereby it has been provided that an applicant should pay duty, penalty, and interest before submission of application for compounding. Correspondingly, the Application Form has also been amended by inserting Sl.No.12A so as to ensure that the compounding of offences shall not be allowed unless the aforesaid duty, penalty and interest thereon are paid by the applicant.

4.1. In view of the recommendations of the Committee, for early disposal of the applications for compounding, the Board directs that normally the application for compounding of offences may be disposed of within a period of 3 months from the date of receipt of such application. In order to ensure such time bound disposal, it is reiterated that the existing instructions regarding time limit for launching prosecution should be followed. In straight cases, where the importer / exporter is caught red handed, prosecution may be launched immediately after seizure of the goods. In other cases, the process of deciding about launching of prosecution or otherwise shall be completed within a month of adjudication of the case. Further, cases of prosecution shall be pursued seriously with the respective Government Counsels and the Courts.

4.2. The Compounding Authority shall invariably obtain a factual report from the Reporting Authority within one month of receipt of the application for compounding, except in deserving cases, where request for extension of the period have been sought for justifiable reasons (i.e. 1 month). Where an opportunity of personal hearing requires to be given to the applicant before passing of an order, the same shall be offered within one month's time of date of receipt of report from the Reporting Authority (1 month). After taking into account the contents of the application and the concerned reports of the Reporting Authority and submissions (written or oral) made by applicant, the Compounding Authority may be able to dispose of the case within one month of the date of personal hearing or obtaining a report whichever is later (1 month). In any case, even if there are certain difficulties in timely submission of report or conducting timely personal hearings, the Compounding Authority shall dispose of the application within an overall time limit of 6 months as provided in para 7 of the guidelines issued in this regard.

5. Further, it was decided by the Board that compounding of offences should not be allowed where there are demonstrable contradictions, inconsistencies or incompleteness in the case. Accordingly, in the guidelines issued for compounding of offences under Customs and Central Excise Acts vide Circular No.54/2005-Cus dated 30.12.2005, the following additional guidelines shall be added:

"3(v): Any person who has applied for compounding of offence in a case, where there are apparent contradictions or inconsistencies or incompleteness."

6. Adequate publicity may be given about reduction of compounding amount, in order to make the scheme more popular as to reduce the cases pending in the Court. Further, in order to make best use of compounding of offence scheme, all persons against whom prosecution is initiated or contemplated, should be informed separately in writing, the offer of compounding. Guidelines issued vide Circular No.54/2005-Cus dated 30.12.2005 shall

continue to apply, subject to the amendments made vide Notification No.118/2008-Customs (NT) dated 12.11.2008 and the changes mentioned in para 5 above.

7. The field formations as well as trade and industry may be suitably informed.

8. Hindi version will follow.

Yours faithfully,
(M.M. Parthiban)
Director (Customs)

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