



सत्यमेव जयते

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Special Secretary & Member

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Dear *Chief Commissioner,*

As you are aware, Finance Minister has presented the Union Budget and introduced the Finance Bill, 2017 in the Parliament on 1.2.17. Apart from the duty rate changes, there are many proposals concerning legislative changes in the Customs Act. These changes are a part of the said Finance Bill and would come into effect only upon enactment unless specified otherwise.

2. Out of the said legislative proposals concerning changes in the provisions of the Customs Act, I want to specifically bring to your attention the proposals relating to the amendment in Section 46, 47 and 27 of the Customs Act. The summary of the changes in these sections is:

- a. Sub-section (3) of section 46 is being substituted so as to make it mandatory to file a Bill of Entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing and to provide for imposition of such charges for late presentation of the bill of entry as may be prescribed.
- b. Sub-section (2) of Section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed Bill of Entry or as the case may be assessed, re-assessed, provisionally assessed bills of entry.
- c. Sub-section (2) of section 27 is being amended so as to keep the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, outside the scope of principle of unjust enrichment where-
 - i. such excess payment is evident from the bill of entry in the case of self-assessed bill of entry or
 - ii. the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.
 - iii.

3. I am sure by now you must have gone through all the provisions of the Finance Bill, 2017 very carefully and realised the significance of these changes.

4. These proposals are of far reaching impact and would take the force of law immediately upon the enactment of the Finance Bill. Given the fact that the legislative process affords us sometime before the Parliament enacts the Bill, therefore, it is opportune that the time available is used to understand the provisions, make an outreach to the various stakeholders and also undertake systemic changes wherever needed so that the provisions are implemented smoothly on their due date.

5. In order to have better grasp, I would like to share the intention of the Government driving these proposals.

- a. Government has been concerned about the dwell time in clearance of the imported goods. There are various factors for this. One of the reasons is that the provision of advance/ prior filing of bill of entry is not being fully utilised. Similarly, even after arrival of goods, statistics have revealed that the bill of entry is not being filed expeditiously. The amendment in section 46 is to address these issues. The change in section 46 is to make it mandatory to file the bill of entry by the end of the *next day* on which the goods arrive at any customs station *at which they are to be cleared*. In other words, if the clearance is to take place at the gateway port, the time period for filing bill of entry would start from the date of entry inwards and in case the clearance for home consumption is at a hinterland ICD, the time period would start from the day the goods arrived at the ICD. **This is other than the facility of advance/ prior filing of bill of Entry which is separately provided.** Board also intends to prescribe through regulations a late charge for delayed filing. Hitherto *entry inwards* in ICES 1.5 was used for checking the rate of duty applicable for advance bills of entry. By virtue of the proposed changes in the Section 46, the entry inward has become important because default in compliance with the new provision would result in late charge. While entry inward is there in sea ports and airports, in ICDs cargo arrival report (CAR message) is available to record the time of arrival of cargo. However, the cargo arrival report is not operational in all ICDs. It is imperative to make it operational before the ascent of Finance Bill.
- b. Changes have been proposed in sub-section (2) of Section 47. These changes concern payment of duty and attendant interest liability in the case of delays. The existing provision is that a time period of two days is given to an importer to pay customs duty from the time of return of bill of entry. The implication of this change is that the importer shall have to make payment of duty in the same day as in the case of self-assessed bill of entry and in case of re-assessment or provisional assessment the importer has one day after the bill of entry is returned.
- c. I am mentioning the changes in Section 27 in the end for the reason that the changes in this are consequent to the change in Section 47. The intention behind this change is to allow a simplified regime of refund of customs duty paid in excess in specified cases by providing that such refunds shall be outside the scope of *unjust enrichment*.

6. All the three proposals which I have discussed above even though procedural, are however, substantive in nature with a definite financial impact should there be non-compliance. It is therefore critical for the smooth implementation of these provisions that the said legislative changes are understood correctly and the trade and industry / other stakeholders is also made familiar as early as possible.

::3::

7. We have a time of almost six weeks before the bill is enacted. I would, therefore, request the Chief Commissioners / Commissioners to ensure connectivity with Custodians for the purposes of cargo arrival information and carry out an outreach programme so as to make the stakeholders aware of the budgetary changes. Difficulties or challenges, if any with regard to implementation may be reported immediately to the CBEC.

With *Best wishes,*

Yours sincerely,

Ananya Ray 3/2/17
(Ananya Ray)

All Chief Commissioners of Customs,
All Chief Commissioner of Central Excise (for integrated zones)