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Self-Assessment in clearance of import/export goods - Trust based processing by Customs

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It was nearly five years back, in April 2011, Self-Assessment was introduced in Customs Processes by the Government of India. Vide The Finance Act, 2011, w.e.f. 8.4.2011, changes were proposed to Sections 17, 18, 46 and 50 of the Customs Act, 1962 where by the concept of Self-Assessment was brought into action. Prior to 2011, International Trade was being handled by the Customs Department on the basis of assessment by the Customs officers designated for the purposes of processing/assessment before the goods are permitted for clearance for Import and Export into and outside India respectively. Self-Assessment is expected to usher in a new era of trust based Customs Trade partnership leading to greater facilitation of compliant traders.

Pre 2011 procedure: Prior to 2011, for the purpose of importation and exportation of goods, importers and exporters were to make declarations regarding description of goods, value, classification, notification for concessional benefit in rate of duty. The Bills of entry so filed with declarations were being checked by Customs officers in the Custom House and the Bills were being passed by them (termed as assessment) upon verification regarding the correctness of the declarations. Upon assessment by Customs and determination of Customs duty payable, importers/exporters were to pay the determined Customs duties through Bank and proceed for presenting the goods and documents in Port area for inspection of the goods and clearance from Customs.

It was only in 2011, as part of the simplification of procedures, Government had introduced trust based processing in Customs clearances. As part of the procedure, the assessment procedure was simplified. Accordingly, the following statutory changes were made in the Customs Act, 1962 and certain Regulations were also notified. These include:

- (a) Amendment of Sections 17, 18 and 50 of the Customs Act, 1962
- (b) Notifying The Bill of Entry (Electronic Declaration) Regulations, 2011
- (c) Notifying The Shipping Bill (Electronic Declaration) Regulations, 2011
- (d) Notifying The On-site Post Clearance Audit

at the Premises of Importers and Exporters Regulations, 2011.

Accordingly, importers/exporters are required to declare the correct description, value, classification, notification number, if any, and themselves assess the Customs duty leviable. In case they are unable to do the Self-Assessment because of any complexity, lack of clarity, lack of information etc., they may exercise the following options:

- (a) Seek assistance from Help Desk located in each Customs Houses, or
- (b) Refer to information on CBEC/ICEGATE web portal (www.cbec.gov.in), or
- (c) Apply in writing to the Assistant / Deputy Commissioner in charge of Appraising Group to allow provisional assessment, or
- (d) An importer may seek Advance Ruling from the Authority on Advance Ruling, New Delhi if qualifying conditions are satisfied.

Salient features of Self-Assessment of import/export goods : The importer / exporter is responsible for Self-Assessment of duty and for filing all declarations and related documents and must confirm that the declarations are true, correct and complete. The Self assessed import / export declaration may be verified by Customs and for such verification, Customs officer may call for documents like contract, basis of transfer pricing of goods, broker note, policy insurance, catalogue, invoice etc. Further, if required, the goods may also be examined or tested by Customs. Verification may result in re-assessment of duty by Customs for which the Customs officer gives a Speaking Order within 15 days except when importer / exporter accepts the re-assessment in writing. In case the Self-Assessment is not possible, the importer / exporter may ask for provisional assessment. At times, Customs may also order provisional assessment under Section 18(1) of The Customs Act, 1962. Cases where re-assessment is not done or when re-assessment is done but a Speaking Order

is not passed, such Bills may be subjected to Post clearance Audit (PCA) by Customs in the Customs House and this audit may include On Site Post Clearance Audit (OSPCA) at the premise of the importer / exporter at a later date.

Key elements of Self-Assessment of imported / export goods:

Importers/Exporters are expected to take precautions while making declarations to Customs for clearance of goods. The following important parameters are needed to be kept in mind.

Description and Valuation of goods: Declaration of the correct description of imported / export goods is necessary for determining their classification, eligibility of duty exemption notifications, applicability of import / export controls, etc. Importers/exporters

the Valuation at <http://www.cbec.gov.in/htdocs-cbec/customs/cs-act/formatted-html/cs-rules-idx>)

Classification: In case of imports, classification determines issues such as rate of applicable duty, applicability of anti-dumping duty, safeguard duty etc., and benefits of duty exemption notifications. First Schedule of The Customs Tariff Act, 1975 has 21 Sections that contain total 98 Chapters. Importers need to identify their product being imported and declare the eight-digit classification code which is known as "Tariff item". In respect of export goods also, the appropriate classification (commonly referred as "RITC") is to be declared as it may have implications for grant of export benefits like

avil customs duty exemptions/concessions be mentioning the relevant exemption Notification number while making the declaration. The existing general exemption/ concessional rate Notification available for importers to claim is the Customs Notification 012/ 2012 Dt. 17.03.2012 which is being amended from time to time. For knowing approximate duty component on import goods, trade may visit <http://www.icegate.gov.in/Webappl/?pageID=2-13> which provides an option such as "Duty calculator". For accurate duty component, trade may seek help of the Customs officers in the jurisdictional Custom House.

Import and export restrictions and licensing: Importers/exporters to verify the Foreign Trade Policy to

to be fulfilled before Customs can allow clearance of the imported / export goods. These requirements are referred to as Compulsory Compliance Requirements or CCRs. The Customs Electronic Risk Management System (RMS) has a consolidated database of the CCRs arising out of various Allied Acts administered by various Government Departments and implemented by Customs. Importers / exporters / CHAs are advised to study the Allied Acts and keep ready the necessary documentation viz. certificates, permits, licenses or any other document for the clearance of the goods through Customs.

For the benefit of readers, a few Compulsory Compliance Requirement (CCR) are tabulated as below:

Nature of Goods	Permit / Authorization	Authority/Source
Plants and Plant materials (Chapters 6 to 07) & Wood (Chapter 44)	Plant Quarantine Clearance, Import permit	Plant Protection Officer (PQ Authorities)
Textile and Textile articles (Chapter 50 to 63)	Pre-shipment Certificate	Textile Testing Laboratory accredited to National Accreditation Agency of the Country of Origin
Iron-Steel (Chapter 72-73)	Mill Test Certificate (Composition) / Inspection Certificate	Manufacturer
Second hand machinery (Chapter 84)	Chartered Engineer Certificate of Country of Export	Manufacturer
Toys (Chapter 95)	Composition Certificate for Toxic Elements / Certificate of Conformance Test Report	Manufacturer
Food & Edible Articles (Chapters 4 to 23)	NOC	Food Safety Security Authority of India (FSSAI)
Drugs / Pharmaceuticals Cosmetics (Chapter 30)	NOC	Assistant Drug Controller

need to declare the true and correct Transaction value as per their contracts/agreements with foreign suppliers/buyers. While declaring to Customs, all parameters such as Model, Brand, Grade, Specifications of goods need to be mentioned failing which, often, Customs may reject the declared value on the ground of non-declaration of such parameters. It is also necessary for importers to check whether they need to declare Maximum Retail Price (MRP) details on the imported packages when such declaration is necessary under Legal Metrology Act, 2009. Importers, in such cases, have to declare the MRP details prior to importation on the packages and the same details are also to be declared to Customs while filing. In respect of export goods, the description should be complete and accurate, conforming to established standards of trade which are universally accepted. (The relevant legal provisions regarding

Draw back. For classification related issues trade may visit <http://www.cbec.gov.in/htdocs-cbec/customs/cs-tariff2015-16/cst2015-16-idx>

Levy of duty / Cess: On the basis of the declarations regarding description of goods, correct classification code and value, the present system of self-assessment helps to get the bills get processed in minutes and in less than three minutes, the duty amount payable would be generated in the form of TR-6 Challan. While the system takes care of the leviable duties such as Basic Customs Duty (BCD), Countervailing Duty (CVD), Education Cess, Special CVD etc, specific product based duties such as Anti Dumping Duty, Safeguard duty etc are to be declared by importers themselves for which the relevant Customs Notification numbers are to be mentioned at the time of submitting declarations to Customs. Importers may

know whether there are any restrictions/prohibitions on imports/export of their products before filing the declarations. Foreign Trade Policy 2015-20 restricts and / or regulates import and export of specified goods in terms of Sections 3 and 5 of the Foreign Trade (Development and Registration) Act, 1992. Complete information regarding the items restricted/prohibited under the current Foreign Trade policy can be checked from the Ministry of Commerce website <http://dgft.gov.in>.

Compulsory Compliance Requirement (CCR) : Apart from the above parameters, one important aspect to be checked while making declarations under the existing Self-Assessment procedure with Customs is Compulsory Compliance Requirement (CCR). In addition to requirement of licensing or other restrictions imposed vide the Foreign Trade Policy, 2015-20 and the Customs Act, 1962 various other laws, rules and regulations impose conditions that are

Implications of Self-Assessment : Due care in declarations to Customs in the process of Self-Assessment can result in assured facilitation for compliant importers / exporters. However, delinquent and habitually non-compliant importers / exporters could face penal action on account of wrong Self-Assessment made with intent to evade duty or avoid compliance of conditions of notifications, Foreign Trade Policy or any other provision under the Customs Act, 1962 or the Allied Acts. Penal provisions may not be invoked in cases of bonafide errors in SelfAssessment where mens-rea and willful intention to evade duty or non-compliance of a condition are not proved.

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