

Seminar on Central Excise, Customs, Service Tax & Value Added Tax

Organised By :

Calcutta Management Association

At

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TOPIC

General Outline of Imports & Exports under Customs Laws including modernisation and reforms in Customs

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A WELCOME STEP

Introduction of Risk Management Systems (RMS) & Accredited Client's Programme (ACP)

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RISK MANAGEMENT SYSTEM

- ✓ To bring appropriate balance between trade facilitation and enforcement.
- ✓ Assessment of Bill of Entry on the basis of risk management.
- ✓ Clearance would be allowed on self assessment without examination of goods, except cases involving intelligence information, non-compliance pattern, random selection etc..

RISK MANAGEMENT SYSTEM

- ✓ Registered Accredited clients would be benefited.
- ✓ Post clearance audit for assessment made on risk management.
- ✓ A proposal for separate risk management division.
- ✓ Initially scheme has been launched for imports at Air Cargo Complex, Sahar, Mumbai from November'2005

ACCREDITED CLIENT'S PROGRAMME

- ✓ Importers registered under Accredited Client's Programme shall be treated as separate category and shall be allowed clearance of goods on self assessment without its examination under risk management scheme.
- ✓ Post clearance audit for such assessment shall be introduced.
- ✓ The facility would bring about drastic reduction in clearance time, which would result in savings of cargo and transaction cost

ACCREDITED CLIENT'S PROGRAMME

- ✓ Separate Storage Space in port and airport, handling facility and expeditious clearance procedures shall be available.
- ✓ The importers desirous of availing the facility of “Accredited clients” are required to make application in prescribed form.
- ✓ The Accreditation shall be initially valid for 1 year and shall be reviewed later on.

ACCREDITED CLIENT'S PROGRAMME

CRITERIA

- ✓ Importation of goods of Rs.10 crore (AV) in P.Y., or paid 1 crore customs duty in P.Y. or where importer is registered with the Central Excise, have paid CE duty of 1 crore from PLA in P.Y.
- ✓ Filed 25 Bill of Entry in P.Y. from one or more of Indian customs stations.
- ✓ No penal provisions booked in last three F.Y. under Customs, Excise and Service Tax or allied acts implemented by customs.
- ✓ Number of amendment in bill of entry should not have exceeded 20% in P.Y.
- ✓ No duty demand pending for non fulfillment of export obligation

ICEGATE

Indian Customs Central Excise Electronic Commerce Gateway (ICEGATE) is a portal that provides E-filing services.

EDI – Electronic Data Interchange is part of ICEGATE Its running in 23 locations allowing data excess to Customs assessing officers.

NIDB – National Database import is being prepared on the basis of ICEGATE.

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ICEGATE

Bill of Entry for import

Air Line Agent to file Manifest

ICEGATE

Shipping Bill for Export

Shipping Agent to file Manifest

Flow of data between various Government Agencies like
DGFT, RBI, AEPC etc..

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FAST TRACK CLEARANCE PROCEDURE

For EOU

Relevant Important Points

- ✓ The scheme is applicable to status holders only.
- ✓ Factory stuffing on intimation and no permission is required.
- ✓ Renewal of permission for factory stuffing not required.
- ✓ 100% examination not done at port/airport of important since same are being done in bonded premises of EOU.
- ✓ Permission for clearance of rejects in DTA to be made in 7 days.
- ✓ Clearance to DTA, being 50% of physical export as allowed in terms of para 6.8(a) of the policy shall not require permission of Development Commissioner only intimation is enough

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VISHESH KRISHI UPAJ YOJANA

Export of poultry and dairy products, flowers, fruits, vegetables, minor forest produce have been specified under this scheme. The said scheme provides entitlement of 5% of FOB value of exported goods as duty credit.

RELEXATION FOR EXPORTERS

Various documents have been dispensed with for export of goods vide circular no. 34/2005-Cus dated 05-08-2005.

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RELEXATION FOR EXPORTERS

Export under drawback scheme :

Declaration relating to :

- ✓ **Availing/non-availing of the rebate of duty under Rules 18 & 19 of the Central Excise Rules.**
- ✓ **The goods manufactured/not manufactured and exported against an Advance License.**
- ✓ **The goods not manufactured or exported after availing of the facility under DEPB scheme.**
- ✓ **The present market value of goods.**
- ✓ **The export value of goods being not less than the total value of imported materials used in the manufacture of such goods.**
- ✓ **The market price of export goods being not less than the drawback amount being claimed.**
- ✓ **The drawback being claimed is more than 1% of FOB value/less than 1% of the FOB value but more than Rs. 500 against the shipping bill.**

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RELEXATION FOR EXPORTERS

Export under DEPB scheme :

Declaration relating to :

- ✓ **Not claiming the benefits under Engineering Products Export (Replenishment of Iron and Steel Intermediates) Scheme and duty drawback,**
- ✓ **Of conversion of DEPB Shipping Bill into Drawback/DEEC Shipping Bill and of credit in respect of additional duty debited from DEPB,**
- ✓ **The fact of goods being exported under DEPB Scheme,**
- ✓ **The present market value of goods,**
- ✓ **DEPB benefits being claimed not exceeding 50% of the present market value of export goods,**
- ✓ **Usage of preservatives in export products and export products having been obtained from aqua culture sources**

PRACTICE

ISSUES UNDER

CUSTOMS

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BILL OF ENTRY

Assessment of imported
material is made
vide Bill of Entry

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WHERE ASSESSMENT MADE UNDER BILL OF ENTRY IS NOT CORRECT ?

This may be due to :

wrong classification,

wrong valuation,

Non Extension of exemption Notification,

Application of improper rate of exchange etc.

BILL OF ENTRY IS A FINAL ASSESSMENT ORDER

**As held by Hon'ble Supreme
court in the case of
Priya Blue Industries**

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JUDGEMENT OF PRIYA BLUE INDUSTRIES

Refund claim contrary to assessment order not maintainable without order of assessment having been modified in appeal or reviewed under section 28 of the Customs Act, 1962.

WHAT TO DO ?, IF AGGRIEVED BY BILL OF ENTRY

If you are aggrieved by assessment made under the Bill of Entry, Challenge it before Appellate Authority within 60 days from the date of receipt of said Bill of Entry.

GENUINE REFUND CASES

Rejection of Genuine Refund Cases on the basis of the decision of Hon'ble Supreme Court in the case of Priya Blue Industries

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QUESTION IS WHETHER A LIS IS INVOLVED AT THE TIME OF ASSESSMENT ?

ASSESSMENT OF BILL OF ENTRY

No LIS (Dispute arose at the time of Assessment)

Appeal against Bill of Entry is only remedy

Hon'ble Supreme Court in the Case of Priya Blue Industries Ltd. held that refund claim contrary to assessment order not maintainable without assessment having been modified in appeal over an assessment made by a competence officer.

LIS (Dispute arose at the time of Assessment)

Reassessment under section 154 or section 27 is the remedy

Hon'ble Larger Bench Tribunal in the case of Faxtel Systems India Pvt. Ltd. held that "We make it clear that we do not express any view on the contention taken by the Appellant that if it is only a mere assessment of bill of entry without lis involved, the ratio of Flock India will not be applicable".

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EXPORT SERVICE

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EXPORT SERVICES

- POSITION PRIOR TO 15-03-2005 : Service Tax on all taxable service was exempt in respect of which payment were received in convertible foreign exchange.
- POSITION AFTER 15-03-2005 : A new “Export of Service Rules’2005” has been introduced. Taxable services may be exported without payment of any service tax under Rule 4 OR taxable services may be exported on payment of service tax, which is subsequently given as rebate..... Please refer page 11 & 12
- Export of Taxable Service is precondition for rebate.
- It is advisable to declare on service invoice that “export of service under rule 4 of Export of Service Rules” or Rebate under rule 5

IMPORTANT AMENDMENTS UNDER SERVICE TAX LAWS

- Taxable service shall include services provided outside India by a deeming provisions. – Explanation to section 65 (105) of the Finance Act'1994.

For the removal of doubts, it is hereby declared that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India, such service shall be deemed to be taxable service for the purposes of this clause

THANK YOU

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