

OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)

JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA.

F.NO. S/26-MISC- 61 /2007-08 CRC JNCH

Date: 02/02/2009.

PUBLIC NOTICE NO. 04/2009
(Referred / amended vide P.N.No. [53/2010](#))

Sub: Procedure for refund of 4% Additional Duty of Customs in pursuance of Notification No.102/2007-Customs dated 14.9.2007 Reg.

Attention of all Exporters, Importers, Customs House Agents and Member of Trade and all concerned is invited to [Notfn. No. 102/2007](#) dated 14/09/2007 for refund of 4% SAD and the [Boards Circular No.16/2008-Customs](#) dated 13/10/2008 containing on clarification of the [Public Notice No. 43/2008](#) on the above subject. Subsequent to the issue of the above Circular and Public Notice No. of the following procedure has been prescribed.

2. Copy of invoices in electronic form (including the form of CD) : For the purpose of fulfillment of the condition in para 2 (e) (ii) of the [Notification No. 102/2007- Customs](#) dated 14.9.2007, the importers can submit copy of invoices in electronic form (including) as prescribed in Information Technology Act, 2000. The electronic media containing the information about sale invoices should, however, be submitted along with a paper declaration by the applicant indicating the invoice numbers contained in the media and subscribing to their truthfulness.

2.1 The paper declaration in such cases is given in **Annexure- I** that is to be attached to the refund application by the applicant indicating the invoice numbers contained in the media and subscribing to their truthfulness.

3. Payment of ST/VAT by utilizing the input tax credit : In terms of the requirement under para 2(d) of the said notification, it stated that appropriate ST/VAT is to be paid by the importer on sale of goods. The importer can then claim the refund of 4% CVD paid at the time of import. It is noticed that most of the ST/VAT legislations provide for payment of ST/VAT by utilizing the

input tax credit. If the Sales Tax Authorities accept payment of ST/VAT through cash or adjustment of input tax credit, the same shall be treated as effective discharge of ST/VAT payment on imported goods.

3.1 Further, it was provided in [Boards Circular No.16/2008 Cus](#) dtd.13.10.2008 that a certificate from Statutory Auditor/Chartered Accountant correlating the payment of ST/VAT on the imported goods with the invoices of sale, along with supporting documents of proof of payment of appropriate ST/VAT is acceptable for the purpose of 4% CVD refund.

3.2 Hence, it is clarified that discharge of ST/VAT liability by the importer, through cash or other authorised form of payments to the concerned ST/VAT authority or input tax credit adjustment, could be accepted for the purpose of fulfillment of the condition in para 2 (d) of the Notification for considering sanction of refund of 4% CVD.

3.3 The certificate from Statutory Auditor/Chartered Accountant correlating the payment of ST/VAT on the imported goods with the invoices of sale, along with supporting documents of proof of payment of appropriate ST/VAT is given in **Annexure-II**.

4. Submission of Original ST/VAT or copies of ST/VAT payment document / Challans by the importers : Keeping in view the difficulties faced in submitting original ST/ VAT challans, it has been decided that alternatively, the importers may submit copies of ST/VAT challan or copies of ST/VAT payment document in different forms evidencing payment made to the bank or ST/VAT Department towards ST/VAT **along with a certificate from the Chartered Accountant**, who either certifies the importers financial records under the Companies Act, 1956 or any ST/VAT Act of the State Government or the Income Tax Act, 1961, confirming the payment against the aforesaid documents. This would be considered sufficient to fulfill the requirement in terms of para 2(e) (iii) of the [Notification No. 102/2007-Customs](#) dated 14.9.2007.

4.1 However, the importers are required to submit the original ST/VAT payment challans or other similar documents for verification by Customs authorities, in such cases if so called for and these shall be returned to the importer after verification.

- 4.2 The department would accept the certificate given only by such a Chartered Accountant who either certifies the importers financial records under the Companies Act, 1956 or any ST/VAT Act of the State Government or the Income Tax Act, 1961, in order to fulfill the requirement of the condition that the incidence of duty burden has not been passed on by the importer to any other person for the purpose of refund of 4% CVD. A certificate by any other independent Chartered Accountant would not be acceptable for this purpose.
- 4.3 **The certificate from the Chartered Accountant** for ST/VAT Challan or copies of ST/VAT payment document in different forms evidencing payment made to the bank or ST/VAT Department towards ST/VAT **is given in Annexure- III.**

5. Imported goods by importer through consignment agent/stockist : In case of sale of imported goods by importer through consignment agent/stockist, refund of 4% CVD would be granted by Customs field formations subject to the condition that the consignment agent/stockist has been authorised to sell the imported goods in terms of the agreement entered into between the importer and consignment agent/stockist and that each of the sale invoices issued by the consignment agent/stockist indicates that the sale is made by him on behalf of the importer in the capacity of consignment agent/stockist. These conditions shall be verified by the Customs officers before sanction of 4% CVD refund claims in these cases.

5.1 In such cases, it is also required that the applicant submits a **certificate from a Chartered Accountant** appointed by the importer, who either certifies the importers financial records under the Companies Act, 1956 or any ST/VAT Act of the State Government or the Income Tax Act, 1961, to the effect that appropriate ST/VAT has been paid by consignment agent/stockist on behalf of importer and that the importer, in turn, has paid or reimbursed the ST/VAT to his consignment agent/stockist along with the correlation of ST/VAT payment with 4% CVD paid on imported goods.

5.2 **The certificate from a Chartered Accountant** to the effect that appropriate ST/VAT has been paid by consignment agent/stockist on behalf of importer and that the importer, in turn, has paid or reimbursed the ST/VAT to his consignment agent/stockist along with the correlation of ST/VAT payment with 4% CVD paid on imported goods, is given in **Annexure-IV.**

6. All Trade and the industrial association are requested to bring the contents of this Public Notice to the knowledge of their members.

Sd/-(02-02-09)

(SANJEEV BEHARI)

COMMISSIONER OF CUSTOMS (IMPORT)

NHAVA SHEVA.

Attested by

(Jhamman Singh)

Asstt.. Commissioner of Customs

Central Refund Cell

Annexure- I

Declaration for Sale invoices in electronic media

Refund on the Bill of Entry No. _____ dated _____

We. M/s _____, the importers, declare and certify that the exemption from Additional duty and consequent refund, as contained in the Notification No. 102/2007 dated 14-09-2007, is being claimed and is required to be given effect because the conditions as are stipulated therein are fulfilled in respect of the **Bill of Entry No. _____ dated _____ :-**

- (a) We are registered with VAT authorities of the state of Delhi under **Registration No. TIN No. _____**.
- (b) For the purpose of fulfillment of the conditions of the [Notification No. 102/2007-Customs](#) dated 14.9.2007, we are submitting copy of invoices in electronic form (including the form of CD).

It is further certified that

1. The electronic media is containing the information about sale invoices and is submitted along with this paper declaration indicating the invoice numbers contained in the media.
2. The above information is true extract from the sale invoices and Carbon copy / Office copy in original of the said invoices and the original shall be submitted, if so required.

Place:

Date: _____

For M/s _____

Summary of the details in the media

S. No.	Sales Invoice No	Date	Amount of sale in Rs.	VAT/ ST paid thereon	Remarks

Annexure-II

Certificate from statutory auditor/Chartered Accountant correlating the payment of ST/VAT on the imported goods with the invoices of sale, along with supporting documents of proof of payment of appropriate ST/VAT is acceptable for the purpose of 4% CVD refund for treating it as effective discharge of ST/VAT payment on imported goods.

With regard to the imports under **Bill of Entry No.** _____ **dated** _____ **and TR6 Challan No.** _____ **dated** _____ wherein the Special Additional Duty has been paid and the refund under **Notification No. 102/2007** **dated 14-09-2007** as amended, is sought by **M/s** _____.

2. It is certified that we are the Chartered Accountants, who certify the annual financial accounts and the statement of accounts of **M/s** _____ under the Companies Act and / or any other statute.
3. The Sales Tax Authorities of **M/s** _____ accept payment of ST/VAT through cash or adjustment of input tax credit as effective discharge of ST/VAT payment on imported goods.
4. For purpose of fulfillment of the condition in Para 2 (d) of the **Notification No. 102/2007** **dated 14-09-2007** and for considering sanction of refund of 4% CVD, we the statutory auditor/Chartered Accountant of **M/s** _____ hereby certify that we have verified the invoices of sale, along with supporting documents of proof of payment of appropriate ST/VAT.
5. The VAT/ ST has been paid as under

S.No.	Amount of VAT payable	Amount of VAT paid by Cash Challans	Amount of VAT paid by adjustment of input tax credits	Details of S. No. and Date of the entries verified from the records of the VAT Tax payer	
				Date	S. No.

Place:

Date: _____

For M/s _____

Chartered Accountant M. No.

Annexure- III

Certificate from the Chartered Accountant for not submitting original ST/ VAT Challans and for submitting copies of ST/VAT Challan or copies of ST/VAT payment document in different forms evidencing payment made to the bank or ST/VAT Department towards ST/VAT

With regard to the imports under Bill of Entry No. _____ dated _____ and TR6 Challan No. _____ dated _____ wherein the Special Additional Duty has been paid and the refund under [Notification No. 102/2007](#) dated 14-09-2007 as amended, is sought by M/s _____.

2. It is certified that we are the Chartered Accountants, who certify the annual financial accounts and the statement of accounts of M/s _____ under the Companies Act and / or any other statute.

3. To fulfill the requirement in terms of Para 2(e) (iii) of the [Notification No. 102/2007-Customs](#) dated 14.9.2007, we certify that the Sales Tax Authorities of M/s _____ accept payment of ST/VAT through cash or adjustment of input tax credit as effective discharge of ST/VAT payment on imported goods.

4. The true copies of the VAT/ ST Challans and / or evidence for adjustment of input tax credit as effective discharge of ST/VAT payment on imported goods, duly certified by us are enclosed herewith.

5. M/s _____ has also undertaken to submit the original ST/VAT payment challans or other similar documents for verification by Customs authorities, in such cases if so called for and these shall be returned to the importer after verification by the Customs.

Place:

Date: _____

For M/s _____

Chartered Accountant M. No.

Annexure-IV

Certificate from a Chartered Accountant appointed by the importer of the goods Imported by importer through consignment agent/stockist

With regard to the imports under Bill of Entry No. _____ dated _____ and TR6 Challan No. _____ dated _____ wherein the Special Additional Duty has been paid and the refund under [Notification No. 102/2007](#) dated 14-09-2007 as amended, is sought by M/s _____.

2. It is certified that we are the Chartered Accountants, who certify the annual financial accounts and the statement of accounts of M/s _____ under the Companies Act and / or any ST/VAT Act of the State Government or the Income Tax Act, 1961 or any other statute.

3. To fulfill the requirement of the [Notification No. 102/2007-Customs](#) dated 14.9.2007, we certify that

- (i) consignment agent/stockist M/s _____ has been authorised to sell the imported goods in terms of the agreement entered into between the importer M/s _____ and consignment agent/stockist M/s _____;
- (ii) that each of the sale invoices issued by the consignment agent/stockist indicates that the sale is made by him on behalf of the importer in the capacity of consignment agent/stockist.
- (iii) to the effect that appropriate ST/VAT has been paid by consignment agent/stockist M/s _____ on behalf of importer M/s _____ and that the importer, M/s _____ in turn, has paid or reimbursed the ST/VAT to his consignment agent/stockist M/s _____

_____ along with the correlation of ST/VAT payment with 4%
CVD paid on imported goods.

Place:

Date: _____

For M/s _____

Chartered Accountant M. No..