

**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT),  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,  
TAL. : URAN, DIST.: RAIGAD, MAHARASHTRA 400 707.**

F.NO. S/26-MISC- 06 /2009 CRC II B, JNCH

Date: 16 / 07 / 2009.

**PUBLIC NOTICE NO. 44/2009**

**Sub: Disposal of refund claims of 4% ADC (SAD) against provisionally assessed Bs/E in pursuance of Notification No.102/2007-Customs dated 14.9.2007 read with [Notification No.93/2008-Cus](#) dtd.01.08.2008. - reg.**

Attention of all Exporters, Importers, Customs House Agents, Members of Trade and all concerned is invited to [Notification No. 102/2007](#) Cus dated 14/09/2007 as amended by [Notification No.93/2008-Cus](#) dtd.01.08.2008, issued for refund of 4% SAD and the [Boards Circular Nos 6/2008 Cus](#) dated.28.04.08 and [16/2008-Customs](#) dated 13/10/2008 containing clarifications on the above subject.

2. A large no. of refund claims, seeking refund of 4% additional duty of Customs (popularly known as SAD) paid at the time of import, were filed at CRC section of JNCH, based on the Notification No.102/2007-Cus dtd.14.09.2007 read with [Notification No.93/2008-Cus](#) dtd.01.08.2008. Although the claims are complete in all respects, such refund claims are not decided as the relevant assessments were provisional. Representations are being received from the trade to either finalise the assessments (even though the issues involved were not resolved) or sanction SAD refund on provisionally assessed Bills of Entry prior to such finalization.

3. In most cases, the assessments are provisional as the imports are from related persons and the valuation issue is pending before the SVB Cell of the New Custom House, Mumbai. In few cases, assessments are provisional due to pending departmental appeals before CESTAT and the remaining for various other reasons. But the request for finalization of assessments is not acceptable without resolution of the issues involved. At the same time, the SAD refund

claims can not be kept pending indefinitely for want of non resolution of issues involved as the SAD refund claim has to be decided within a period of three months from the date of filing as per [Boards Circular No.16/2008](#) dtd.13.10.08

4. As per [Boards Circular No.6/2008](#) Cus dtd.28.04.08, the limitation of time under Sec.27 is not applicable with regard to refund of SAD. The time limit prescribed for the purpose of SAD refund claims is one year from the date of payment of the duty, as incorporated vide Notfn. [No.93/2008-Cus](#) dtd.01.08.2008 in the [notification no102/2007](#). Cus dated 14.09.2007

5. Hence the date of payment of SAD amount is the relevant date of payment, and not the date of finalization of the provisional assessment. Therefore, the claimant would be eligible for the refund only if the claim is filed within one year from the date of actual payment of SAD i.e. the date of payment of duty at the time of clearance of imported goods

6. In view of the above facts and circumstances, it is decided to dispose SAD refund claims despite the fact that the assessment continues to be provisional for one reason or the other, without awaiting for finalization of assessments.

7. Contents of this Public Notice may please be brought to the notice of all the concerned.

**(Amal Kanti Das)**

COMMISSIONER OF CUSTOMS (IMPORT)

To

**All the Concerned.**

Copy to:

1. All the Trade Associations.

2. BCHAA, Bombay Customs House Agents Association, 73, Mittal Tower, C Wing, 7<sup>th</sup> Floor, Nariman Point, Mumbai- 400 005

3. All India Importers & Exporters Association, Chuchgate House, 2<sup>nd</sup> Floor, 32/34 Veer Nariman Road, Opp. Akabarally, Flora Fountain, Mumbai- 400 023.

4. Guard file

Copy for information to:

1. The Chief Commissioner of Customs, M- II Zone, JNCH

2. The Commissioner of Customs (Import), JNCH

3. All Addl. / Jt. Commissioners of Customs, JNCH

4. All Asst. / Deputy Commissioners of Customs, JNCH





Attested by

(V.V.S.N.Murthy)

Asst. Commissioner of Customs

Central Refund Cell II







**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT),  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,  
TAL. : URAN, DIST. : RAIGAD, MAHARASHTRA 400 707.**

**F.NO. S/26-MISC- 06 /2009 CRC II B, JNCH**

**Date: /07/2009.**

**PUBLIC NOTICE NO. /2009**

**Sub:Disposal of 4% ADC (SAD) refund claims against provisionally assessed  
Bs/E- 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, Members of Trade and all concerned is invited to Notification No. 102/2007 Cus dated 14/09/2007 as amended by Notification No.93/2008-Cus dtd.01.08.2008, issued for refund of 4% SAD and the Boards Circular Nos 6/2008 Cus dated.28.04.08 and 16/2008-Customs dated 13/10/2008 containing clarifications on the above subject.

2. Large no. of refund claims, seeking refund of 4% additional duty of Customs (popularly known as SAD) paid at the time of import, were filed at CRC section of JNCH, based on the Notification No.102/2007-Cus dtd.14.09.2007 read with Notification No.93/2008-Cus dtd.01.08.2008. Although the claims are complete in all respects, such refund claims are not decided as the assessments were provisional. Representations are being received from the

trade to either finalise the assessments (even though the issues involved were not resolved) or sanction SAD refund on provisionally assessed Bills of Entry with out finalization.

3. In most cases, the assessments are provisional as the imports are from related persons and the valuation issue is pending before the SVB Cell of the New Custom House, Mumbai. In few cases, assessments are provisional due to pending departmental appeals before CESTAT and the remaining for various other reasons. But the request for finalization of assessments is not acceptable without resolution of the issues involved. At the same time, the SAD refund claims can not be kept pending indefinitely for want of non resolution of issues involved as the SAD refund claim has to be decided within a period of three months from the date of filing as per Boards Circular No.16/2008 dtd.13.10.08

4. As per Boards Circular No.6/2008 Cus dtd.28.04.08, the limitation of time under sec.27 is not applicable with regard to the claim for SAD. At the same time interest on delayed refunds is not applicable as per section 27 A of the Customs Act, 1962. The time limit prescribed for the purpose of SAD refund claims is one year from the date of payment of the duty, as per Notfn.No.93/2008-Cus dtd.01.08.2008.

5. It is decided that the date of payment of SAD amount is the actual date of payment, but not the date of finalization of the provisional assessment. Therefore, the claimant would be eligible for the refund only if the claim is filed within one year from the date of actual payment of SAD i.e the date of payment of duty at the time of clearance of imported goods

6. In view of the above facts and circumstances, and SAD refund being governed by Notification No.102/2007-Cus dtd.14.09.2007 read with Notification No.93/2008-Cus dtd.01.08.2008 and due to pendency of large no. of refund claims against provisionally assessed Bs/E which could not be finalized due to one reason or the other, it is decided to

(i) Reckon time limit of one year from the date of payment of duty at the time of clearance of goods ( for commutation of time) but not the date of finalization of the provisional assessment and

(ii) Process and sanction SAD refund claims despite the fact that the assessment continues to be provisional for one reason or the other and with out awaiting for finalization of assessments.

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

**(A.K.DAS)**

COMMISSIONER OF CUSTOMS (IMPORT)

Attested by

(V.V.S.N.Murthy)

Asst. Commissioner of Customs

Central Refund Cell II