



**OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-III
JAWAHARLAL NEHRU CUSTOM HOUSE, SHEVA, TAL. –
URAN,
DIST. – RAIGAD, MAHARASHTRA – 400 707**

Ph:022-27244709

F. No. S/26-Misc-63/2018-19 /CRC-I/NS-III
24.12.2019

Date :

STANDING ORDER NO. 27/2019

Sub: Re-assessment of Bills of Entry involving Refund Claim of Excess Duty paid -Reg.

Kind attention is invited to the Order passed by the Hon'ble Supreme Court in the matter of M/s ITC Ltd. Vs C.C.E, Kolkata-IV in Civil Appeal Nos.293 & 294 of 2009 dated 18.09.2019 wherein it is held that the claim of refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self- assessment and reassess the duty for making refund ; and in case any person is aggrieved by any order which would include self-assessment, he has to get the order modified under Sec.128 or under other relevant provisions of the Act. Thus, the re-assessment is to be done subject to outcome of an appellate order i.e. in other words the assessment order has to be challenged by the importer in appellate forum and re-assessment be done afterwards in commensurate with the order of the Appellate Authority.

2. In the light of the aforesaid judgement, it is hereby stated that Section 27 can only be invoked subject to final outcome of Sec.17 (3), (4) and (5). After re-assessment, the consequential refund is to be granted by the Refund Section. In such cases, the claim of refund cannot be entertained without the outcome of the appellate order and consequent re-assessment. In view of the above, AC/DC of the concerned Groups are directed to re-

assess any Bill of Entry in commensurate with the order of the appellate authority. Su-moto re-assessment is not to be done by the Group.

3. In case of claims where re-assessment has already been done after Out of charge without an appellate order, such claims are to be dealt by Refund Section on merits. If refund is sanctioned in such cases, a Show Cause Notice is to be issued under Section 28 of the Customs Act, 1962 for recovery of the same as re-assessment has not been done consequent to appellate order. In addition, the concerned Group will also be informed by Refund Section for filing an appeal against the re-assessment order in light of aforesaid judgement.

4. The Bills of Entry which have not been given out of charge and are recalled by the Group on account of any reasons viz notification benefit, duty, typographical mistakes, etc. are excluded and not governed by this Standing Order. These Bills of Entry can be re-assessed as per present practice.

5. Similarly, re-assessment in terms of Section 28(2) and 28(5) of the Customs Act, 1962 is also excluded and not governed by this standing order. These Bills of Entry can be re-assessed as per present practice. Similarly in cases where there is no revenue implication, those cases are also excluded and not governed by this Standing Order. Concerned Group can re-assess such Bills of Entry.

6. All AC/DC (Groups) and AC/DC (CRC) and other concerned to comply with the directions as mentioned in this Standing Order. Difficulties, if any, faced in implementation of this Standing Order may be brought to the notice of the Joint / Additional Commissioner in-charge of "Centralized Refund Section".

Sd/-

(S.K. VIMALANATHAN)
COMMISSIONER OF CUSTOMS
NS-III, JNCH

To:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH for information.
2. The Commissioner of Customs, NS-G/ NS-I/NS-II/ NS-IV / NS-V, JNCH
3. All Additional / Joint Commissioner of Customs, JNCH
4. All Deputy / Assistant Commissioner of Customs, JNCH
5. All Sections / Groups of NS-G, NS-I, NS-II / NS-III/ NS-IV / NS-V, JNCH
6. The BCBA / Other Trade Associations.
7. The AC/DC, EDI for uploading on JNCH website immediately.



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