

**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORTS),  
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA,  
TALUKA URAN, DISTRICT RAIGAD, MAHARASHTRA-400 707.**

F.NO. S/ 6-GEN- 4492 /2010 BOND JNCH BOND DEPARTMENT,

DATE: 15.11.2010

STANDING ORDER No.73 /2010.

Attention of all the staff and officers is hereby drawn to the Board's Circular No 11 dated June 3<sup>rd</sup>, 2010 in respect of determination value under section 14 of Customs Act,1962 in respect sale of goods.



The prevalence of divergent practices in field formations with respect to the determination of assessable value of imported goods that are warehoused under Section 58/59 of the Customs Act, 1962 and sold before being cleared for home consumption has been brought to the notice of the Board.

2. Section 14 of Customs Act,1962 reads as under :

*For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, that is to say, the price actually paid or payable for the goods when sold for export to India for delivery at the time and place of importation, or as the case may be, for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related and price is the sole consideration for the sale subject to such other conditions as may be specified in the rules made in this behalf.*

2.1 The current Section 14 states that the value of the imported goods shall be the transaction value of goods, that is to say, the price

actually paid or payable for the goods *when sold for export to India* for delivery at the time and place of importation. The sale of goods after warehousing them in India cannot be considered a *sale for export to India*. It cannot be stated that the export of goods is not complete even after the imported goods were cleared for warehousing in the country of import. Thus, the price at which the imported goods were sold after warehousing them in India does not qualify as the price actually paid or payable for the goods *when sold for export to India* for delivery at the time and place of importation and, hence, the value at which such transaction takes place will not qualify as the transaction value, as per Section 14.

3. For the period prior to October 2007, Section 14 read as:

*For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, where-under a duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, or as the case may be, in the course of international trade ---.*

3.1 The sale of imported goods made after warehousing cannot be considered to have been made *in the course of international trade* and hence, the price at which such sale takes place is not a price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation, in the course of international trade, in terms of Section 14.

4. The CBEC manual also states at Para 15 of Chapter 10 that:

*The rate of duty applicable is as per provisions of Section 15 of the Customs Act i.e. on the date on which the goods are actually removed from the warehouse. However, when the warehousing period or the extended warehousing period has expired, the duty payable is with respect to the date when the warehousing/extended warehousing period expired and not the actual date of removal. In so far as value for assessment of duty for warehoused goods is concerned, it is not required to be re-determined and it is the original value as determined at the time of filing of Into-Bond Bill of Entry and assessments done before warehousing.*

5. In this connection, the decision of Hon<sup>ble</sup> Supreme Court in the case of Garden Silk Mills [1999 113 ELT 358 SC] was also examined. Hon<sup>ble</sup> Supreme Court had held in the case of Garden Silk Mills that *the value has to be determined with relation to time when physical delivery to the importer can take place. Physical delivery can take place only after Bill of Entry, inter alia, for home consumption is filed and it is the value at that point of time which would be relevant*

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To

All concerned Officers.

**Copy for Information to :**

1. The Chief Commissioner of Customs Mumbai Zone  II.JNCH,  
Sheva.
2. The Commissioner of Customs (Export), Mumbai II,  
JNCH,  Sheva.
3. The Commissioner of Customs, Appeals, Mumbai II,  
JNCH,  Sheva
4. Guard File.