



**OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-III
JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA- SHEVA
TAL-URAN, DISTT-RAIGAD –40070 7, MAHARASHTRA
(e-mail:appraisingmain.jnchimp@gmail.com; Tel: 022-27244979)**

F. No. SG/Misc/201/2017-18 IPR Cell JNCH

Dated 26.06.2018

STANDING ORDER NO. 23/2018

Subject: Matter related to valuation of counterfeit goods for the purpose of IPR- reg.

Attention of all officers under the jurisdiction of JNCH, is invited to the subject of valuation of counterfeit goods for the purpose of enforcement of IPR provisions. It has been observed that there is lack of uniformity in the manner of dealing with valuation of counterfeit goods by different intelligence agencies or groups. Further, the extant practice of calling for values from different entities is a time-intensive process leading to delay in expeditious disposal of the case. Therefore, there is a felt need for putting in place a Standard Operating Procedure.

2. According to para 7 of the Board Circular No. 41/2007-*Customs dated 29.10.2007, the surety and security shall be on consignment basis and shall be furnished along with the bond consequent upon interdiction of the consignment allegedly infringing rights of the right holder. Keeping in view the value of the goods and other incidental expenses, it has been decided that the bond amount shall be equal to 110% of the value of goods. However, the amount of security to be furnished along with the bond shall be 25% of the bond value. The right holder may furnish security in the form of bank guarantee or fixed deposit. However, if the right holder fails to execute the consignment specific bond and to furnish security within three days from the date of interdiction of the goods, the same must be released forthwith.*

3. The aforesaid provisions of the Board Circular have been subject to varying interpretations by different agencies and groups, thereby leading to following problems:

- i. Delay in finalization of matter.
- ii. Perceptibly, exorbitant amount of BG, even for fake goods.
- iii. The high financial burden on the right holder in joining the proceedings.
- iv. Undue litigation, correspondences and hardship to right holder.

4. Therefore, it has been decided that a SOP should be issued to ensure (a) appropriate

valuation of the suspected infringing goods and (b) timely submission of value of the suspected infringing goods to the IPR Right holders.

5. Therefore, the following have been decided

5.1 The IPR Cell, JNCH shall be the nodal section for matters related to valuation of the counterfeit goods, for the limited purpose of determining bond and bank guarantee amount at JNCH.

5.2 The procedure for dealing with such matters will be as under :

- i. All concerned are advised to send quantity details of each item while seeking IPR verification as per IPR Enforcement Rules, 2007, alongwith the photographs through email to IPR section (iprcell.jnch@gov.in).
 - ii. When the inspection report from IPR right holder who has participated in the proceedings is received by IPR Cell, JNCH, the same will be forwarded via e-mail to the section concerned on the same day. The section concerned is responsible to forward the value of such goods to IPR Cell, JNCH within one working day.
 - iii. In case the valuation of the interdicted counterfeit goods is not received the next working day from the date of receiving of inspection report by the section concerned, IPR Section, JNCH will proceed to decide the value as per available NIDB data of similar type of unbranded goods or declared value of the goods, for the sole purpose of execution of bond and BG by the IPR Right Holder.
6. All the officers concerned are hereby directed to follow above mentioned instructions scrupulously. Difficulties, if any, in this regard may be brought to the notice of the Deputy/ Assistant Commissioner in charge of the IPR Cell, JNCH.

Sd/-
(Vijay Singh Chauhan)
Commissioner of Customs (NS-V).
Email : chauhan@nic.in

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH.
2. The Commissioner of Customs, NS-G/ NS-I/ NS-II / NS-IV / NS-V, JNCH.
3. All Additional / Joint Commissioners 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. AC/DC, EDI for uploading on JNCH website immediately.

