

**OFFICE OF THE COMMISSIONER OF CUSTOMS (NHAVA SHEVA-III)
JAWAHARLAL NEHRU CUSTOM HOUSE,
NHAVA SHEVA, URAN, RAIGAD, MAHARASHTRA – 400 707**

F.No. S/22-Gen-04/2017-18/AM(I)

Date: 04.09.2018

STANDING ORDER 32/2018

Subject: Role and responsibilities of Out of Charge (OOC) officers - reg.

Attention of all officers and staff of JNCH, Mumbai Customs Zone-II is invited to the various instructions or standing orders issued on the above mentioned subject.

2. It has been observed that there is lack of clarity regarding the role and responsibilities of Out of Charge (OOC) officers while processing of RMS facilitated bills of entry, and role of PCA officers in the entire scheme of risk based intervention and facilitation. There are certain instances where OOC officers have raised queries / objections about issues which are purely related to assessment like classification or valuation even in the case of RMS facilitated bills of entry. In certain other instances OOC officers could not detect cases of non-levy of Anti-Dumping Duty (ADD), though as per declared description and classification of goods, the goods were clearly liable for payment of ADD.

3. In this regard, attention is invited to following Instructions / Circulars:

(i) CBEC Circular No. 10/2015 dated March 31, 2015, and Circular 26/2015 dated November 23, 2015: Bills of Entry are required to be submitted by authorized persons on ICEGATE after affixing their digital signatures.

(ii) CBEC Circular No. 40/2017-Customs, dated 13th October, 2017 (issued from F.No.450/148/2015-Cus.IV): Authorized persons (Customs Brokers/ Importers) are required to upload digitally signed supporting documents online on ICEGATE. In relation to registration, examination and clearance, it provides:

Goods Registration, Examination & Clearance

After filing of the Bill of Entry, the authorized person (e.g. importer/Customs Broker) may with his self-assessed copy of the Bill of Entry, approach the designated place for goods registration, document verification and clearance. In case goods are to be examined, the officer examining goods may record the results of inspection/examination online on ICES.

*Some types of supporting documents are required to be presented in original (as specified in the respective notifications) for verification of seal/signature etc., for defacement and for the debit of quantities/value. Trade should present hardcopy at the time of the registration of goods or at a place specified by the Commissioner of Customs. It may however be noted that **all supporting documents** shall be uploaded digitally, including those documents that must be presented in hardcopy. For supporting documents, where a debit of quantity/value is required to be made on hardcopy, for every subsequent Bill of Entry filed for import, the latest debit sheet shall be uploaded. The authorized person filing the Bill of Entry should pay attention while linking supporting documents with Bills of Entry and should ensure that the correct unique reference numbers (IRNs) are mentioned in the Bills of Entry.*

(iii) Circular No. 43/2005-Cus [F.No.450/66/2004-CUS-IV], dated November 24th, 2005 provides as under:

5. *Bills of Entry and IGMs filed electronically into ICES through the Service Centre or the ICEGATE will be transmitted by ICES to the RMS. The RMS will process the data through a series of steps and produce an electronic output for the ICES. This output will determine whether the Bill of Entry will be taken-up for action (appraisal or examination or both) or be cleared after payment of duty and Out of Charge directly, without any assessment and examination. Also where necessary, RMS will provide instructions for Appraising Officer, Examining Officer or the Out-of-Charge Officer. It needs to be noted that the decisions communicated by the RMS on the need for assessment and/or examination and the appraising and examination instructions communicated by the RMS have be followed by the field formations. **It is possible that in a few cases, the field formations might decide to apply a particular treatment to the BE which is at variance with the decision received from the RMS owing to risks which are not factored in the RMS. Such a course of action shall however be taken only with the prior approval of the jurisdictional Commissioner of Customs or an officer authorized by him for this purpose, who shall not be below the rank of Addl./Joint Commissioner of Customs, and after recording the reasons for the same.** A brief remark on the reasons and the particulars of Commissioner's authorization should be made by the officer examining the goods in the departmental comments in the EDI system.*

(iv) Standing Order No. 09/2014, dated 05.06.2014 issued by JNCH provides procedure regarding clearance of containers from CFS Gates after out of charge given by Proper Officers of Customs. It prescribes that:

(i) All CFSs shall immediately provide ICES terminal and EDI/internet connectivity to the Customs Gate Officers deployed therein. The Gate Officers shall get their SSO-ID mapped in the ICES to view the document and its status. The Gate Officers can also view the documents through internet from ICEGATE, whether the Bill of Entry has been given out of charge by the proper officer. By viewing the documents, the Gate Officers can check from the system, before allowing physical removal of cargo from the CFS. The CFS's are directed to provide this facility positively by 06.06.2014.

4. In order to further reduce the release time and to further provide ease in doing business, it has been decided to issue fresh guidelines for OOC officers, particularly considering the e-sanchit, which has dispensed with requirement of physical copies of documents (except in cases where importer has claimed the benefit of any Notification where some types of supporting documents are required to be presented in original (as specified in the respective notifications) for verification of seal/signature etc., for defacement and for the debit of quantities/value or conditions of import requires production of some NOC/ Authorization in original.

5. Accordingly, following guidelines are being issued for the sake of providing guidance to officers:

A. RMS : Assessment (No) and Examination (No)

A1. In such cases, OOC officer will select the BE (on priority) in respect of AEO and DPD importers who have made an on-line request for according priority as conveyed by SMS to the AC/DC Docks concerned and on the basis of FIFO (first in first out) in respect of other importers.

A2. If importer has not claimed the benefit of any Notification where some types of supporting documents are required to be presented in original (as specified in the respective notifications) for verification of seal/signature etc., for defacement and for the debit of quantities/value or conditions of import requires

production of some NOC/ Authorization in original, **OOC officer shall** compare and match the following particulars declared in the BE with particulars declared in invoice / invoice cum packing list, and any other document (digitally signed supporting documents uploaded on ICEGATE).

- (a) Value;
- (b) Quantity;
- (c) Currency (whether USD or EURO etc.);
- (d) Description of goods;
- (e) Incoterms (whether value declared in the invoice is FOB or CIF etc.).

A3. If importer has claimed the benefit of any Notification where some supporting documents are required to be presented in original (as specified in the respective notifications) for verification of seal/signature etc., for defacement and for the debit of quantities/value or conditions of import requires production of some NOC/ Authorization in original, **OOC officer shall** also check such documents.

A4. To check Participating Government Agency (PGA) NOC, if applicable. This would need to be checked only in those cases where the RMS referred the bill of entry to a PGA for NOC, In other words, OOC officers should not question the RMS decision regarding reference of a B/E to any PGA or to facilitate it.

A5. In case of restricted goods, to check whether requisite license or authorisation or permit or NOC or BIS Certificate or Country of Origin (COO) Certificate or any other required certificate has been submitted.

A6. To ensure payment of anti-dumping duty (ADD), safeguard duty (SD) or counter vailing duty (CVD) at appropriate rate, if applicable (according to declared classification and description of imported goods).

A7. To ensure drawal of sample in proper form and manner, wherever there are instructions (RMS or Group).

A8. To ensure compliance of RMS Instructions and CCR (Compulsory Compliance Requirements) Instructions, whenever, such instructions are there (for e.g., drawal of sample in the presence of SIIB / CIU officer or examination (100% or such percentage as specified)) in the presence of SIIB / CIU officer etc.

B. Assessment (Yes) and Examination (No)

To conduct checks as mentioned in Sr. No. A4, A7 & A8 of Para A above.

C. Assessment (No) and Examination (Yes)

To conduct all checks as mentioned in Para A above. Further, OOC officer should consider result of examination for further action. viz. whether to refer the case back to the Appraising Group concerned or to go ahead with OOC if no discrepancy is noticed at the time of examination. Examination should cover issues / aspects not only relating to actual goods vis-à-vis declared description of goods and quantity but also other issues like BIS, applicability of any other restrictions / prohibitions, applicability of ADD / SD / CVD etc. as laid down in the instructions / circulars / standing orders issued by Board / JNCH.

D. Assessment (Yes) and Examination (Yes)

To conduct checks as mentioned in Sr. No. A4, A7 & A8 of Para A above. Further, OOC officer should consider result of examination for further action, viz. whether

to refer the case back to the Appraising Group concerned or to go ahead with OOC, if no discrepancy is noticed at the time of examination. Examination should cover issues / aspects not only relating to actual goods vis-à-vis declared description of goods and quantity but also other issues like BIS, applicability of any other restrictions / prohibitions, applicability of ADD / SD / CVD etc. as laid down in the Instructions / Circulars / Standing Orders issued by Board / JNCH.

6. Dealing with classification or valuation issues (In cases where examination of goods is not conducted or the bill of entry is facilitated for assessment):

- i. Generally, OOC officers are not expected to verify / scrutinize the correctness of classification or valuation declared in the import declaration, whether routed through group or facilitated for the purpose of assessment. However, in case, OOC officer during the course of verification of documents uploaded through e-sanchit notices that either classification claimed by importer is not correct or value declared may not be proper or benefit of any exemption notification has been wrongly claimed, his observations shall be recorded in the "**departmental comments**" and a self-contained brief note shall be sent to ADC/JC in-charge of Group with copy to ADC/JC, PCA. In such cases, goods should be allowed to be cleared / released subject to compliance of other regulatory requirements.
- ii. However, wherever, there is reasonable doubt about classification and determination of classification is dependent upon composition or characteristics of imported material, which can be identified through tests, suitable samples would be drawn after obtaining approval from JC / ADC Docks. ADC/JC docks should consult ADC/JC group before according approval for drawal of sample. Such approval may be obtained or communicated either through letter or email or SMS as quickly as possible (on the same day).

7. Dealing with issue of ADD/ safeguard duty (SD) / counter-vailing duty (CVD)(In cases where examination of goods is not conducted or the bill of entry is facilitated for assessment):

In case, OOC officer during the course of verification of documents uploaded through e-sanchit notices that either description of goods or classification claimed by importer is not correct and if declared correctly, would result in levy of ADD/SD/CVD, then his observation shall be recorded in the "**departmental comments**" and a self-contained brief note shall be sent to ADC/JC in-charge of Group with copy to ADC/JC, PCA. However, goods should be allowed to be cleared / released, subject to compliance of other regulatory requirements. Need for drawal of sample should be examined and decided in the manner prescribed in above para.

8. Cases where result of examination indicates no mis-declaration of description of goods but still indicates mis-classification:

There may be cases where goods during examination are found to be as declared but considering other characteristics of the goods like particular shape or size or intended use or other documents / materials recovered during the course of such examination, the said goods appear to be classifiable under different CTH, then his observation, along with likely implication of change of classification, shall be recorded in the "**departmental comments**" and a self-contained brief note shall be sent to ADC/JC in-charge of Group with copy to ADC/JC, PCA. However, goods should be allowed to be cleared / released subject to compliance of other regulatory requirements.

9 Cases wherein issue is not clear

In case of any doubt / confusion, issue should be discussed with ADC/JC in-charge of docks and further action should be taken as per advice of ADC/JC. Such advice needs to be communicated either through letter or email or SMS as quickly as possible, on the same day.

10. To summarise, in giving out of charge the emphasis needs to be on speed and avoidance of delay. The officer concerned must ensure close coordination and quick communication with his supervisory officers as well as with the Appraising Group concerned to minimise the time taken in arriving at a decision. This is especially true of cases where the views of the out of charge officer are likely to have the effect of disturbing a long-established practice of assessment. The Deputy/Assistant Commissioner incharge of Docks and RMS Facilitation Centre shall take daily stock of pending cases and ensure their timely resolution, where necessary, in consultation with the ADC/JC or Commissioner concerned. Special care has to be taken of cases pertaining to AEO or DPD Clients. Being the only point of interaction between Customs and the trade, officers responsible for giving "out of charge" shall ensure that they conduct themselves at all times with utmost courtesy, integrity and professionalism. In case of any difficulty, the specific issue may be brought to the notice of Deputy/Assistant Commissioner in charge of Appraising Main (Import), NS-III (email address: appraisingmain.jnch@gov.in).

11. This issues with the approval of Chief Commissioner of Customs Zone-II JNCH, Nhava Sheva.

Sd/-

(SUBHASH AGRAWAL)
COMMISSIONER OF CUSTOMS (NS-III).

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. BCBA / FIEO for circulating among their members for information.
7. AC/DC, EDI for uploading on JNCH website immediately.