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F. No. EDI/Misc-82/2015/JNCH

Date: 07.02.2018

STANDING ORDER NO. 04/2018

Subject: Clarification regarding legislative changes relating to Customs Act, 1962 and issuance of Bill of Entry (Electronically Integrated Declaration) Amendment Regulations, 2017 – charges for late presentation of bill of entry –reg.

Attention of all officers is invited to Public Notice No. 66/2017, dated 26.05.2017 of JNCH, Standing Order Nos. 17/2017, dated 03.07.2017 & 33/2017, dated 09.10.2017 of JNCH, regarding legislative changes relating to Section 46 of the Customs Act, 1962 through the Finance Act, 2017 and issuance of Bill of Entry (Electronically Integrated Declaration) Amendment Regulations, 2017 vide Notification No. 26/2017-Customs (N.T.), dated 31.03.2017. CBEC has also issued Notification No. 25/2017-Cus (N.T.), dated 31.03.2017 empowering the Additional/Joint Commissioner of Customs for considering requests for waiver of late charge in cases where there is no willful delay in filing of the bill of entry.

2. It has been decided, in the interest of uniformity, to streamline the processing of such requests for waiver of charge for late presentation of bill of entry under second proviso to subsection (3) of Section 46 of the Customs Act, 1962. On receiving such application for waiver of late charge by the importer, the proper officer shall scrutinize the request application and the accompanying documents to ascertain whether there was willful delay in filing the bill of entry.

3. Certain possibilities/situations regarding non-filing of bill of entry in prescribed time/applicability of late charge, have been noticed and it has therefore, been decided that:-

(i) Where the importer has tried to file the bill of entry within the time specified in sub-regulation (1) of Regulation 4 of the Bill of Entry (Electronic Integrated Declaration) Amendment Regulations, 2017, i.e., within the next day of entry inward, but failed to file the same due to any problem with ICEGATE or the Customs System and evidence in this regard is produced/exists, full waiver of late charge shall be granted.

(ii) Where the importer files an advance/prior bill of entry, it would be incumbent on the importer to get the same regularized in the system within 24 hours of entry inward. In case, the concerned bill of entry gets purged because the regularization is not done within the stipulated time and a fresh bill of entry is required to be filed, the late filing charge in such cases shall be restricted to the extent of 50% of the quantified charges or Rs. 25000/-, whichever is higher. In case the bill of entry is purged due to delay in grant of entry inward and the importer has to file a fresh bill of entry within 24 hours of entry inward, no late charge shall be payable in respect of such purged bill of entry.

(iii) Late charge for delay in presentation of a bill of entry shall be restricted to the total duty charged/chargeable. However, in cases where the duty chargeable is 'NIL', due to the tariff/exemption notification or advance authorization/EPCG/EOU scheme, the charge for late presentation of the bill of entry would be Rs 5000/- per day, subject to maximum of Rs. 25,000/-. However, the benefit of reduced late charge as provided above shall not be available if duty is paid through a scrip issued under Chapter 3 of FTP.

(iv) In case of any amendment from SMTP to local bill of entry, if the importer files the bill of entry before the end of the next day following the date of permission granted by the proper officer for the amendment, no late charge shall be payable in respect of such bill of entry.

(v) In cases, where the proper officer waives the late charge either fully or partially, resulting in refund of such late charge, the same shall be granted by the Refund Section of the Custom House, forthwith.

4. The above mentioned possibilities/situations are non-exhaustive. Application for waiver of late charge on account of any other grounds may be considered by the proper officer after ascertaining that there is no willful delay in filing of the said bill of entry.

5. In terms of second proviso to sub-section (3) of Section 46 of the Customs Act, 1962, the Additional/Joint Commissioner of concerned Appraising Groups would be the proper officer for consideration of waiver of late charge payable due to delay in presentation of bill of entry.

6. The concerned Addl./Joint Commissioner shall ensure that all applications for waiver of late charge are decided on the date of receipt of such applications and a record of such requests and decisions taken shall be kept in

the manner prescribed in the para 4 of the Public Notice No. 66/2017, dated 26.05.2017.

7. This standing order supersedes earlier two standing orders on the subject matter viz. Nos. 17/2017 dt. 03.07.2017 and 33/2017 dt. 09.10.2017.

8. All officers are hereby instructed to follow the above mentioned provisions scrupulously. Difficulties, if any, in this regard may be brought to the notice of the Addl. Commissioner, EDI through e-mail (edi@jawaharcustoms.gov.in).

9. This issues with the approval of the Chief Commissioner of Customs, Mumbai Zone II, JNCH.

Sd/-

(M.R. MOHANTY)

Commissioner of Customs NS-I,
Jawaharlal Nehru Custom House,
Nhava Sheva.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH-for information
2. The Commissioner of Customs, NS-G/NS-II/NS-III/NS-IV/NS-V, JNCH.
3. All Additional/Joint Commissioner of Customs, JNCH.
4. All Deputy/Assistant Commissioner of Customs, JNCH.
5. All Sections/Appraising Groups of NS-G, NS-I, NS-II/NS-III/NS-IV/NS-V, JNCH.
6. The DC/EDI for uploading on the JNCH Website.