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SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
No. 03/2023-Customs (N.T.)

New Delhi, the 11th January, 2023

G.S.R. (E).- In exercise of the powers conferred by section 156 read with section 14 of the Customs Act, 1962 (52 of 1962), the Central Government, hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023.

(2) They shall come into force on 11th day of February, 2023.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

- (a) "Act" means the Customs Act, 1962 (52 of 1962);
- (b) "Additional Director General" shall include "Principal Additional Director General";
- (c) "Chief Commissioner" shall include "Principal Chief Commissioner";
- (d) "class of imported goods" means imported goods that are within a group or range of imported goods produced by a particular industry or industrial sector and includes identical goods or similar goods;
- (e) "Commissioner" shall include "Principal Commissioner";
- (f) "Director General" shall include "Principal Director General";
- (g) "Evaluation Committee" means the Committee constituted under rule 4;
- (h) "identified goods" means any class of imported goods, or a subset thereof, which have been specified by the Board under rule 5;
- (i) "Order" means an order issued under rule 5; and
- (j) "Screening Committee" means the Committee constituted under rule 3.

(2) The words and expressions used herein and not defined in these rules but defined in the Act or in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, shall have the same meanings as assigned therein to them.

3. Constitution of the Screening Committee.- (1) There shall be a Screening Committee of the following members namely:-

- (a) Director General of Valuation who shall also be the Convenor of the Committee;
- (b) Director General of Revenue Intelligence;
- (c) Director General of Analytics and Risk Management; and
- (d) Conveners of National Assessment Centre constituted by the Board, if any, pertaining to the class of goods under consideration.

(2) The Directorate General of Valuation shall be the Secretariat of the Screening Committee.

(3) The Screening Committee shall hold its meetings regularly and as and when necessary for efficient conduct and timely discharge of its functions under these rules.

4. Constitution of the Evaluation Committee.- (1) There shall be an Evaluation Committee of the following members namely:-

- (a) Additional Director General of Valuation who shall also be the Convenor of the Committee;
- (b) Additional Director General (Headquarters) of Directorate General of Revenue Intelligence;
- (c) Additional Director General (National Customs Targeting Centre – Cargo) of Directorate General of Analytics and Risk Management; and
- (d) Members of Working Group on Valuation and related issues of the National Assessment Centre constituted by the Board, if any, pertaining to the class of goods under consideration.

(2) The Directorate General of Valuation shall be the Secretariat of the Evaluation Committee

(3) The Evaluation Committee shall hold its meetings regularly and as and when necessary for efficient conduct and timely discharge of its functions under these rules.

5. Procedure for Specification of identified goods.- For the purposes of clause (iv) of the second proviso to sub-section (1) of section 14 of the Act, where in respect of any class of imported goods or a subset thereof, the Board, having regard to the trend of the declared value of such goods or any other relevant criteria, has reason to believe that such goods may not be declared at their truthful or accurate value but below it, the Board may, by an Order, specify such goods as identified goods in accordance with rule 10.

6. Sources for examining cases for identified goods.- (1) For the purpose of rule 5, the Board shall rely upon a written reference made to it electronically by any person having reason to believe that the value of any class of imported goods or a subset thereof may not be declared truthfully or accurately:

Provided that the reference may also be made by an officer of Customs, namely a Commissioner or Additional Director General, or a person representing any other Government Department.

(2) The written reference referred to in sub-rule (1) shall be accompanied with -

(a) disclosure of name, full address, mobile number, email and other contact details of the person, along with proof of identity and proof of address:

Provided that proof of identity and proof of address shall not be required where the person making the reference represents a Government Department;

(b) complete description and the 8-digit HS Code of the imported goods, including, where appropriate, aspects such as technical literature, specifications, composition, quality, brand and model, along with the country of origin or ports of despatch;

(c) the manner in which or method by which value for such goods is declared below their truthful or accurate value by importers;

(d) information with attached documentary evidence, data and analysis bringing out the basis put forth in support of the claim made in the written reference;

(e) an approximate quantification of the extent of undervaluation;

(f) other sources of reliable information, if any, that may be considered while examining the reference; and

(g) suggestions, if any, of additional obligations and checks that may be considered while examining the reference.

(3) The written reference received under this rule shall be forwarded electronically by the Board for examination to the Screening Committee.

7. Preliminary examination by Screening Committee.- (1) The Screening Committee shall make a preliminary examination of the written reference forwarded by the Board under sub-rule (3) of rule 6, in order to decide whether it, or part thereof, is a case to be taken up for detailed examination.

(2) For the purposes of preliminary examination, the contents and accompanying information with the written reference shall be scrutinized and material aspects taken into account along with the relevant trends of declared values or any other relevant criteria.

(3) The preliminary examination and recording of preliminary findings, of the Screening Committee shall be signed by each member of the Screening Committee and shall be completed preferably within fifteen days, but no later than twenty-one days from the date of forwarding of written reference by the Board.

(4) Where on the basis of preliminary findings, the written reference has been found suitable for detailed examination, the reference, or part thereof, as the case may be, shall be deemed to have been taken up for detailed examination on the date the preliminary findings were recorded.

(5) Where on the basis of preliminary findings recorded by the Screening Committee the written reference is not found suitable for detailed examination, the Screening Committee shall record the reasons thereof and close the said reference.

8. Detailed examination by Evaluation Committee.- (1) The written reference or part thereof, found suitable for detailed examination in terms of sub-rule (4) of rule 7 shall be comprehensively examined by the Evaluation Committee to assess the likelihood, based on the preponderance of probabilities, whether the value of the relevant class of goods or a subset thereof may not be declared truthfully or accurately and for this purpose, the Evaluation Committee may undertake data analysis and take into account the following additional information such as –

(a) trend in international prices from relevant sources keeping in view quality and nature of goods;

(b) information received through stakeholder consultation or disclosures;

(c) reports or certificates of experts; academic papers; research papers; published reports; open-source intelligence; reports originating from source country or despatch ports, including reports of overseas enquiry or verification;

(d) disclosures made under applicable provisions of the Act, rules and regulations made thereunder or under any other law that may have relevance for the time being in force;

(e) costing in relation to manufacturing or assembly of the goods;

(f) additional information from the person who made the reference; and

(g) reliable information from any other source.

(2) The reasoned report of the Evaluation Committee shall be recorded, with each member of the Evaluation Committee signing the report, in not more than thirty days of being taken up for detailed examination.

Provided that, having regard to the circumstances under which the Evaluation Committee may have been prevented from recording its report within specified period, the Convenor of the Screening Committee may, for the reasons recorded in writing, extend the said period for a further period of not more than thirty days.

(3) Where the said reasoned and detailed examination report concludes otherwise than as specified in sub-rule (4), the Evaluation Committee shall also record closure of the reference and the report shall stand transferred to the Screening Committee for filing.

(4) Where the reasoned and detailed examination report of the Evaluation Committee concludes the likelihood that the value of the relevant class of goods or a subset thereof may not be declared truthfully or accurately, the report shall specify, –

(a) complete description of the class of imported goods, or a subset thereof, with 8-digit HS Code;

(b) the brands, if any, which have been noticed in connection with the said likelihood;

(c) the precautionary unit value expressed in terms of items (d) and (e) which may be used by the Customs Automated System to require the fulfilment of additional obligations by the importer and the checks to be exercised, where the declared value is less than the precautionary unit value;

(d) the particular Unique Quantity Code which shall be necessarily used by the importer to declare the value in the bill of entry;

(e) the technical or other specifications related to the value of the goods necessary to be declared in the bill of entry such as make, model, brand, grade, size, quality, composition (percentage of ingredients) and quantity declared in the specified Unique Quantity Code;

(f) other additional obligations of the importer for demonstrating the truthfulness and accuracy of the declared value;

Explanation: For the purposes of clause (f), the Evaluation Committee, after examining the facts and circumstances of the case, shall specify in its report other additional obligations of the importer which may include *inter alia* furnishing manufacturer invoice, manufacturer test report, expert certification issued in the country of origin, manufacturing process from the manufacturer, costing in relation to manufacture or assembly of goods, purchase order or contract;

(g) the checks to be exercised with respect to the imported goods, including the circumstances and manner of exercising them; and

(h) the duration, not below one year and not exceeding two years in the first instance, for which the said additional obligations and the additional checks shall be applied.

(5) The report referred at sub-rule (4) shall include the nature of imports to which these rules may be considered for not being applied in terms of clause (j) of rule 13.

(6) The aspects in the report referred at sub-rule (4) shall be such as are amenable to implementation using the Customs Automated System.

9. Screening Committee to confirm report and recommend to the Board. - (1) The detailed report of the Evaluation Committee, referred at sub-rule (4) of rule 8, shall stand transferred to the Screening Committee for confirmation.

(2) The Screening Committee shall confirm that the report of the Evaluation Committee is complete in terms of these rules and for this purpose shall rectify deficiencies, if any, therein.

(3) The Screening Committee shall recommend to the Board upon the report referred at sub-rule (4) of rule 8 or the rectified report referred at sub-rule (2), as the case may be, as having been confirmed to be complete in terms of these rules.

(4) The recommendation of the Screening Committee along with the report referred at sub-rule (3) above, shall be made within fifteen days of the report of the Evaluation Committee.

10. Board to consider the recommendation of Screening Committee.- (1) The Board shall consider the recommendation made by the Screening Committee under sub-rule (4) of rule 9, and if satisfied that the recommended report should be accepted, it may issue Order under rule 5 specifying therein-

(a) complete description of the identified goods with 8-digit HS Code;

(b) the particular Unique Quantity Code which shall be necessarily used by the importer to declare the value in the bill of entry;

(c) the technical or other specifications necessary to be declared in the bill of entry;

(d) other obligations of the importer, if any;

(e) the checks to be exercised with respect to the imported goods, including the circumstances and manner of exercising them; and

(f) the duration, not below one year and not exceeding two years in the first instance, for which the said Order shall be valid.

(2) The Board shall also consider the review report made by the Screening Committee under sub-rule (3) of rule 12, and if satisfied with the reasons and recommendations made therein, shall make the appropriate changes by issuing an Order under rule 5 with respect to the previously specified identified goods.

11. Procedure in respect of identified goods.- (1) An importer of identified goods shall be required to declare *inter alia* the value of goods using the Unique Quantity Code specified in the Order and the aspect specified at clause (c) of sub-rule (1) of rule 10 at the time of filing bill of entry.

(2) Where required by the Customs Automated System, the importer of identified goods shall also fulfill the specified additional obligations, and the assessment of goods or the goods themselves shall be subjected to specified checks so as to enable and assist the importer to demonstrate the truthfulness and accuracy of the declared value.

(3) Where the importer has not already fulfilled the specified additional obligations on the Customs Automated System, the proper officer shall provide a time period of ten days for fulfilling such obligations.

(4) The proper officer may, in addition to the specified obligations and for reasons to be recorded in writing, ask for further information and documents from the importer to examine the truthfulness and accuracy of the declared value.

(5) On the request of the importer, the proper officer may provisionally assess and clear the goods, subject to importer furnishing appropriate security in terms of section 18 of the Act.

(6) Where, upon production of requisite information or documents and fulfilment of specified obligations or exercise of specified checks, the proper officer is satisfied with the truthfulness and accuracy of the declared value, he shall accept the declared value for the purpose of these rules.

(7) Where the importer does not provide requisite information and documents or does not fulfil other obligations in the time specified under these rules, or where on the basis of the information and documents received from the importer or results of other checks exercised, the proper officer still has reasonable doubt about the truth or accuracy of the value declared in relation to the identified goods, the further proceedings shall be taken in accordance with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

12. Review.- (1) The Screening Committee shall, on the expiry of half of the validity period of the Order issued under rule 5, initiate a mid-term review to assess whether the identified goods may be de-specified either before the expiry of the validity period or not, or the validity period needs to be extended.

(2) Apart from the mid-term review under sub-rule (1), the Screening Committee may conduct a review before mid-term, or as and when needed.

(3) Based on the review conducted, the Screening Committee shall make a reasoned report with recommendations to the Board to withdraw or extend the Order issued under rule 5 related to the identified goods or to alter or delete any of the parameters specified by the Board while specifying the identified goods in accordance with rule 5.

(4) The said report shall be made to the Board at least thirty days prior to the expiry of validity period of the Order.

13. Exceptions.- These rules shall not be applied to, –

(a) imports not involving duty;

(b) goods for which tariff value has been fixed by the Board in terms of sub-section (2) of section 14 of the Act;

(c) goods which attract import duty on specific rate basis;

(d) imports made in terms of authorization or license issued under duty exemption scheme of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) in which the inputs imported prior to export are physically contained in the export product;

(e) imports where buyer and seller are related and an investigation on relationship has already been contemplated or finalized;

(f) Project imports;

(g) imports by Government, Public Sector Undertakings;

(h) imports made in non-commercial quantities;

(i) goods imported for the purpose of re-export; or

(j) imports specified by the Board.

14. Power to relax.- Where the Screening Committee informs that it is unable to comply with its duties within the time period as specified under these rules, for reasons beyond its control, even while it has met regularly and as and when necessary for efficient conduct and timely discharge of its functions, the Board may after considering the case allow for compliance within a further time period not exceeding thirty days.

15. Digital Record Keeping.- With effect from such date as may be specified by the Board in this behalf, the processes specified in rule 6, rule 7, rule 8, rule 9 and rule 12 shall be enabled and processed on an electronic application, set up and maintained by the Directorate General of Valuation.

F.No. 466/32/2022-Cus V



(Harish Kumar)
Under Secretary