

News Flash - Customs Duty

Udyog Software (India) Ltd.
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Customs: Exchange rates of foreign currencies notified

The CBEC has notified the exchange rates of specified foreign currencies for customs purposes, effective from 6 November 2014. Under this notification, (*inter alia*) the US dollar exchanges for Rs 61.90 for valuing import goods, and Rs 60.90 for import goods; the rate of the pound sterling is Rs 99.50 for import goods and Rs 97.30 for export goods; and the rate of the EURO is Rs 78 for import goods and Rs 76.15 for export goods. The notification 101/2014-Customs (NT) dated 5 November 2014 can be accessed at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-nt2014/csnt101-2014.pdf>.

Customs: Customs duty on bunker fuels exempted for Indian ships on coastal run

The central government has issued notification 31/2014-Customs dated 11 November 2014 to exempt bunker (or marine) fuels for ships that are flying the Indian flag and carry containerised cargo or empty containers between two Indian ports (including an intermediate foreign port). The notification can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-tarr2014/cs31-2014.htm>.

The Ministry of Shipping had recommended exemption for foreign ships, to attract big foreign vessels to Indian coasts. At present such vessels tend to berth at Sri Lanka or Singapore and send the cargo to India on smaller ships. See http://articles.economictimes.indiatimes.com/2014-09-04/news/53563918_1_cabotage-transshipment-vessels and <http://shipandbunker.com/news/apac/982120-india-to-exempt-export-import-shippers-from-bunker-duty>.

Customs, excise, service tax: Adjudicator must ask for documents: Kerala HC

Personal hearing is a mechanical exercise for many departmental officers, in which they do not engage with the issue or the assessee at all. The adjudicator silently listens to the contentions advanced, accepts the documents given, asks no questions and gives no indication of his mind on the matter. Much later the adjudication order raises all manner of doubt about the documents and rejects the contentions based on them.

This style of rejecting a refund did not find favour with the Kerala High Court in the case of Cadbury India Limited. The assessee had furnished a certificate from a Chartered Accountant to support its case that there was no unjust enrichment. The departmental order remarks that the certificate is silent on the nature of documents that were perused by the Chartered Accountant to arrive at it. Responding to this the Court observed that -

“I am of the view that if the 3rd respondent had any doubt regarding either the genuineness of the certificate or the correctness of the contents therein, it should have informed the petitioner of the same and given the petitioner an opportunity of producing additional documents to substantiate his claim for refund. That procedure not having been adopted by the 3rd respondent, I am of the view that Ext.P10 order passed by him cannot be legally sustained.”

Earlier in the same order the court said that,

“...if the revenue authorities have any doubt with regard to the genuineness of the certificate or the correctness of it, it is for them to insist on further documents from the claimant to support the certificate issued by the Chartered Accountant or the Cost Accountant.”

The judgment can be downloaded from the High Court website at

http://judis.nic.in/judis_kerala/qrydisp.aspx?filename=375436

Customs, excise, service tax: No pre-deposit in remand order: AP High Court

It is reported that the Andhra Pradesh High Court at Hyderabad has set aside the order of pre-deposit made by the CESTAT while remanding a case for re-decision by the adjudicating authority. The court observed that it could not find any grounds in the statute for deposit before adjudication; hence the Commissioner was to adjudicate the case without pre-deposit. This order dated 13 November 2014 was reportedly made by Justice Kalyan Jyoti Sengupta and Justice MS Ramachandra Rao in the central excise appeal number 119 of 2014 of Maa Mahamaya Industries versus CCE Visakhapatnam; however it is not yet posted on the court website. It can be accessed at a later date, after it has been posted on the site, by going to <http://judis.nic.in>; selecting Andhra Pradesh from the list of courts in the left side tab, and entering the details entered above in any of the search options.

Customs: Changes in drawback rates and provisions

The CBEC has issued revised all-industry rates (AIR) for amounts payable as drawback of duties on exports. The new rates have been notified under notification 110/2014-Customs (NT) dated 17 November 2014, which can be downloaded at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-nt2014/csnt110-2014.pdf>. They take effect from 22 November 2014.

Further, the drawback rules of 1995 have been amended by notification 109/2014-Customs (NT) dated 17 November 2014, (<http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-nt2014/csnt109-2014.pdf>) to provide that where all-industry rate was claimed at the time of export, a subsequent claim to brand rate will not be admissible. The CBEC has advised that those who wish to claim brand rate will have to use the figure “9801” as an identifier under ‘drawback details’ in the shipping bill, on the basis of which they may subsequently apply to the central excise authorities for determination of brand rate. The changes in drawback rates and provisions are explained in CBEC circular 13/2014-Customs dated 18 November 2014, which can be perused at <http://cbec.gov.in/customs/cs-circulars/cs-circ14/circ13-2014cs.pdf>.

Customs: Exchange rates notified

The CBEC has issued notification number 111/2014-Customs (NT) dated 20 November 2014, effective from 21 November 2014, to notify exchange rates of specified currencies for the purpose of arriving at value for customs purposes under section 14 of the Customs Act 1962. Under this, *inter alia*, the Euro converts to Rs 78.90 for imported goods and to Rs 77.00 for export goods; the pound sterling converts to Rs 98.45 for imported goods and to Rs 96.25 for export goods; the US dollar converts to Rs 62.60 for imported goods and Rs 61.60 for export goods. The notification can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-nt2014/csnt111-2014.htm>.

Customs: Tariff values notified

The CBEC has issued notification 108/2014-Customs (NT) dated 14 November 2014 to revise the tariff values of specified commodities under section 14 of the Customs Act 1962. The values of palm oils and oleins and also of crude soyabean oil have been revised upward; brass scrap has declined. The tariff value of gold in respect of which the benefit of entries 321 and 323 of notification 12/2012-Customs is availed has dropped to USD 378 per 10 grams (from USD 391), and the tariff value of silver in respect of which the benefit of serial numbers 322 and 324 of notification 12/2012-Customs is availed has dropped to USD 517 per kilogram (from USD 551). The notification can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-nt2014/csnt108-2014.pdf>

Customs: Anti-dumping duty on diclofenac sodium from China

Anti-dumping duty had been levied on diclofenac sodium from China under notification 91/2008-Customs, and had been extended upto 9 April 2014 pending sunset review by the DG Anti-Dumping. The findings of the review have been notified, and in pursuance of the recommendations made therein the central government has again levied anti-dumping duty on the said goods originating in or exported from the People’s Republic of China, @ USD 2715 per MT, for a period of five years. The notification 44/2014-Customs(ADD) dated 21 November 2014 under which this has been done can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-add2014/csadd44-2014.pdf>

Customs: Anti-dumping duty on DVDs from China

Anti-dumping duty had been levied under notification 8/2009-Customs on digital versatile disks (DVD-R and DVD-RW) from the People’s Republic of China, Hong Kong and Chinese Taipei, and had been extended upto 22 July 2014 pending review by the DG Anti-Dumping. The findings of the review have been notified, and in pursuance of the recommendations made therein the central government has again levied anti-dumping duty on the said goods originating in or exported from the People’s Republic of China, Hong Kong or Chinese Taipei. The duty, which will be valid for five years, has been levied under notification 45/2014-Customs (ADD) dated 21 November 2014. The notification can be seen at <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-add2014/csadd45-2014.pdf>

Customs: CBEC clarifies on manner of calculation of safeguard duty on carbon black

Both anti-dumping duty and safeguard duty could be leviable in certain cases of imports of carbon black under advance authorisation. In other cases there is a conditional exemption, but the anti-dumping duty would become payable if the importer does not fulfil his export obligation. The CBEC has clarified that double protection to domestic industry by way of two duties, both with the purpose of protecting domestic industry, is not envisaged. The safeguard duty has to be calculated by reducing the anti-dumping duty from the safeguard duty to arrive at the amount of safeguard duty payable. The CBEC circular 11/2014-Customs dated 14 November 2014 to this effect can be downloaded from <http://cbec.gov.in/customs/cs-circulars/cs-circ14/circ11-2014cs.htm>

Customs: CBEC clarifies on manner of assessment of export duty on iron ore

The CBEC has taken note of the fact that the final price payable for exported iron ore is determined by tests at the load port and the port of discharge to determine the Fe content, which can vary with varying moisture levels. It is seen that many exporters present provisional invoices for this reason. The CBEC has instructed its customs formations to assess shipping bills for iron ore provisionally and finalise assessment in accordance with the valuation rules after the final reports are received. They must also monitor the bank realisation certificates to satisfy the accuracy of the assessed values. See the CBEC circular 12/2014-Customs dated 17 November 2014 at <http://cbec.gov.in/customs/cs-circulars/cs-circ14/circ12-2014cs.htm>

Customs and Central excise: Exemption for anti-malarial drugs and diagnostics

The central government has issued notification 23/2014-CE dated 21 November 2014 to fully exempt certain Artemisinin-based drugs and injections, as well as specified diagnostic kits and insecticidal nets, for use in the Intensified Malaria Control Project, from excise duty. The exemption will be valid till the end of September 2015. The notification may be seen at <http://cbec.gov.in/excise/cx-act/notfns-2014/cx-tarr2014/ce23-2014.pdf>.

The same items have also been exempted from customs duties under notification 32/2014-Customs dated 21 November 2014, which too is valid till the end of September 2014: <http://cbec.gov.in/customs/cs-act/notifications/notfns-2014/cs-tarr2014/cs32-2014.pdf>.

Content provided by:

Radha Arun
Consultants to Udyog Software (India) Ltd.
radha.arjuni@gmail.com

Please connect with us at:

Web: www.udyogsoftware.com
Call: +91 (0) 40 6603 6561
Email: teammarketing@udyogsoftware.com