

Office Of The Assistant
Commissioner Of Customs

12 FEB 2018

COURIER CELL, CSIAIRPORT,
SAHAR, MUMBAI - 99

Date: 07.02.2018

OFFICE OF THE COMMISSIONER OF CUSTOMS,
AIRPORT SPECIAL CARGO
AVAS CORPORATE POINT, MAKWANA LANE
ANDHERI KURLA ROAD, ANDHERI (EAST)
MUMBAI - 400059.

F.No. : Afsc/39R/Misc-15/2017-18

PUBLIC NOTICE NO. 16/2018

Sub: Clarification regarding payment of SAD refund when the Import has taken place prior to 1st July, 2017 (i.e. SAD on Import has been paid prior to 1st July) and the sales of the imported goods have effected on or after 1st July, 2017 i.e. during GST regime-reg.

Attention of all Exporters, Importers, Customs Brokers, Members of Trade is invited to Notification No. 42/2017-Cus dated 30.06.2017, Notification No. 102/2007-Cus dated 14.09.2007 & Notification No. 93/2008-Cus dated 01.08.2008 regarding refund of 4% Additional duty of Customs (generally referred to as "SAD"). Kind attention is also drawn to Public Notice No. 09/2010 dated 17.08.2010 and Public Notice No. 11/2011 dated 06.09.2011 issued by Commissioner of Customs (Airport) prior to formation of APSC Commissionerate.

2. Trade have represented to issue clarification regarding payment of SAD refund when the Import has taken place prior to 1st July, 2017 (i.e. SAD on Import has been paid prior to 1st July, 2017) and the sales of the imported goods have effected on or after 1st July 2017.

3. This issue has been examined. To give effect for refund of 4% SAD in GST regime, enabling amendment were made in Notification No. 42/2017-Cus dated 30.06.2017. The said amendment is applicable to the goods which were imported on payment of SAD and were being sold after payment of appropriate GST instead of VAT/CST in GST regime. In view of the Notification No. 42/2017-Cus dated 30.06.2017 Importers are entitled for SAD refund on merit subject to fulfillment of other conditions as envisaged by extant provisions of law.

4. Refund claims submitted by Importers are also being processed in terms of the said Notification No. 42/2017-Cus dated 30.06.2017. However, in order to clarify the doubts and to streamline the procedure, it is being proposed that refund claims filed to avail refund of 4% ACD (paid prior to 1st July, 2017 and sales made thereafter), Importers are required to submit following documents/declaration:

- (i) "Revised Annexure-A" (Calculation/Worksheet)
- (ii) "Revised Annexure-B" (Self Declaration by the Importer)
- (iii) "Revised Annexure-C" (Summary of sale Invoices)
- (iv) "Revised Annexure-D" (Certificate by C.A.)
- (v) The Importers are also required to submit evidence/proof of payment of IGST or CGST + SGST/UTGST as the case may be.

5. The procedure as prescribed under Public Notice No. 09/2010 dated 17.08.2010 and Public Notice No. 11/2011 dated 06.09.2011 should be continue to be followed for refund claims, where goods are sold before 01.07.2017.

6. Difficulty, if any may also be brought to the notice of Assistant/Deputy Commissioner in charge of SAD Refund.

(Vinay Brij Singh)
COMMISSIONER OF CUSTOMS (APSC).
MUMBAI.

Encl: Annexure "A", "B", "C" & "D"

Copy to:

1. Chief Commissioner of Customs, APSC, Mumbai.
2. Commissioner of Customs, APSC, Mumbai.
3. All ADC/JC/DC/AC, APSC, Mumbai.
4. BCBA/FEO for circulation among their members.
5. AC/Admn (Tech) for uploading on APSC Website.

(ANNEXURE-A)

CALCULATION WORK SHEET FOR SAD REFUND

Sr. No.	B/E No.	Date	DDR No. /TR6 No.	Date	Import Invoice No.	Date	Quantity Imported	Quantity sold	VAT/ST /GST paid	VAT/ST /GST Challan No. & Date	SAD Amt. paid	SAD Amt claimed

Place:

Date:

For M/s. _____

Signature of the Applicant

Signature of the Statutory Auditor

(with stamp and seal)

(94)

ANNEXURE-B

**SELF DECLARATION FOR REFUND CLAIM FILED ON _____
FOR THE MONTH OF _____**

Refund on the Bill of Entry No. _____ Dated _____ permitted to be filed within the maximum time period of one year refundable under Notification No. 102/2007 dated 14/09/2007 as amended by Notification 42/2017 Cus- dated 30.06.2017.

Self-declaration along with the refund claim to the effect that the incidence of 4% CVD has not passed on to any other person in respect of Bill of Entry No. _____ Dated _____ claiming Refund of Additional Duty (Imports).

M/s _____ are our Statutory Auditor/Chartered Accountants, who certify the Annual Financial Accounts of our firm under the Companies Act and / or any other statute.

This is to declare and certify that the exemption from Additional duty and consequent refund, as contained in the Notification No. 102/2007 dated 14/09/2007, as amended by Notification No 42/2017-Cus dated 30.06.2017 is being claimed and is required to be given effect because the following conditions are stipulated therein are fulfilled in the respect of the Bill of Entry No. _____ Dated _____ and Challan No. _____ Dated _____.

- a) We are registered with VAT /CST/GST authorities of Department of Trade & Taxes, Govt. of _____ under TIN Registration No. _____ and GST Registration No. _____.
- b) We, the importer of the said goods have paid all duties, including the said additional duty of Customs leviable thereon, as applicable, at the time of importation of the goods under the said Bill of Entry No. _____ dated _____.
- c) While Issuing the invoice for sale of the said goods, we, the importer, have specifically indicated in the invoice that in respect of the goods covered therein, no credit of the additional duty of customs levied under Sub-section (5) of Section 3 of the Customs Tariff Act, 1975 shall be admissible to the buyer and a stamp on the invoice (to state that no CENVAT Credit is admissible) for the purpose of para 2(b) of the said notification has been affixed; declaration in the invoice that in respect of the goods covered therein, "No credit of the Additional Duty, Integrated Tax and compensation Cess leviable thereon respectively under sub-section (5), (7) and (9) of the section 3 of the Customs Tariff Act 1975, has been availed/shall be admissible to the buyer."
- d) We hereby declare that the Incidence of 4% SAD has not been passed on to any other person in respect of the above Bills of Entry.
- e) The details of the sale invoices are given separately..
- f) We, the importer have filed the claim for refund of the said additional duty of Customs paid on the Importer goods with the Jurisdictional Customs Officer, the Dy. Commissioner of Customs, APSC, Avas Corporate Point, Marol, Mumbai-400 059 through which the clearance of goods was obtained.
- g) We, the importer have paid on sale/supply of the said goods, appropriate Sales Tax or Value Added Tax, IGST/CGST/SGST/UTGST, as the case may be and details are given in the attached sheet along with the original of the Challans depositing the Tax and Invoices raised in this regards.
- h) We, the importer have provided copies of the following documents along with the refund claim.
 - i. Original of the Bills of Entry and Challan detailed in attached sheet as the documents evidencing payment of the said additional duty.
 - ii. Original of the Challans evidencing payment of appropriate Sales Tax/Value Added Tax, IGST/CGST/SGST/UTGST etc, as the case may be, by us the importer, on sale/supply of such imported goods.

The Refund claim in respect of the Bill of Entry No. _____ Dated _____ as above, is
filed on the month of _____ with the jurisdictional Customs Officer for sanction of the refund
claim satisfying that the conditions referred to in Para 2 of the said Notification No. 102/2007 dated
14/09/2007 as amended by Notification No. 42/2017-Cus dated 30.06.2017 are fulfilled.

Place :

Date :

For M/s. _____

Signature of the Applicant. _____

ANNEXURE-C
SUMMARY OF SALE INVOICES

Refund on the Bill of Entry No. _____ dated _____ permitted to be filed within the maximum time period of one year refundable under Notification No. 102/2007 dated 14/09/2007, as amended by Notification No. 42/2017-Cus dated 30.06.2017

Certificate correlating the payment of ST/VAT/CGST/SGST/IGST/UTGST on the Imported goods (in respect of which refund is claimed) with the invoices of sale/supply.

Sr. No.	Sale Bill/Invoice Nos.	Date	Name of Party	Quantity in Bags	Total Value	Sale VAT	CST	CGST/SGST/IGST
VAT/CST/CGST/SGST/IGST/UTGST payment Dated _____ in the Bank Being Registered under No.:								
Total								

It is further certified that

1. The above information is from the sale/supply invoices and carbon copy / Office copy in original of the said invoices will be furnished, if so required.
2. Against these sales/supply, no refund of Additional duty of Customs duty has been claimed and no claim in future will be made in respect of these sales/supply.
3. Incidence of excess Customs duty deposited at the time of customs clearance and now covered by the refund claim has not been passed on to the customers and this amount has not been included in the sale/supply value.
4. Amount of Customs duty received as refund of duty deposited at the time of Customs clearance will be treated appropriately for tax purpose.

Place :

Date :

For M/s. _____
Signature of the Applicant. :

(97) 16

ANNEXURE - D

Consolidated Certificate from the statutory auditor/Chartered Accountant towards unjust enrichment, payment of appropriate ST/VAT/SGST/CGST/IGST/UTGST, correlating payment of ST/VAT/SGST/CGST/IGST/UTGST with the sale/supply invoices and sale/supply through consignment agent/stockist for the purpose of refund of the Special Additional Duty in pursuance to Notification No. 102/2007-Customs dated 14/09/2007 as amended by Notification No. 42/2017-Cus dated 30.06.2017.

With regard to the imports under Bill of Entry No. _____ dated _____ and TR-6 Challan No. _____ dated _____, wherein the Special Additional Duty has been paid and the refund under Notification No. 102/2007-Cus dated 14/09/2007, as amended by Notification No. 42/2017-Cus dated 30.06.2017 is sought by M/s. _____.

2. It is certified and declared that, we _____, Membership No. _____ are the statutory auditor/ Chartered Accountants, who certifies financial records under the Companies Act, 1956/ any ST/VAT/GST Act of the State / Central Government /the Income Tax Act, 1961 or any other statute, of M/s. _____.

3. It is also certified that, sales tax authorities of M/s. _____ accept payment of ST/VAT/GST through cash or adjustment of Input tax credit as effective discharge of ST/VAT/GST payment on sale of imported goods.

4. For purpose of fulfillment of the condition in Para 2 (d) of the Notification No. 102/2007-Cus dated 14-09-2007 as amended by Notification No. 42/2017-Cus dated 30.06.2017 and for considering sanction of refund of 4% SAD, we hereby certify that we have verified the original invoices of sale/supply, along with supporting documents towards proof of payment of appropriate ST/VAT/GST from the original VAT/ ST/SGST/CGST/IGST/UTGST Challans and / or evidence for adjustment of Input tax credit, as effective discharge of ST/VAT/SGST/CGST/IGST/UTGST payment on imported goods.

5. The VAT/ ST/SGST/CGST/IGST/UTGST has been paid Bill of Entry wise as below:-

S.No.	Amount of VAT/ST/SGST/CGST/IGST/UTGST payable in Rs.	Amount of VAT/ST/SGST/CGST/IGST/UTGST paid by cash challan	Amount of VAT/ST/SGST/CGST/IGST/UTGST paid by adjustment of Input tax credits	Details of S. No. and Date of the entries verified from the records of the VAT/ST/SGST/CGST/IGST/UTGST Tax payer	
				Cash Challan No. & Date	No. and Date of entries against adjustment of input tax credits

6. The refund being claimed herein is being shown in the Books of Account / Balance Sheet as Amount due as refund of Additional duty of Customs and same amount has not been passed on to the buyers of the sale/supply of goods. After examination / audit the records, it is verified from records that the details as given in the enclosed Summary of Sale/supply Invoices are true details thereof. As required for examination of the principle of unjust enrichment in the case before sanction of refund under Notifn. No. 102/2007 dated 14/09/2007, this is certified that the burden of 4% CVD / SAD has not been passed on by the importer to the buyer and that they fulfill the requirement of unjust enrichment.

7. It is further certified that amount of GST payment is made by cash & through adjustment of Input Tax Credit. The amount of SAD paid has not been taken as Input Tax Credit and it is certified that no Input Tax Credit on the SAD paid will be taken.

8. In case of sale/supply through consignment agent/stockist we certify that-

- (i) consignment agent/stockist - M/s _____ has been authorised to sell/supply the imported goods in terms of the agreement entered into between the importer, M/s _____ and consignment agent/stockist M/s _____
- (ii) that each of the sale/supply invoices issued by the consignment agent/stockist indicates that the sale is made by him on behalf of the importer in the capacity of consignment agent/stockist.
- (iii) that appropriate ST/VAT/SGST/CGST/IGST/UTGST has been paid by consignment agent/stockist M/s _____ on behalf of importer M/s _____ and that the importer, M/s _____ in turn, has paid or reimbursed the ST/VAT/SGST/CGST/IGST/UTGST to his consignment agent/stockist M/s _____ along with the correlation of ST/VAT/SGST/CGST/IGST/UTGST payment with 4% CVD paid on imported goods.

Place :

Date :

CHARTERED ACCOUNTANT