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Office Of The Assistant
Commissioner Of Customs

19 DEC 2018

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OFFICE OF THE COMMISSIONER OF CUSTOMS (II)
(AIRPORT SPECIAL CARGO COMMISSIONERATE)

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F. No.: AIRSCC/02-36/2018-19 Admn (T)

Dated: 19.12.2018

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PUBLIC NOTICE NO. 30/2018

1. Various representations have been received from the trade with respect to Inconveniences faced by them at the Precious Cargo Customs Clearance Centre (PCCCC) at the Bharat Diamond Bourse (BDB), Bandra Kurla Complex, Mumbai.
2. Such grievances were also raised at the Open House chaired by the Member (Customs), CBIC on 5.12.2018.
3. Consultations were made with the Chairman and Executive Director, Gem and Jewellery Export Promotion Council (GJEP) so as to ameliorate the situation and improve the ease of doing business at PCCCC.
4. Hence, as an immediate measure, it has been decided to set up a Customs Help Desk (CHD) at the PCCCC, BDB.
5. The aim is to make importers and exporters self reliant by transparency of process at all stages of assessment and examination, and immediate action on grievances.
6. This CHD shall be manned by a Superintendent/Preventive Officer and an Appraiser/Examining Officer, assisted by two ministerial staff (T.A./ S.T.A.) and two sepoy/ havaldars. The Officers shall report directly to the Assistant Commissioner/Deputy Commissioner (AC/DC), Vigilance, Hqrs, APSC.

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7. The functions of the CHD shall be as under:

- To help and guide the importers and exporters so that they are not dependent on any other person or middlemen for proper guidance and to provide correct information about Customs processes and also indicate waiting time for the service sought depending upon the position of the importer or exporter in the queue.
- To Implement the Citizen Charter of the CBIC
- Monitoring the work of all the Sepoys, Havalgars and Head Havalgars at PCCCC including the CHD viz. monitoring their courteousness towards the trade and also the orderliness of trade so as to ensure the comfort of importers and exporters. Ensuring that the packing and sealing of consignments and other duties to be performed by these staff are performed immediately without any delay or harassment.
- Monitoring the work of all the Tax Assistants and Senior Tax Assistants posted at PCCCC including the CHD viz. documents as submitted by importers and exporters are immediately registered in the prescribed registers and on the ICES System, on first come first served basis only. There should be no complaint of any particular person or group or broker being favoured on these matters.
- Ensuring that, all services are rendered on First Come First Served basis only and that there is no instance of queue jumping. For this purpose, the CHD may adopt a queue management system based on numbered slips or tokens.
- Ensuring that the Service Centre is manned at all times and the Touch Screen Information Kiosks are working and functional at all times.
- They shall ensure that, the staff at the Service Centre are courteous and the queues are structured and orderly and the service is rendered on first come first served basis only.
- Ensuring that, no unauthorized person, is allowed into the Customs Area. Proper identification is always carried by all persons and no middlemen are allowed to enter or operate. Any unauthorised person found in the PCCCC shall be dealt with in terms of the Customs Act, 1962 and the IPC, 1860 and all laws applicable including those relating to trespassing.
- Every complaint of harassment or demand for any consideration by any staff of Customs shall be patiently and courteously received, and if oral, shall be reduced to writing and got signed by the complainant. Such complaint shall

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- be immediately escalated to the AC/DC (Vigilance), Hqrs, APSC, Mumbai orally and by E Mail/ Fax.
- In case of complaints of delay in processing imports or exports, the CHD Officers shall effectively coordinate with the relevant AC/DC, Imports or Exports, PCCCC and/or the Appraising Group and communicate the cause of delay to the complainant. This must be done within 60 (sixty) minutes.
 - The Officers of the CHD shall coordinate with the BDB Authorities and GJEPC for improving the amenities available for the importers and exporters and Customs staff in the PCCCC.
 - The CHD shall also take up any complaint by the Customs staff, about intimidation or misbehaviour or inducement or any threat, by any importer or exporter or licenced customs broker. They shall promptly bring such matters to notice of GJEPC and BDB authorities, as well. Customs staff at PCCCC shall give immediate, detailed written reports of each such incident to the CHD.
8. Notice is taken of the amendments made to the Customs Act, 1962 by the Finance Act, 2018, w.e.f. 29.3.2018. A Proviso has been inserted in Section 17 (1) and so also the first Provisos have been substituted/inserted in Section 47 and Section 51 of the Customs Act, 1962, so as to stipulate that, selection of verification of, both, entries made in Bills of Entry and Shipping Bills as well as self assessment made by importers and exporters, shall be made on the basis of risk evaluation through appropriate selection criteria. Hence, the law now mandates verification based on appropriate selection criteria. This applies to all imports and exports. Customs staff have to take note of this position in law.
9. It is reported that, owing to the nature of the trade in gemstones, most import or export documents are filed late in the day and mostly between 3 to 4 p.m. This is more so in case of export consignments. A lot of pressure is exerted on Customs to clear all export consignments the same day. The Customs staff are required to work upto at least 8 p.m. so as to ensure that exports are not held up. This casts some very specific responsibilities on the importers, exporters and licensed customs brokers to give correct and complete descriptions/documents and present the goods in categories, packings and forms which support speedy examination and assessment as well as on Customs to take proper, informed decisions quickly.

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10. Instructions have been issued to the AC/DC Imports and Exports, Customs, PCCCC that, the response time of Customs for any import or export, as far as possible, shall be within 12 (twelve) hours. Such time of 12 (twelve) hours shall be calculated from the delivery of the precious cargo by the Custodian i.e. BDB to the Customs through the importer/exporter/licensed customs broker. It is informed that BDB retains time stamps of such deliveries.

11. No assessment or examination or any Customs process, by any Officer or Expert, shall be undertaken in any area which is not under CCTV coverage of BDB. No interaction of any Customs staff with any importer, exporter, licensed customs broker or representative of the trade shall take place in any area not under CCTV coverage of BDB.

12. Within such 12 (twelve) hours, Customs shall deliver any one of the following five responses:

- (i) In cases where the declaration is complete and correct, clear the export or import consignment for Customs purposes (including such cases where importer or exporter agrees to a reassessment of classification or value as advised by the AC/DC Import/Export, PCCCC)
- (ii) Direct provisional assessment and clearance in terms of Sec 18 of the Customs Act, 1962
- (iii) Refer the Import or export consignment to the Panel of Experts
- (iv) Refer the Import or export consignment to an authorised Laboratory for testing
- (v) Seize the import or export consignment, in case of any offending goods, under Section 110 of the Customs Act, 1962.

13. All effort shall be made to give the responses at (i), (iii) and (iv) above within 6 (six) hours.

14. In recognition of the fact that, Customs does require skill to assess precious cargo because of the domain knowledge and expertise involved, a Panel of Experts recommended by GJEPC is appointed. The opinion of such a Panel is greatly desired and respected. However, on account of various unfortunate events in July, 2018, the following procedure is prescribed:

- Customs shall accept the opinion of the Panel of Experts, except in case of any specific intelligence of any collusion between the Panel and the Importer or

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Exporter or Broker. Such intelligence shall be immediately reduced to writing and communicated immediately to the AC/DC (Vigilance), Hqrs, APSC.

- Due note has to be taken of the fact that such Experts, formerly appointed to the Panel based on the recommendation of the GJEPC, were found to be colluding with importers/exporters in acts of misdeclaration, by the Directorate of Revenue Intelligence.
- Customs shall refer any consignment of import or export to the Panel of Experts, also in cases where such request is made by the Importer or Exporter in writing.
- In case of diamonds subjected to the Kimberley Process Certification Scheme (KPCS), the KPCS Certificate which is issued by the Designated Agency in the Country of Supply mentions the value of the goods. The authenticity of this Certificate is validated by the GJEPC. However, in cases of imports from suspect countries of supply or exports to suspect countries of export, or in cases of imports from suspect suppliers or imports and exports by suspect importers or exporters, the KPCS Certificate value cannot form the basis for assessment. If there is any specific intelligence as to undervaluation or overvaluation in such cases, such intelligence shall be immediately reduced to writing and communicated immediately to the AC/DC-Import or Export at PCCCC.
- There may be no need to refer the import or export consignment, already referred to the Expert Panel and opinion is given, for a second opinion, except in cases of collusion as stated above.
- However, in case of a serious dispute to the first Expert Opinion, the issue may be referred to committee of 3 (three) Experts for a second opinion. However, this must be done with as little delay as possible.
- The import or export consignment referred to the Panel of Experts, either by Customs on their own motion or at the request of the trade, shall be allotted a reference number by the AC/DC, Customs. The reference number will be a sequential number and will be entered in a Reference Register, Bill of Entry (BE) and Shipping Bill (SB) Wise. The consignment referred shall be taken by the Customs staff only, to the Expert along with a Reference Memo. The Reference Memo shall state only the Reference Number and declared description and value of goods. There shall be no revelation of the identity of the Importer or exporter or licensed customs broker or the BE/SB number. The Experts shall give their evaluation report (EVR) on the Reference Memo under their dated signature, stamp and seal of identity.

- All records of references made to the Panel of Experts along with Reference Memoranda and Evaluation Reports (EVR) shall be scrupulously maintained with Bill of Entry and Shipping Bill details by Customs in the PCCCC. Reference number and Expert Evaluation Report (EVR) shall be recorded in the ICES in the appropriate Remarks.
- BDB and the GJEPC shall immediately provide a private seating area for the Panel of Experts within the PCCCC, secured by CCTV coverage, insulated from the trade entirely. This shall prevent any knowledge of the identity of the importer or exporter or licensed customs broker and shall prevent any cause for biased opinion or foul play. No licensed customs broker or importer or exporter shall be allowed to interact in any manner, with any member of the Panel of Experts or to enter their seating area.
- BDB and the GJEPC are requested to ensure attendance by all Experts appointed. Customs recognises that Experts are eminent persons from the trade who are giving their valuable time for facilitating prompt clearance by Customs. However, absence of appointed Experts and insufficient number of Experts is a serious cause for concern.
- BDB and GJEPC are requested to recommend as many numbers of competent and respectable Experts, as they can, so that the strength of the Expert Panel may be suitably augmented, after due process of verification by Customs.

15. In case, Importers and exporters are unsure of the nature, description, quantity or value of their consignment, they are requested to opt for either the facility of prior examination of consignment facility under the Second Proviso to Section 46(1) of the Customs Act, 1962 OR for First Check assessment of consignment. This shall ensure that, there shall be no ground for alleging misdeclaration against such importer or exporter and Customs shall itself determine the ingredients essential for assessment and appraisal of the consignment.

16. Importers and Exporters are requested to provide the gems segregated as per prescribed standard sieve sizes or as per categories provided in the Rapaport Diamond Report which is issued on a monthly basis. This shall facilitate quicker assessment by Customs. Exporters, especially, are requested to do this prior to filing of Shipping Bill so that exports are not delayed.

17. Customs generally relies upon Certificates issued by authorised Testing Laboratories, except in cases of intelligence that such certificates are either

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forged or do not pertain to the consignment for which presented. Importers and Exporters are informed that, in case they submit any such certificate to customs, the goods must match all requirements of such certificate. This applies to re imports also. Goods, whose identity has been established at the time of export on the basis of a particular certificate, when re imported must meet the requirement of such certificate only. The Report numbers as mentioned in such certificates and which are etched/engraved on the outer edge (girdles) of the gem, or hallmarks or such identification numbers as are mentioned in such certificates are the means to establish identity. These must not be altered or obliterated. If goods presented for assessment, on the basis of such certification, are found to be not in terms of the certificate, they may be subject to seizure on the ground of misdeclaration.

18. Importers and Exporters are instructed to ensure that the measuring instruments used by them are properly calibrated. They are requested to categorically state on the Shipping Bill or Bill of Entry, the brand and type of measuring instruments used by them e.g. gauges, callipers etc. for determining the dimensions of the gems for declaration on their Customs documents, invoices etc. This shall facilitate proper examination and assessment by Customs and prevent disputes arising from instrument/gadget variations.
19. GJEPC and BDB are requested to provide to the Customs at PCCCC at least 20 sets of all varieties and brands of measuring instruments, commonly used by the trade. This shall facilitate measurement by the appropriate instrument and method and prevent cause for dispute.
20. Importers and Exporters are requested to categorically state on the Shipping Bill or Bill of Entry the facets/ faces of the gem adopted for determining the dimensions of the gems for declaration on their Customs documents, invoices etc. This shall facilitate proper examination and assessment by Customs and prevent disputes arising out of any varying method adopted by Customs from those adopted by the importer or exporter.
21. Exporters who export on Consignment Basis or for exhibition are requested to give photographs and test Laboratory Certificates, as far as possible, so as to support identification at the time of re import. Re import of goods exported on consignment basis, as far as possible, should be in the same segregation of size

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packets as when exported. This shall support easy identification of the re imported goods. The re import of such goods in mixed lots is a cause for dispute and delay. However, for large size gems (for e.g. of 0.25 Carat and above), they should be presented as individual pieces (Notf 9/2012 Cus refers)

22. Proper records and control registers shall be maintained by the AC/DC, PCCCC of exports and re imports made on consignment basis, so that a proper mechanism is in place for establishing their identity. This is to be done as per the directions of the Comptroller and Auditor General of India in their Performance Audit Report No. 6 of 2016 for Chapter 71 of the Customs Tariff.

23. New technologies for e.g. Optical Digital Imaging Technology etc. are today available for identification of gems and storing the images comprehensively for future reference. BDB has offered to provide machines based on such technology (e.g. Smart I etc.) They are directed to provide 5 such machines immediately.

24. Examination and assessment of gold and gold jewellery shall be done only upon testing by the Gold Purity Spectrum Analyser machines deployed by Customs.

25. Most Laboratory Grown Diamonds are being sent to authorised laboratories for identification. To decrease dwell time and ensure faster response by Customs BDB is directed to immediately provide appropriate machines for testing of such gems.

26. BDB and the GJEPC are requested to immediately provide a Kiosk based Queue Management System along with Electronic Display Board and Automated Public Address System for generating structured queues at the Service Centre as well as other Customs points for e.g. submission of documents, registration of consignment, query handling etc. Such a System shall ensure transparent and effective ticket based ranking of importers and exporters coming to the PCCCC for different Customs processes. It shall support the first come first served concept and prevent any person being favoured.

27. It has been reported that the staff of various licensed customs brokers are preventing the efficient and legal functioning of the PCCCC. There have been allegations of collusion on account of such persons. It is directed that only authorised persons holding proper identity cards, worn on their person in a clearly visible manner, shall be allowed in the PCCCC. There shall be regular

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scrutiny of the CCTV footage of the BDB, on a daily basis, to identify unauthorised persons entering the PCCCC. These persons and if they are staff of any licensed customs brokers, such licensed customs brokers, shall be liable to prosecution in terms of the law. Immediate action shall be taken against Customs staff found dealing with such persons.

28. Also, authorised persons should not enter the PCCCC, except in relation to clearance of imports and exports of consignments dealt with by their licensed agency alone. The PCCCC is not a place for informal socialisation.

29. All importers, exporters and brokers should note that, any obstruction, of any staff of Customs, in performing their official legal functions is punishable with imprisonment under Section 353 of the IPC, 1860 as well as Section 133 of the Customs Act, 1962. There should be no threat or intimidation or inducement or pressure exercised on the Customs staff, to prevent them from performing their functions under law.

30. The Customs Department undertakes to behave legally, courteously and with due civility to all its clients along with time bound action and prompt redressal of legitimate grievances. However, any threat or intimidation or pressure on the Customs staff shall be dealt with in accordance with the law with equal promptness and severity. Any attempt to influence Customs staff, by threat or calls from powerful entities, so as to interfere with their functioning, if reported, shall be dealt with in accordance with the law.

31. This Public Notice shall not, in any manner, affect the rights of the Directorate of Revenue Intelligence (DRI) or any law enforcement agency or any anti corruption agency, in performing their functions within the PCCCC.

H. A. Shah

17.12.2018

(HITESH SHAH)

(COMMISSIONER)

AIRPORT SPECIAL CARGO, MUMBAI

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Copy to:

- 1) The Chief Commissioner of Customs, Mumbai Zone-III,
- 2) Commissioner of Customs, APSC, Mumbai Zone-III,
- 3) Joint Commissioner of Customs, APSC, Mumbai Zone-III,
- 4) All DC/ACs, APSC, Mumbai Zone-III,
- 5) GJPC, Mumbai,
- 6) M/s Bharat Diamond Bourse, Mumbai,
- 7) BCHAA/ Customs Brokers Association, Mumbai,
- 8) EDI, APSC, Mumbai for uploading on website,
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- 10) Office Copy