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CRU (IMPORT)
O/O THE COMMISSIONER OF CUSTOMS
ACC, ANDHERI (E)

CUS/AG/MISC/1740/2023-PRO-O/o Commr-Cus-Imp-Zone-III-Mumbai

I/1310004/2023

सीमाशुल्क आयुक्त (आयात) का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT),
जन संपर्क अनुभाग, हवाई माल संकुल सहार, अंधेरी (पूर्व), मुंबई- ४०० ०९९
TECHNICAL, AIR CARGO COMPLEX, SAHAR, ANDHERI (EAST), MUMBAI - 400 099
Email ID: pro.acc-sahar@gov.in Phone No: 022 26816696

PUBLIC NOTICE NO 35/2023-24

Subject: Implementation of Hon'ble Supreme Court direction in judgment dated 28.04.2023 in matter of Civil Appeal No. 290 of 2023 relating to 'pre-import condition' – reg.

2. Kind attention of all importers / exporters / other stakeholders is invited to Circular No 16/2023 dated 07.06.2023 issued by CBIC vide F.No 605/11/2023-DBK/569 for implementation of Hon'ble Supreme Court direction in judgment dated 28.04.2023 in matter of Civil Appeal No. 290 of 2023 relating to 'pre-import condition'.

3. Vide the said circular CBIC has drawn attention to Hon'ble Supreme Court judgment dated 28.04.2023 in matter of Civil Appeal No. 290 of 2023 (UOI and others vs. Cosmo Films Ltd.) relating to mandatory fulfillment of a 'pre-import condition incorporated in para 4.14 of FTP 2015-20 vide the Central Government (DGFT) Notification No. 33/2015-20 dated 13.10.2017, and reflected in the Notification No. 79/2017-Customs dated 13.10.2017, relating to Advance Authorization scheme.

4. Accordingly, the following procedure has been prescribed at the port of Import: -

(a) For the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that extent, the importer (not limited to the respondents) may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest.

(b) The assessment group at POI shall cancel the OOC and indicate the reason in remarks. The BE shall be assessed again so as to charge the tax and cess, in accordance with the above judgment.

(c) The payment of tax and cess, along with applicable interest, shall be made against the electronic challan generated in the Customs EDI System.

(d) On completion of above payment, the port of import shall make a notional OOC for the BE on the Customs EDI System [so as to enable transmission to GSTN portal of, inter alia, the IGST and Compensation Cess amounts with their date of payment (relevant date) for eligibility as per GST provisions].

(e) The procedure specified at (a) to (d) above can be applied once to a

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BE.

5. Accordingly, the input credit with respect to such assessed BE shall be enabled to be available subject to the eligibility and conditions for taking input tax credit under Section 16, Section 17 and Section 18 of the CGST Act, 2017 and rules made thereunder.

6. Further, in case such input tax credit is utilized for payment of IGST on outward zero- rated supplies, then the benefit of refund of such IGST paid may be available to the said registered person as per the relevant provisions of the CGST Act, 2017 and the rules made thereunder, subject to the conditions and restrictions provided therein.

7. Difficulty, if any, faced in the implementation of this Public Notice may be brought to the notice of the Additional Commissioner of Customs, Technical Section through email at pro.acc-sahar@gov.in.

8. This Public Notice shall be considered as Standing Order for purpose of Officers and Staff of the Department.

Signed by G Shiril Saroj
Date: 22-07-2023 20:17:56
Reason: Approved

(G.SHIRIL SAROJ)
Commissioner

Copy to:-

1. The Chief Commissioner of Customs, Mumbai Customs Zone - III.
2. Pr. Commissioner / Commissioner of Customs, Import / Export / General, ACC.
3. All Addl./Jt. Commissioner of Customs, Import / Export / General, ACC.
4. BCBA & ACAAI. (via E-mail)
5. DC/EDI for uploading on ACC website (via E-mail)
6. Office copy.

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