

CBEC Clarification on Legislative Changes to Section 46 and 47 of Customs Act 1962

- **Filing of Self Assessed Bill of Entry**

[CBEC Circular No. 12 dated 31st March 2017]

Subject: Clarification regarding legislative changes relating to Customs Act, 1962 proposed in the Finance Bill, 2017.

Kind reference is invited to proposals in the Finance Bill, 2017 relating to amendments in sections 46 and 47 of the Customs Act, 1962. These changes would come into effect upon enactment of the said Finance Bill.

2. Clarifications have been requested regarding applicability of the new provisions vis-a-vis arrival of goods and filing of bill of entry.

Changes in Section 46 of the Customs Act

3. The amendments in the section are aimed at prescribing a late charge for delayed filing of Bill of Entry (BOE). As per the amended Section 46 the importer shall present the bill of entry under sub-section (1) of section 46 before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or for warehousing. The free period for filing a BOE is up to the end of the next day following the day (excluding holidays) of arrival of goods at the place where the clearance for home consumption or warehousing is to take place.

4. In this regard, Board has amended Bill of Entry (Electronic Integrated Declaration) Regulations, 2011 and Bill of Entry (Forms) Regulations, 1976 to prescribe late charges for delayed filing. Entry Inwards date at sea ports and date of arrival of cargo at the ICD, airports, Land Customs stations etc would be the relevant date for determining the said charges, if any. It has also been clarified in both the regulations that no charges for late presentation of Bill of Entry shall be liable to be paid where the goods have arrived before the enactment of Finance Bill, 2017. .

[Notification No. 26/2017-Customs (N.T) dated 31.03.2017 and Notification No.27/2017-Customs (N.T) dated 31.03.2017 refers].

Late charge for delayed filing of Bill of Entry (BOE)

No charges for late presentation of Bill of Entry shall be liable to be paid where the goods have arrived before the enactment of Finance Bill, 2017

Handling of Cargo in Customs Areas Regulations, 2009 so as to make it mandatory for the Customs Cargo Service providers to provide the information about arrival of cargo to the Customs.

5. Entry inwards or arrival of the goods (in case of sea cargo or air cargo) is captured in ICES. As is evident from the foregoing, for clearances at ICDs, date of arrival of cargo is critical for determining late charges. Board has, therefore, made amendment in the Handling of Cargo in Customs Areas Regulations, 2009 so as to make it mandatory for the Customs Cargo Service providers to provide the information about arrival of cargo to the Customs. [Notification No. 24/2017-Customs (RT) dated 31.03.2017 refers].

6. Further, CBEC has amended notification No. 40/2012-Customs dated appointing Additional/Joint Commissioner rank officer as the proper officer for considering the requests for waiver of late charge under second proviso to sub-section (3) of section 46. Board expects that this power is invoked in cases where there is no wilful delay in filing the BoE so that waiver is granted only in bonafide cases. [Notification No. 25/2017-Cus (RT) dated 31.03.2017 refers].

Changes in Section 47 of the Customs Act

The implication of proposed amendment is that the importer shall have to make payment of duty on the same day in case of self-assessed BoE and in case of re-assessment or provisional assessment, within one day after the return of BoE.

Sub-section (2) of section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed BoE or as the case may be assessed, re-assessed, provisionally assessed BoEs. The existing provision is that a time period of two days is given to an importer to pay customs duty from the time of return of bill of entry. The implication of proposed amendment is that the importer shall have to make payment of duty on the same day in case of self-assessed BoE and in case of re-assessment or provisional assessment, within one day after the return of BoE. In this regard, it is further clarified that:

All BoEs filed before the enactment of Finance Bill, 2017 shall be governed by the provisions of section 47 as it stood immediately before the date of such enactment except where such BoE is re-assessed, provisional assessed on or after the said enactment, the importer shall have one day (excluding holidays) instead of two days for payment of duty. BoEs filed on the date of enactment or thereafter shall be subject to the new provisions.

7. Difficulties faced, if any, may be brought to the notice of the Board at the earliest.

[Customs Notification No. 24 (Non Tariff) dated 31st March 2017]

In exercise of the powers conferred by sub-section (2) of section/4n 141 read with section 157 of the Customs Act, 1962(52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations further to amend the Handling of Cargo in Customs Areas Regulations,2009, namely: -

1. (1) These regulations may be called the Handling of Cargo in Customs Areas (Amendment) Regulations, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Handling of Cargo in Customs Areas Regulations, 2009, in regulation 6, in sub-regulation (1), after clause (a), following clause shall be inserted, namely: -

“(aa) Provide information regarding arrival of the imported goods to the Deputy Commissioner or Assistant Commissioner of Customs immediately on arrival of said goods in the customs area and also information about their departure after the clearance thereof”.

[F.No.450/ 114/ 2015 -Cus IV]

[Customs Notification No. 25 (Non Tariff) dated 31st March 2017]

In exercise of the powers conferred by clause (34) of section 2 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 40/2012-Customs (N.T.), dated the 2nd May, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 993 (E), dated the 2nd May, 2012, namely: -

In the said notification, in the Table, in column (3) against serial number 2, for the existing item (i), the following item shall be substituted, namely:- “(i) Second proviso to sub-sections (3), and (5) of section 46; and”.

[F.No.450/32/2016-Cus IV]

[Customs Notification No. 26 (Non Tariff) dated 31st March 2017]

In exercise of the powers conferred by section 157 read with section 46 of the Customs Act, 1962(52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations further to amend the Bill of Entry(Electronic Integrated Declaration) Regulations, 2011, namely: -

1. (1) These regulations may be called the Bill of Entry (Electronic Integrated Declaration) Amendment Regulations, 2017.

(2)They shall come into force on the date of their publication in the Official Gazette.

2. In the Bill of Entry(Electronic Integrated Declaration) Regulations,2011, the following regulation, regulation 4, shall be substituted, namely: -

“Regulation 4. (1) The authorised person shall file the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.

(2) The bill of entry shall be deemed to have been filed and self-assessment of duty completed when, after entry of the electronic integrated declaration in the Indian Customs Electronic Data Interchange System either through ICEGATE or by way of data entry through the service centre, a bill of entry number is generated by the Indian Customs Electronic Data Interchange System for the said declaration.

(3) Where the bill of entry is not filed within the time specified in sub-regulation (1) and the proper officer of Customs is satisfied that there was no sufficient cause for such delay, the importer shall be liable to pay charges for late presentation of the bill of entry at the rate of rupees five thousand per day for the initial three days of default and at the rate of rupees ten thousand per day for each day of default thereafter:

Provided that where the proper officer is satisfied with the reasons of delay, he may waive off the charges referred to in the second proviso to sub-section (3) of section 46 of the Customs Act, 1962 (52 of 1962).

(4) No charges for late presentation of Bill of Entry shall be liable to be paid where the entry inwards or arrival of cargo, as the case may be, has taken place before the date on which the Finance Bill, 2017 receives the assent of the President.”

[F.No.450/32/2016-Cus IV]

[Customs Notification No. 27 (Non Tariff) dated 31st March 2017]

In exercise of the powers conferred by section 157 read with section 46 of the Customs Act, 1962(52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations further to amend the Bill of Entry(Forms) Regulations, 1976, namely:-

1. (1) These regulations may be called the Bill of Entry (Forms) Amendment Regulations, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Bill of Entry(Forms) Regulations,1976, after regulation 3,the following regulation shall be inserted, namely;

“Regulation 4. (1) The importer or a person authorised by him who has a valid licence under the Customs Broker Licensing Regulations, 2013, shall present the bill of entry

before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.

(2) Where the bill of entry is not presented within the time specified in sub-regulation (1) and the proper officer of Customs is satisfied that there was no sufficient cause for such delay, the importer shall be liable to pay charges for late presentation of the bill of entry at the rate of rupees five thousand per day for the initial three days of default and at the rate of rupees ten thousand per day for each day of default thereafter:—

Provided that where the proper officer is satisfied with the reasons of delay, he may waive off the charges referred to in the second proviso to sub-section (3) of the section 46 of the Customs Act, 1962 (52 of 1962).

(3) No charges for late presentation of Bill of Entry shall be liable to be paid where the entry inwards or arrival of cargo, as the case may be, has taken place before the date on which the Finance Bill, 2017 receives the assent of the President.”

[F.No.450/32/2016-Cus IV]

[Customs Notification No. 28 (Non Tariff) dated 31st March 2017]

In exercise of the powers conferred by the proviso to sub-section (1) of section 47 and section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules to amend the Deferred Payment of Import Duty Rules, 2016, namely: -

1. (1) These rules may be called the Deferred Payment of Import Duty (Amendment) Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 5 of the Deferred Payment of Import Duty Rules, 2016, for the clauses (a) to (d), the following clauses shall be substituted, namely: -

“(a) for goods corresponding to Bill of Entry returned for payment from 1st day to 15th day of any month, the duty shall be paid by the 16th day of that month;

(b) for goods corresponding to Bill of Entry returned for payment from 16th day till the last day of any month other than March, the duty shall be paid by the 1st day of the following month; and

(c) for goods corresponding to Bill of Entry returned for payment from 16th day till the 31st day of March, the duty shall be paid by the 31st March”.

[F. No. 450/81/2016-Cus IV]