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Safeguard Duty of 20% Imposed on Stainless Steel HR Flats from China on Account of "Market Disruption" – Final Findings

Customs Notification

Highlights of the Case

[Ref: G S R D-22011/06/2012 dated 25th May 2013]

18a The subject goods are classified under Customs subheading no. 721911, 721912, 721913, 721914, 721921, 721922, 721923, 721924, 722011, 722012 of the Customs Tariff Act, 1975. However, the DG(S) after examining the views of the interested parties and submissions made by us restricted the product scope to "Hot Rolled Flat products of Stainless Steel-304 grade and encompassing all austenitic grades having minimum Nickel (Ni) content of 6%, compulsorily containing chromium with or without the presence of other alloying elements like molybdenum, titanium etc., of the Customs Tariff Act, 1975", hereinafter referred to as Hot Rolled Stainless Steels in the Preliminary Findings, which is, at this stage, the Product under consideration. The subject goods are used for manufacture of process equipments, rerolling, reactor vessels, material handling equipments, railways, pipes & tubes, automotive components, rolled formed sections, architecture, building & construction, industrial fabrication etc.



h. There are two other producers of the goods but the applicant company M/s. Jindal Stainless Ltd account for more than 90% of production and hence is a major producer.

i. The imports of the product under consideration have increased throughout the injury period in absolute terms with a sharp increase in imports in the recent period. There is a sudden, sharp and significant increase in imports in the recent period. Imports have also increased in relation to production in India throughout the injury period with a significant increase in the most recent period. It would thus be seen that imports of product under consideration have shown recent, sudden, significant and sharp increase. The condition prescribed under the rules in this regard is clearly met.

k. Unforeseen development which has led to increase in imports is the rapid capacity growth recorded by China at a rate which is far higher as compared to the growth in domestic demand, resulting in excess production and huge surpluses. China was a net importer of stainless steel products until 2009 and thereafter became the exporter of the same.

l. Cost advantage to Chinese producers: Access to cheap Nickel in the form of Nickel Pig Iron has enabled Chinese Stainless Steel producers to have a lower cost of production as compared to their counterparts in other countries. Development in Nickel Pig Iron facilities has happened over the last 2-3 years. This has allowed the country to ramp up production and dominate the global market in recent years. Nickel pig iron

was developed in China specifically for stainless steel production.

m. Other advantages of Chinese producers: Coke forms the second highest cost item in Ferro Chrome production cost after chrome ore which is an essential element in the manufacture of stainless steel. China, having very large coking coal deposits has a huge advantage over India. Borrowing cost of Chinese companies is below 5%, as credit is regulated by the Chinese government / its agencies.

n. Demand of the product concerned has increased throughout the injury period, Further, the evidences provided shows that by end of 2015, China's stainless steel products capacity will reach 20 million tons and output will reach 19 million tons and the demand in China will reach 16 million tons, leaving a surplus of 3 million tons. Considering the huge production capacities of the subject goods in subject country and their export orientation and the increasing demand for the subject goods in India, in all likelihood imports will continue to remain high, causing market disruption and grave threat of market disruption to the domestic industry.

q. Capacity: Domestic industry substantially enhanced its capacities and set up a fresh new green field plant at Odisha. The production of the domestic industry should have increased whereas the production did not even reach the levels achieved in 2009-10 because of increased imports from China and consequent adverse sales volumes of the domestic industry.

v. Shut Downs: The petitioner has been forced to undertake too many and too frequent production suspension. It is relevant to note the peculiarities of steel plant in this regard. In case there is a stoppage of about three hours between the batches, the energy consumption after restarting would be higher by 15-20%. Therefore on account of the inherent technical nature of the plant, the furnace has to be run on a continuous basis or in other words at optimum levels of capacity utilization. A lowering of the capacity utilization will not only result in higher fixed overhead cost per unit of production but also in higher variable cost on account of excessive consumption of power. Therefore, any plant shut down is a last resort for any manufacturer.

w. Profitability of the domestic industry has steeply declined in the recent period. The cost of sales of the product under consideration has increased throughout the injury period. But the domestic industry was unable to increase its selling price in proportion to the cost of sales due to increasing price of raw material and presence of cheap imports. Consequently the profits earned by the domestic industry have declined throughout the injury period.

x. The return on investments also followed the same trend as that of profits. The return on investments declined due to

presence of increased imports.

cc. Contrary to what is alleged by the interested parties, the monthly average of 300 series production for the three years is 11,512MT, 11875MT & 15126MT respectively. Similarly, the average monthly inventory of 300 series for the three years is 7236MT, 6175MT and 7658 MT respectively. Further, even going by the incorrect figures, the inventory as a % of production (for 300 series) has risen from 37% in base year to 71% in 2011-12 and inventory as a % of captive consumption should be ignored as captive consumption is not a relevant factor.

23d. The safeguard measures are extraordinary remedies to be taken only in emergency situations. The domestic industry has failed to establish any such emergency.

58. Under the Rules, "market disruption" shall be caused whenever an article is imported into India, from the People's Republic of China, in such increased quantities and under such conditions so as to cause or threatening to cause market disruption to domestic industry. "Market disruption" shall be caused whenever imports of a like article or a directly competitive article produced by the domestic industry, increase rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry. "Threat of market disruption" means a clear and imminent danger of market disruption.

69. Conclusion

On the basis of the above examination and analysis above, it is concluded that:

a. There has been a significant increase in imports from China in absolute terms in the POI as compared to the base year. However, this increase is not as sharp as compared to the immediately preceding year. Even though this increase is significant, it is important to note that in this case, the increase as compared to the domestic production has remained almost constant and there has been less significant increase when the comparisons are made in relation to the total consumption. Thus, even if

it cannot be concluded that there is a rapid or recent surge in imports from China over the entire POI, it is noted that there has been significant increase in imports from China so as to cause or threaten to cause market disruption.

b. The Domestic Industry has not been able to demonstrate that the developments in the market for the Product under Consideration were unforeseen. On the contrary, even the information supplied by them does not support their case, as examined in detail in the relevant paragraphs above.

c. The Domestic Industry has not been able to show market disruption or serious injury on account of factors of market share, production, sales and capacity utilization. However, the Domestic Industry is indeed suffering losses with a negative return on capital employed. As the rising imports have affected the demand in the country considerably, the domestic industry has faced problems in sales and rising inventory levels. It establishes the causal link between the rise in imports from China and market disruption caused to this extent during the POI.

d. On analysis of the data for the post POI period to arrive at a fair conclusion, it is observed that the position of the domestic industry has improved on account of factors of market share, production, sales, export and inventory. Even the imports have declined. Thus, there exists no cause of concern for any form of market disruption or threat of market disruption to the domestic industry in the post POI period to the extent that no further protection is required.

e. The basic problem of the Domestic Industry is in the context of low price realization which could be on account of the low prices offered by the Chinese exporters. The Domestic Industry has, however, not given enough details on the price front so as to carry out a conclusive comparative analysis perhaps due to the fact that this is an investigation under Section 8C of the Customs Tariff Act.

India for a period of 200 days from 4th January, 2013 vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 1/2013-Customs (SG), dated the 4th January, 2013, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.15 (E), dated the 4th January, 2013;

And whereas, the Director General (Safeguard) in its final findings vide number G.S.R. 338(E), dated the 25th May, 2013 and subsequent Corrigendum vide G.S.R. 346(E) dated 30th May, 2013, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), recommended final duty at the rate of twenty per cent on Hot Rolled Flat Products of Stainless Steel - 304 grade (upto a width of 1625 mm), falling under said subheadings, for the period of 200 days starting from 4th January, 2013 to 22nd July, 2013 (both days inclusive);

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 8C of the Customs Tariff Act, read with rules 12 and 14 of the Customs Tariff (Transitional Product Specific Safeguard Duty) Rules, 2002, the Central Government after considering the said final findings of the Director General (Safeguard), hereby imposes final safeguard duty at the rate of twenty per cent ad valorem on all imports of Hot Rolled Flat Products of Stainless Steel -304 grade (upto a maximum width of 1605 mm), falling under the said subheadings, from the People's Republic of China, for the period of 200 days starting from the 4th January, 2013 to 22nd July, 2013 (both days inclusive).

[F No. 354/158/2012-TRU-Part I]

US-ASEAN Commit to Trade Facilitation at Bali

1. Consultations between the ASEAN Economic Ministers (AEM) and the United States Trade Representative ("the Ministers") were held on 21 August 2013 in Bandar Seri Begawan, Brunei Darussalam. The Consultations were co-chaired by The Hon. Pehin Dato Lim Jock Seng, Second Minister of Foreign Affairs and Trade, Brunei Darussalam and H.E. Michael Froman, United States Trade Representative.

2. The Ministers noted that merchandise trade between ASEAN and the United States remained strong despite the uncertainty in the global economy. Total merchandise trade between ASEAN and the United States reached US\$200.2 billion in 2012. The United States remained the fourth largest trading partner of ASEAN.

3. The Ministers also noted that foreign direct investment (FDI) flow from the United States to ASEAN amounted to US\$6.9 billion in 2012. The United States is the third largest foreign direct investor in ASEAN.

ASEAN- US Trade and Investment Framework Arrangement (TIFA) and Expanded Economic Engagement (E3)

4. The Ministers took note of the on-going work to implement the ASEAN-US TIFA and E3 which included:

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Ntnf 02-SG 29.08.2013 (DoR) Whereas, in the matter of import of Hot Rolled Flat Products of Stainless Steel 304 grade classified within

Chapter 72 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), the Director General (Safeguard), in its preliminary findings published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 714(E), dated the 24th September, 2012 and subsequent Corrigendum vide G.S.R. 825(E) dated 12th November, 2012 and Corrigendum-2 vide G.S.R. 841 (E) dated 23rd November, 2012 had come to the conclusion that increased imports of Hot Rolled Flat Products of Stainless Steel - 304 grade (upto a maximum width of 1605 mm) and encompassing all austenitic grades having minimum Nickel (Ni) content of six per cent., compulsorily containing Chromium with or without the presence of other alloying elements like Molybdenum, Titanium etc., (hereinafter referred to as the subject goods) falling under sub-headings

72191111, 72191112, 72191190, 72191200, 72191300, 72191400, 72192111, 72192112, 72192121, 72192122, 72192131, 72192132, 72192141, 72192142, 72192190, 72192211, 72192212, 72192219, 72192291, 72192292, 72192299, 72192310, 72192320, 72192390, 72192411, 72192412, 72192413, 72192419, 72192421, 72192422, 72192423, 72192429, 72192490, 72201110, 72201121, 72201122, 72201129, 72201190, 72201210, 72201221, 72201222, 72201229, 72201290 of the First Schedule to the Customs Tariff Act (hereinafter referred to as said sub-headings), into India had caused and threatened to cause market disruption to the domestic industry comprising producers of the subject goods thereby necessitating the imposition of provisional safeguard duty on imports of the subject goods from the People's Republic of China into India;

And whereas, on the basis of the aforesaid findings of the Director General (Safeguard), the Central Government had imposed provisional safeguard duty on imports of the subject goods from People's Republic of China into

WEEKLY INDEX OF CHANGES

Anti-dumping Duty on DVD-R and DVD-RW from China, Hong Kong and Chinese Taipei Extended upto 22 July 2014

Ntnf 19-ADD 29.08.2013 (DoR) Whereas, the designated authority vide notification F.No. 15/10/2013-DGAD, dated the 18th July, 2013, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 18th July, 2013, had initiated review in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the said Customs Tariff Act) and in pursuance of rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 (hereinafter referred to as the said rules), in the matter of continuation of anti-dumping duty on imports of Digital Versatile Discs-Recordable (DVD-R and DVD-RW) originating in or exported from China PR, Hong Kong and Chinese Taipei, imposed vide notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 8/2009-Customs, dated the 22nd January, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number

G.S.R. 47(E), dated the 22nd January, 2009, and had recommended for extension of anti-dumping duty, in terms of sub-section (5) of section 9A of the said Customs Tariff Act;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the said Customs Tariff Act and in pursuance of rule 23 of the said rules, the Central Government hereby makes the following amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 8/2009-Customs, dated the 22nd January, 2009, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 47(E), dated the 22nd January, 2009, namely: -

In the said notification, after paragraph 2, the following shall be inserted, namely:-

“3. Notwithstanding anything contained hereinabove, this notification shall remain in force up to and inclusive of the 22nd day of July, 2014.”

[F.No.354/111/2008-TRU]

Suspension of IEC Number – Addl DGFT and Jt DGFT Appointed as Designated Authority

39-Ntnf(RE) 29.08.2013 (DGFT) In pursuance of the powers conferred by sub-section (1) of section 8 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), the Director General of Foreign Trade hereby authorises the Officers specified in column (2) of the Table below to exercise the powers specified in column (3) as under:

SNo.	Designation of the Officer	Delegated powers
(1)	(2)	(3)
1.	The Additional Director General of Foreign Trade	Suspension and cancellation of Importer-Exporter Code Number
2.	The Joint Director General of Foreign Trade	Suspension of Importer-Exporter Code Number subject to confirmation by the Additional Director General within thirty days from the date of the order.

2. Director General of Foreign Trade, however may revoke such authorisation or may himself exercise the powers under the said section, if in his opinion such a course of action is necessary in the public interest.

CBEC Clarifications on Service Tax Voluntary Compliance Encouragement Scheme

Subject: The Service Tax Voluntary Compliance Encouragement Scheme-clarifications.

170-ST 08.08.2013 (DoR) The Service Tax Voluntary Compliance Encouragement Scheme (VCES) has come into effect from 10.5.2013. Some of the issues raised with reference to the Scheme have been clarified by the Board vide circular No. 169/4/2013-ST, dated 13.5.2013. Subsequently, references have been received by the Board seeking further clarifications as regards the scope and applicability of the Scheme.

2. The issues have been examined and clarifications thereto are as follows:

SNo.	Issues	Clarification
1	Whether the communications, wherein department has sought information of roving nature from potential taxpayer regarding their business activities without seeking any documents from such person	Attention is invited to clarification issued at S. No. 4 of the circular No. 169/4/2013-ST, dated 13.5.2013, as regards the scope of section 106 (2) (a) of the Finance Act, 2013, wherein it has been clarified that the provision of section 106 (2)(a)(iii) shall be

or calling for his presence, while quoting the authority of section 14 of the Central Excise Act, 1944, would attract the provision of section 106 (2) (a)?

attracted only in such cases where accounts, documents or other evidence are requisitioned by the authorized officer from the declarant under the authority of a statutory provision.

A communication of the nature as mentioned in the previous column would not attract the provision of section 106 (2)(a) even though the authority of section 14 of the Central Excise Act may have been quoted therein.

2. An assessee has two units at two different locations, say Mumbai and Ahmedabad. Both are separately registered. The Mumbai unit has received a Show Cause Notice for non-payment of tax on a revenue stream but the Ahmedabad unit has not. Whether the Ahmedabad unit is eligible for VCES?

Two separate service tax registrations are two distinct assesseees for the purposes of service tax levy. Therefore, eligibility for availing of the Scheme is to be determined accordingly. The unit that has not been issued a show cause notice shall be eligible to make a declaration under the Scheme.

Dept. of Revenue Extends the Date of Submission of Form ST-3 from 31 Aug 2013 to 10 Sept 2013

[Service Tax Order No. 04 dated 30th August 2013]

In exercise of the powers conferred by sub-rule(4) of rule 7 of the Service Tax Rules, 1994, the Central Board of Excise & Customs hereby extends the date of submission of the Form ST-3 for the period from 1st October 2012 to 31st March 2013, from 31st August, 2013 to 10th September, 2013.

The circumstances of a special nature, which have given rise to this extension of time, are as follows:

“Difficulties have been faced by assesseees in uploading the offline utilities”.

F.No.137/99/2011-Service Tax

Panchi Gujaram Village ICD at Sonepat Notified for Unloading and Loading Goods

88-Cus(NT) 26.08.2013 (DoR) In exercise of the powers conferred by clause (aa) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Government, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/97-Customs (N.T.), dated the 2nd April, 1997, published in the Gazette of India, vide number G.S.R. 193(E), dated the 2nd April, 1997, namely:-

In the said notification, in the Table, against serial number (5) relating to the State of Haryana, after item (vi) in column (3), and the corresponding entry relating thereto in column (4) the following shall be inserted namely: -

(3)	(4)
“(vii) Village-Panchi Gujaram - District Sonepat	Unloading of imported goods and loading of export goods.”.

[F.No.434/22/2011-Cus.IV]

3	Whether a declaration can be made under the Scheme in respect of CENVAT credit wrongly utilized for payment of service tax?	Any service tax that has been paid utilizing the irregular credit, amounts to non-payment of service tax. Therefore such service tax amount is covered under the definition of "tax dues".	by declarant before the cut off date for filing of declaration, i.e., 31.12.2013.
4	Whether a party, against whom an inquiry, investigation or audit has been initiated after 1.3.2013 (the cutoff date) can make a declaration under the Scheme?	Yes. There is no bar from filing of declaration in such cases.	Department would ensure that the acknowledgement is issued in seven working days from the date of filing of the declaration. It may however be noted that payment of tax dues under the Scheme is not linked to the issuance of an acknowledgement. The declarant can pay tax dues even before the acknowledgement is issued by the department.
5	There was a default and a Show Cause Notice was issued for the period prior to the period covered by the Scheme, i.e. before Oct 2007. Whether declaration can be filed for default on the same issue for the subsequent period?	In the context of the Scheme, the relevant period is from Oct 2007 to Dec 2012. Therefore, the 2 nd proviso to section 106 (1) shall be attracted only in such cases where a show cause notice or order of determination has been issued for the period from Oct 2007 to Dec 2012. Accordingly, issuance of a show cause notice or order of determination for any period prior to Oct 2007, on an issue, would not make a person ineligible to make a declaration under the Scheme on the same issue for the period covered by the Scheme. Therefore, declaration can be made under VCES.	Yes. In terms of section 106 (2) of the Finance Act, 2013, the designated authority shall, by an order, and for reasons to be recorded in writing, reject a declaration if any inquiry/ investigation or audit was pending against the declarant as on the cutoff date, i.e., 1.3.2013. An order under this section shall be passed following the principles of natural justice. To allay any apprehension of undue delays and uncertainty, it is clarified that the designated authority, if he has reasons to believe that the declaration is covered by section 106 (2), shall give a notice of intention to reject the declaration within 30 days of the date of filing of the declaration stating the reasons for the intention to reject the declaration. For declarations already filed, the said period of 30 days would apply from the date of this circular. The declarant shall be given an opportunity to be heard before any order is passed by the designated authority.
6	In a case where the assessee has been audited and an audit para has been issued, whether the assessee can declare liability on an issue which is not a part of the audit para, under the VCES 2013?	Yes, declarant can declare the "tax dues" concerning an issue which is not a part of the audit para.	
7	Whether a person, who has paid service tax for a particular period but failed to file return, can take the benefit of VCES Scheme so as to avoid payment of penalty for non- filing of return?	Under VCES a declaration can be made only in respect of "tax dues". A case where no tax is pending, but return has not been filed, does not come under the ambit of the Scheme. However, rule 7C of the Service Tax Rules provides for waiver of penalty in deserving cases where return has not been filed and, in such cases, the assessee may seek relief under rule 7C.	
8	A person has made part payment of his 'tax dues' on any issue before the scheme was notified and makes the declaration under VCES for the remaining part of the tax dues. Will he be entitled to the benefit of non-payment of interest/penalty on the tax dues paid by him outside the VCES, i.e., (amount paid prior to VCES)?	No. The immunity from interest and penalty is only for "tax dues" declared under VCES. If any "tax dues" have been paid prior to the enactment of the scheme, any liability of interest or penalty thereon shall be adjudicated as per the provisions of Chapter V of the Finance Act, 1994 and paid accordingly.	
9	Whether an assessee, who, during a part of the period covered by the Scheme, is in dispute on an issue with the department under an erstwhile provision of law, can declare his liability under the amended provisions, while continuing to litigate the outstanding liability under the erstwhile provision on the issue?	In terms of the second proviso to section 106 (1), where a notice or order of determination has been issued to a person in respect of any issue, no declaration shall be made by such person in respect of "tax dues" on the same issue for subsequent period. Therefore, if an issue is being litigated for a part of the period covered by the Scheme, i.e., Oct, 2007 to Dec 2012, no declaration can be filed under VCES in terms of the said proviso on the same issue for the subsequent period.	The Commissioner would, in the overall facts of the case, taking into account the reasons he has to believe, take a judicious view as to whether a declaration is 'substantially false'. It is not feasible to define the term "substantially false" in precise terms. The proceeding under section 111 would be initiated in accordance with the principles of natural justice. To illustrate, a declarant has declared his "tax dues" as Rs 25 lakh. However, Commissioner has specific information that declaration has been made only for part liability, and the actual "tax dues" are Rs 50 lakh. This declaration would fall in the category of "substantially false". This example is only illustrative.
10	Whether upon filing a declaration a declarant realizes that the declaration filed by him was incorrect by mistake? Can he file an amended declaration?	The declarant is expected to declare his tax dues correctly. In case the mistake is discovered suo-moto by the declarant himself, he may approach the designated authority, who, after taking into account the overall facts of the case may allow amendments to be made in the declaration, provided that the amended declaration is furnished	
11	What is the consequence if the designated authority does not issue an acknowledgement within seven working days of filing of declaration? Whether the declarant can start making payment of the tax dues even if acknowledgement is not issued?		
12	Whether declarant will be given an opportunity to be heard and explain his cases before the rejection of a declaration under section 106(2) by the designated authority?		
13	What is the appeal mechanism against the order of the designated authority whereby he rejects the declaration under section 106 (2) of the Finance Act, 2013?		The Scheme does not have a statutory provision for filing of appeal against the order for rejection of declaration under section 106 (2) by the designated authority.
14	A declarant pays a certain amount under the Scheme and subsequently his declaration is rejected. Would the amount so paid by him be adjusted against his liability that may be determined by the department?		The amount so paid can be adjusted against the liability that is determined by the department.
15	Section 111 prescribes that where the Commissioner of Central Excise has reasons to believe that the declaration made by the declarant was 'substantially false', he may serve a notice on the declarant in respect of such declaration. However, what constitutes a 'substantially false' declaration has not been specified.		
16	What is the consequence if a declarant fails to pay atleast 50% of declared amount of tax dues by the 31 st Dec 2013?		One of the conditions of the Scheme [section 107 (3)] is that the declarant shall pay atleast an amount equal to 50% of the declared tax dues under the Scheme, on or before the 31.12.2013. Therefore, if the declarant fails to pay atleast 50% of the declared tax dues by 31 st Dec, 2013, he would not be eligible to avail of the benefit of the scheme.
17	Whether the CENVAT credit is admissible on the inputs/ input services used for provision of output service in respect of which declaration has been made under VCES for payment of any tax liability		The VCES Rules 2013 prescribe that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Accordingly the "tax dues" under the Scheme shall be paid in cash. The admissibility of CENVAT credit on

	outside the VCES?	any inputs and input services used for provision of output service in respect of which declaration has been made shall continue to be governed by the provisions of the Cenvat Credit Rules, 2004.	shall by an order and for reasons to be recorded in writing, reject such declaration. As the audit process may involve several stages, it may be indicated as to what event would constitute,- (i) initiation of audit; and (ii) culmination of audit.	Culmination of audit: The audit process may culminate in any of the following manner.- (i) Closure of audit file if no discrepancy is found in audit; (ii) Closure of audit para by the Monitoring Committee Meeting (MCM); (iii) Approval of audit para by MCM and payment of amount involved therein by the party in terms of the provisions of the Finance Act, 1994; (iv) Approval of audit para by MCM, and issuance of SCN, if party does not agree to the para so raised. The audit culminates at a point when the audit paras raised are settled in any manner as stated above. The pendency of audit as on 1.3.2013 means an audit that has been initiated before 1.3.2013 but has not culminated as on 1.3.2013.
18	(a) Whether the tax dues amount paid under VCES would be eligible as CENVAT credit to the recipient of service under a supplementary invoice? (b) Whether cenvat credit would be admissible to the person who pays tax dues under VCES as service recipient under reverse charge mechanism?	Rule 6(2) of the Service Tax Voluntary Compliance Encouragement Rules, 2013, prescribes that CENVAT credit cannot be utilized for payment of "tax dues" under the Scheme. Except this condition, all issues relating to admissibility of CENVAT credit are to be determined in terms of the provisions of the Cenvat Credit Rules. As regards admissibility of CENVAT credit in situations covered under part (a) and (b), attention is invited to rule 9(1)(bb) and 9(1)(e) respectively of the Cenvat Credit Rules.		
19	In terms of section 106 (2)(b), if a declaration made by a person against whom an audit has been initiated and where such audit is pending, then the designated authority	Initiation of audit: For the purposes of VCES, the date of the visit of auditors to the unit of the taxpayer would be taken as the date of initiation of audit. A register is maintained of all visits for audit purposes.	3. Trade Notice/Public Notice may be issued to the field formations and tax payers. F. No. B1/19/2013-TRU (Pt)	

FDI in Asset Reconstruction Companies (ARCs) Ceiling Raised to 74% from 49%

Sub: Foreign Investments in Asset Reconstruction Companies (ARC)

AP(DIR Srs) Cir.28 19.08.2013 (RBI) Attention of Authorized Dealers is invited to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified by the Reserve Bank of India vide Notification No.20 dated 3rd May 2000 as amended from time to time and A.P.(DIR Series) Circular NO.16 dated November 11, 2005.

2. In terms of the aforesaid circular :

(a) Foreign Direct Investment (FDI) upto 49% in the equity capital of Asset Reconstruction Companies (ARCs) was permitted subject to certain conditions. However, investment by Foreign Institutional Investors (FIIs) in the equity capital of ARCs was not permitted; and

(b) general permission was granted to Foreign Institutional Investors (FIIs) to invest in Security Receipts (SRs) upto 49 per cent of each tranche of scheme of Security Receipts subject to condition that investment of a single FII in each tranche of scheme of SRs shall not exceed 10 per cent of the issue.

3. A review of the policy was undertaken and it has been decided as under:

i. The ceiling for FDI in ARCs has been increased from 49% to 74% subject to the condition that no sponsor may hold more than 50% of the shareholding in an ARC either by way of FDI or by routing through an FII. The foreign investment in ARCs would need to comply with the FDI policy in terms of entry route conditionality and sectoral caps.

ii. The foreign investment limit of 74% in ARC would be a combined limit of FDI and FII. Hence, the prohibition on investment by FII in ARCs will be removed. The total shareholding of an individual FII shall not exceed 10% of the total paid-up capital.

iii. The limit of FII investment in SRs may be

enhanced from 49% to 74% of the paid up value of each tranche of scheme of Security Receipts issued by the Asset Reconstruction Companies. Further, the individual limit of 10% for investment of a single FII in each tranche of SRs issued by ARCs may be dispensed with. Such investment should be within the FII limit on corporate bonds prescribed from time to time, and sectoral caps under the extant FDI Regulations should be complied with.

4. A copy of Press Release dated December 21, 2012 issued in this regard by Department of Financial Services, Ministry of Finance Govern-

ment of India is as per Annex.

5. Reserve Bank of India has since amended the Regulations and notified vide Notification No. FEMA.254/2013-RB dated January 07, 2013 vide G.S.R.No.344(E) dated May 29, 2013.

6. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

[Annexure of this circular is available at our website www.worldtradesScanner.com]

All Bank Branches Allowed to Deal with NRIs under Portfolio Investment Scheme

Sub: Investments by Non-resident Indians (NRIs) under Portfolio Investment Scheme (PIS) Liberalisation of Policy

AP(DIR Srs) Cir.29 20.08.2013 (RBI) Attention of Authorised Dealers Category-I (AD Category - I) banks is invited to Schedule 3 of the Foreign Exchange Management

(Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000 (hereinafter referred to as Notification No. FEMA 20), as amended from time to time in terms of which, NRIs can invest under PIS on repatriation and/or non-repatriation basis in shares and convertible debentures of listed Indian companies on a recognized stock exchange in India through a registered stock broker. Further, NRIs may purchase and sell shares/convertible debentures under the PIS through a branch designated by an Authorised Dealer for the purpose and duly approved by the Reserve Bank of India.

2. As a measure of further liberalisation, it has been decided to

i) allot Unique Code number only to Link office of the AD Category - I bank; and

ii) dispense with the allotment of Unique Code number to each branch designated by that AD Category - I bank administering the Scheme. Accordingly, henceforth in accordance with the policy approved by the Board, AD Category - I bank shall be free to permit its branches to administer the Portfolio Investment Scheme for NRIs subject to the following:

a) the AD Category - I bank while granting permission to NRI for investment under PIS shall allow them to operate the scheme as per the terms and conditions are as Annex-A;

b) the designated link office shall continue to report on a daily basis PIS transactions undertaken on behalf of NRIs for their entire bank to the Reserve Bank under the Online Report Filing System (ORFS) in form LEC (NRI) as per present practice in vogue web site (<https://secweb.rbi.org.in/ORFSMainWeb/Login.jsp>);

c) the AD Category - I bank shall provide to the Reserve Bank the complete contact details of such link office in advance before commencing operations;

d) the AD Category - I bank shall sensitise the branches administering the Scheme to ensure that NRIs are not allowed to invest in any Indian company which is engaged or proposes to engage in the business of chit fund, Nidhi company, agricultural or plantation activities, real estate business (does not include development of townships, construction of residential / commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships), construction of farm houses, manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes and trading in Transferable Development Rights (TDRs) and in sectors/ activities as specified in terms of Notification No. FEMA.1/2000-RB dated May 3, 2000, as amended from time to time; and

e) ensure compliance with instructions issued through A.D.(M.A. Series) Circulars, EC.CO.FID circulars annexed as Annex-B and the regulatory requirements under FEMA, 1999. It may be noted that Overseas Corporate Bodies(OCBs) have been derecognized as an

eligible 'class of investor' under various routes/ scheme available under the extant Foreign Exchange Management Regulations in terms of the Foreign Exchange Management [withdrawal of General Permission to Overseas Corporate Bodies(OCBs)] Regulations, 2003 notified vide Notification No. FEMA.101/2003-RB dated October 3, 2003.

3. AD Category - I banks may bring the contents of the circular to the notice of their customers/constituents concerned.

4. Reserve Bank has since amended the Regulations and notified vide Notification No. FEMA.261/2013-RB dated February 27, 2013 vide G.S.R. 515(E) dated July 30, 2013.

5. The directions contained in this circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

[Annexures of this circular is available at our website www.worldtrades.com]

Interest Rates on NRE Deposits Deregulated, Interest Rate Freed

[RPCD.CO.RRB.BC.No.24/03.05.33/2013-14 dated 19th August 2013]

Sub: Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits

Please refer to our circular RPCD.CO.RRB. BC. No.45/03.05.33(C)/2011-12 dated December 19, 2011 on Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits and Ordinary Non- Resident (NRO) Accounts.

2. In terms of para 2 *ibid*, interest rates offered by banks on NRE deposits cannot be higher than those offered by them on comparable domestic rupee deposits. However, in order to pass on the benefit of exemption provided on incremental NRE deposits with maturity of 3 years and above from CRR/ SLR requirements, it has been decided to give banks the freedom

to offer interest rates on such deposits without any ceiling. The extant ceiling on NRO Accounts shall continue.

3. All other instructions in this regard, as amended from time to time, will remain unchanged.

4. These instructions will be valid up to November 30, 2013, subject to review.

5. An amending directive RPCD.CO.RRB.Dir. No. 23/03.05.33/2013-14 dated August 19, 2013 is enclosed.

6. Please acknowledge receipt to our Regional Office concerned.

Annex

Penal Interest Rates which are linked to the Bank Rate

Item	Existing Rate	Revised Rate (Effective from July 15, 2013)
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls).	Bank Rate plus 3.0 percentage points (11.25 per cent) or Bank Rate plus 5.0 percentage points (13.25 per cent).	Bank Rate plus 3.0 percentage points (13.25 per cent) or Bank Rate plus 5.0 percentage points (15.25 per cent).

RPCD.CO.RRB. Dir.No.23 /03.05.33/2013-14 August 19, 2013

Sub: Deregulation of Interest Rates on Non-Resident (External) Rupee (NRE) Deposits

In exercise of the powers conferred by Section 35A of the Banking Regulation Act, 1949, and in modification of the directive RPCD.CO.RRB. Dir.No.44/03.05.33(C)/2011-12 dated December 19, 2011 on Deregulation of Interest Rates on Non-Resident (External) (NRE) Deposits and Ordinary Non-Resident (NRO) Accounts, the Reserve Bank of India being satisfied that it is

necessary and expedient in the public interest so to do, hereby directs that banks are free to offer interest rates without any ceiling on NRE deposits with maturity of 3 years and above. The extant ceiling on NRO Accounts shall continue. These instructions will be valid up to November 30, 2013, subject to review.

Annex

Penal Interest Rates which are linked to the Bank Rate

Item	Existing Rate	Revised Rate (Effective from July 15, 2013)
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls).	Bank Rate plus 3.0 percentage points (11.25 per cent) or Bank Rate plus 5.0 percentage points (13.25 per cent).	Bank Rate plus 3.0 percentage points (13.25 per cent) or Bank Rate plus 5.0 percentage points (15.25 per cent).

Only 100% of Net Worth Allowed Overseas Investment to Indian Cos.

Sub: Overseas Direct Investments

AP(DIR Srs) Attention of Authorised Dealer
Cir.23 Category - I (AD Category - I)
14.08.2013 banks is invited to the
(RBI) Notification No. FEMA.120/RB
2004 dated July 7, 2004,

[Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004], as amended from time to time (the Notification) and the A.P. (DIR Series) Circular No. 11 dated September 26, 2007; A.P. (DIR Series) Circular No. 48 dated June 3, 2008 and A.P. (DIR Series) Circular No. 99 dated April 23, 2013. On a review, it has been decided to rationalize the regulations governing the overseas direct investments with immediate effect as under:

2. Reduction of limit for Overseas Direct Investment

In terms of the extant provisions under the Foreign Exchange Management Act, 1999 (FEMA, 1999) on overseas direct investments, the total overseas direct investment (ODI) of an Indian Party in all its Joint Ventures (JVs) and / or Wholly Owned Subsidiaries (WOSs) abroad engaged in any bonafide business activity should not exceed 400 per cent of the net worth of the Indian Party as on the date of the last audited balance sheet under the Automatic Route.

It has now been decided:

a) To reduce the existing limit of 400 per cent of the net worth of the Indian Party to 100 per cent of its net worth under the Automatic Route. Accordingly, AD Category - I banks may allow overseas direct investments under the Automatic Route up to 100 per cent of the net worth of the Indian party, as on the date of the last audited balance sheet;

b) To reduce the existing limit of 400 per cent of the net worth of the Indian company, investing in the overseas unincorporated entities in the energy and natural resources sectors, under the automatic route, to 100 per cent of the net worth of the Indian company investing in the overseas unincorporated entities in the energy and natural resources sectors, as on the date of last audited balance sheet; and

c) Any ODI in excess of 100% of the net worth shall be considered under the Approval Route by the Reserve Bank of India.

3. In respect of the Navaratna Public Sector Undertakings (PSUs), ONGC Videsh Limited (OVL) and Oil India Ltd (OIL), the extant provision for investing in overseas unincorporated entities and the overseas incorporated entities in the oil sector (i.e., for exploration and drilling for oil and natural gas, etc.), which are duly approved by the Government of India, without any limits under the automatic route, would however continue as hitherto.

4. The above provisions shall come into effect with immediate effect and would apply to all fresh Overseas Direct Investment proposals on a prospective basis but would not apply to the

Tariff Value Up on Poppy Seeds (US\$115/MT), Crude Palm Oil, Crude Palmolein, RBD Palmolein (US\$25/MT), RBD Palm Oil (US\$24/MT), Crude Soyabean Oil (US\$23/MT) and Brass Scrap (US\$2/MT)

Gold and Silver Tariff Value Down by US\$3/10 gms and US\$20/kg

93-Cus(NT) In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise & Customs, being satisfied that it is necessary and expedient so to do, hereby

makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted namely:-

“Table-1

SNo.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	833
2	1511 90 10	RBD Palm Oil	875
3	1511 90 90	Others – Palm Oil	854
4	1511 10 00	Crude Palmolein	879
5	1511 90 20	RBD Palmolein	882
6	1511 90 90	Others – Palmolein	881
7	1507 10 00	Crude Soyabean Oil	951
8	7404 00 22	Brass Scrap (all grades)	3745
9	1207 91 00	Poppy seeds	2763

Table-2

SNo.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	458 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	783 per kilogram

Table-3

SNo.	Chapter/ heading/sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tons)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	1870 (i.e. no change)”

[F. No. 467/01/2013-Cus.V Pt-I]

existing JV/WOS set up under the extant regulations.

5. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. Necessary amendments to the Notification No. FEMA.120/2004-RB dated July 7, 2004, [Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations 2004] are being notified separately.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

Swedish Kroner Exchange Rate Revised w.e.f. 27 Aug 13

89-Cus(NT) In exercise of the powers conferred by Section 14 of the 26.08.2013 Customs Act, 1962 (52 of 1962), the Central Board of (DoR) Excise & Customs hereby makes the following further amendments in the Notification of the Government of

India, Ministry of Finance (Department of Revenue) No. 83/2013-CUS-TOMS (N.T.) dated the 14th August, 2013 published in the Gazette Of India, Part-II, Section 3, Sub-Section (ii), Extraordinary vide number S.O. 2467(E) dated, the 14th August, 2013, namely:-

In SCHEDULE-I of the said Notification, for Serial No.15 and the entries relating thereto, the following shall be substituted, namely:-

Schedule-I

SNo.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	(b)
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
15.	Swedish Kroner	10.05	9.75

These rates will be effective from 27th August, 2013.

[F. No. 468/03/2013-Cus.V]

Pound Sterling, Singapore Dollar, Austrian Dollar and Other Four Currencies Rates Revised w.e.f. 30 Aug 2013

92-Cus(NT) In exercise of the powers conferred by Section 14 of the 29.08.2013 Customs Act, 1962 (52 of 1962), the Central Board of (DoR) Excise & Customs hereby makes the following further amendments in the Notification of the Government of

India, Ministry of Finance (Department of Revenue) No. 83/2013-CUS-TOMS (N.T.) dated the 14th August, 2013 published in the Gazette Of India, Part-II, Section 3, Sub-Section (ii), Extraordinary vide number S.O. 2467(E) dated, the 14th August, 2013, namely:-

In SCHEDULE-I of the said Notification, for Serial No.1,3,9,10,11, 12 and 13 and the entries relating thereto, the following shall be substituted, namely:-

Schedule-I

SNo.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	(b)
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	61.15	59.45
3.	Canadian Dollar	65.00	63.30
9.	New Zealand Dollar	53.50	51.95
10.	Norwegian Kroner	11.30	10.95
11.	Pound Sterling	106.00	103.25
12.	Singapore Dollar	53.40	52.05
13.	South African Rand	6.75	6.35

These rates will be effective from 30th August, 2013.

[F. No. 468/03/2013-Cus.V]

SEZ Export Cross \$80bn per Year

As per Section 18 of the Special Economic Zones (SEZs) Act, 2005 the Government may approve the setting up of an International Financial Services Centre (IFSC) in a SEZ. The Central Government may prescribe the requirements for setting up and the terms and conditions of the operation of Units in an IFSC, subject to such guidelines as may be framed by the Reserve Bank, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and such other concerned authorities, as it deems fit.

All SEZs, including SEZs providing financial services, established under the provisions of the SEZ Act, 2005 and Rules framed thereunder and amendments notified thereon from time to time are eligible for the fiscal concessions and duty benefits as provided under the SEZ Act and Rules.

As per Rule 53 of SEZ Rules, 2006, a SEZ unit is under an obligation to achieve positive Net Foreign Exchange (NFE) earnings to be calculated cumulatively for a period of 5 years from the commencement of production, failing which the units shall be liable for penal action under the provisions of the Foreign Trade (Development and Regulation) Act, 1992. The total exports from the SEZs during the last seven years and the current financial year are as under:

Financial Year	Exports from SEZs (Value in Rs. Crore)
2006-2007	34,615
2007-2008	66,638
2008-2009	99,689
2009-2010	2,20,711
2010-2011	3,15,868
2011-2012	3,64,478
2012-2013	4,76,159
2013-2014*	1,13,299

*for the period April-June, 2013

The information was given by the Minister of State in the Ministry of Commerce and Industry Dr. D. Purandeswari, in a written reply in Lok Sabha 26 August 2013.

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a. Continued cooperation on ethical business practices among small and medium-sized enterprises (SMEs), where an "ASEAN SME Business Ethics Workshop" was held on 27 June 2013 in Vientiane, Lao PDR;
 b. Progress on the non-binding draft ASEAN-US Statement on Shared Principles for International Investment and ASEAN-US Trade Principles for Information and Communication Tech-

nology Services; and
 c. Continued commitment to standards cooperation and good regulatory practices cooperation.
 5. The Ministers agreed to seek to conclude the Shared Principles for International Investment by the 1st ASEAN-U.S. Summit in October.
 6. The Ministers underscored the vast opportunities for trade and investment between both

regions. In this regard, the ASEAN Ministers expressed their appreciation to the United States for organizing the AEM Roadshow to the US on 10-13 June 2013, which covered Los Angeles, San Francisco (Silicon Valley) and Washington D.C. The Roadshow provided the ASEAN Ministers the opportunity to discuss with relevant stakeholders in the United States including business leaders, venture capitalists, think tanks and the United States' Congressional representatives the opportunities brought about by ASEAN economic integration initiatives and robust engagement with the U.S. The Ministers were pleased with the outcomes of the Roadshow.

9th WTO Ministerial Conference

7. Given continuing global economic uncertainties, the Ministers emphasized that a strong, rules-based multilateral trading system, continues to be essential in sustaining international trade flows and ensuring the growth of the global economy. The Ministers reaffirmed their commitment to a successful outcome at the 9th WTO Ministerial Conference in Bali on trade facilitation, some elements of agriculture and a set of development issues, which would be a stepping stone towards seeking to successfully conclude the Doha Development Agenda (DDA) Round and providing renewed confidence in the multilateral trading system.

Consultation with the US-ASEAN Business Council

8. The Ministers held a dialogue with the US-ASEAN Business Council, which reported the results of their work on doing business in the ASEAN region. The Ministers acknowledged the value of private sector engagement in developing relevant bilateral cooperation and formulating national policies that would promote expansion of trade and investment between both regions.

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*See details in www.worldtradesScanner.com		

Customs Valuation Exchange Rates			
15 August 2013		Imports	Exports
Schedule I [Rate of exchange of one unit of foreign currency equivalent to Indian Rupees]			
1	Australian Dollar	61.15**	59.45**
2	Bahrain Dinar	176.85	167.20
3	Canadian Dollar	65.00**	63.30**
4	Danish Kroner	11.75	11.40
5	EURO	87.40	85.50
6	Hong Kong Dollar	8.45	8.30
7	Kenyan Shilling	76.30	72.00
8	Kuwaiti Dinar	234.55	221.60
9	New Zealand Dollar	53.50**	51.95**
10	Norwegian Kroner	11.30**	10.95**
11	Pound Sterling	106.00**	103.25**
12	Singapore Dollar	53.40**	52.05**
13	South African Rand	6.75**	6.35**
14	South Arabian Riyal	17.80	16.80
15	Swedish Kroner	10.05*	9.75*
16	Swiss Franc	71.00	69.35
17	UAE Dirham	18.15	17.15
18	U.S. Dollar	65.35	64.30
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]			
1	Japanese Yen	66.85	65.25

*w.e.f. 27.08.2013; **w.e.f. 30.08.2013
 (Source: Customs Notification 83(NT)/14.08.2013)