

Postal Regn.No. DL(C)-01/1251/15-17
Licence to Post without
Prepayment U(C)-30/15-17
RNI No. 42906/84

WORLD TRADE SCANNER

ISSN: 0971-8095

Single copy Rs. 20 \$2

Vol. XXXII No 29 14 - 20 October 2015

Promoted by Indian Institute of Foreign Trade, World Trade Centre,
Academy of Business Studies

Annual subscription Rs. 950

Non Tariff Barriers and 10% Gold Duty Spurs Gold Smuggling

"Smuggling of gold into India is a challenge for the customs department and the menace has to be handled at a policy level, Central Board of Excise and Customs chairman Najib Shah said.

"Till such time the local demand is not met and there is a duty on it, there is profit involved in the smuggling of gold. Gold smuggling is a challenge. It has to be met at a policy level," he said, while speaking to reporters after the conclusion of the 11th Asia Europe Meeting (ASEM) of the Directors General/Commissioners of Customs held here.

"As you are aware there is a 10 percent duty on the import of gold. You are also aware that we have an insatiable liking for gold. The demand for gold has always been high," he said."

In the first part of October, 31.75 kg of gold valued at Rs 8.43 crore was seized at Madurai airport in Tamil Nadu.

Gold from Dubai and Singapore has become "attractive" for smugglers to buy and transport it to the country.

There is no local tax on gold in Dubai while Singapore returns the tax at the airport.

Dubai and Singapore are the major supply centres for gold market and most of the travellers in South India come from these two places via air, while majority of gold from Sri Lanka is smuggled through the sea route.

The 10 percent import duty and restriction of stay abroad and questions on source of money and declaration of marking on gold bars and the associated paper work are forcing gold inflow into India through informal channels. The infamous 20:80 RBI scheme to allow gold import to exporters in the 2013-14 period has spawned gangs of smugglers.

The falling rupee exchange rate and the import duties across countries make gold a preferred metal for smuggling compared to other goods. Gold has returned as a store of value. (The gold bond scheme will thus have few takers, it is believed).

There is a price difference of about Rs five lakh per kilogram of gold purchased in India as against in Dubai after paying the customs duty.

The price difference of Rs 2.30 lakh per kg along with an additional 10 per cent customs duty, totaling to Rs five lakh price difference between the gold in Dubai and India for legally importing it.

India, Sri Lanka and Bangladesh together have high duty and restrictions on gold.

Most of the arrested persons are mere carriers, their handlers are well connected by businessmen.

Kutty Gang at Cochin Airport

The shadow team of the city police held a fugitive wanted in connection with the sensational case related to massive gold smuggling through Cochin International Airport Limited (CIAL) at Nedumbassery. The police identified him as Kunhayan Kutti, 40, of Kakkattummal House near Kayanna Bazar, Perambra in Kozhikode.

The Union Finance Ministry had issued a lookout notice in his name after he went absconding over two months ago. The police have detained him invoking provisions of Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. He was sent to Poojapura Central Jail on Thursday.



The gang involving Kutti was suspected to have smuggled over 360 kilograms of gold out of CIAL through carrier passengers. The police had earlier arrested nearly 35 persons, including airport ground handling staff, jewellery shop owners and carriers. Though Kunhayan Kutti too was nabbed earlier, he managed to escape

from the police custody.

According to the police, Kunhayan Kutti was taken into custody from a lodge Salena Plaza at Kayanna, not far away from his home, where he was hiding. As many as three parallel investigations - by CBI, Thiruvananthapuram City Shadow Police and Kozhikode District Police - were on to track him.

The breakthrough in the investigation came when one of the carriers Kutti had sent to Abu Dabi returned recently. The police shadowed her and found out that she regularly contacted him through phone. The cyber cell sleuths helped the probe team find out his location, following which they nabbed him from the lodge on Wednesday night.

The gang's modus operandi was to smuggle gold bars from Gulf countries through carrier passengers, who would conceal them in their dress or shoes. They would hide contraband in the toilet from where the ground handling staff would collect it. Kutti's role was to collect the contraband outside the airport and deliver it to the receivers.

Crude Returns to \$47.82

Crude Oil (Indian Basket) from 07 - 13 Oct 2015

	07 Oct	08 Oct	09 Oct	12 Oct	13 Oct
(\$/bbl)	50.33	49.81	50.68	50.10	47.82
(Rs/bbl)	3284.13	3245.72	3283.36	3242.81	3109.58
(Rs/\$)	65.26	65.16	64.78	64.73	65.02

(Previous Trading Day Price)

Source: Ministry of Petroleum & Natural Gas

Customs Goa Declaration – ASEM Commits to Developed Countries Agenda of Trade Facilitation and IPR Protection

A Goa Declaration containing 10 point Action Plan was issued at the end of the 11th Asia Europe Meeting (ASEM) of the Directors General-Commissioners of the Customs at Panaji, Goa today. The two day Meeting was attended among others by the representatives of 42 nations along with those of European Union and ASEAN Secretariate.

Following is the full Text of the Goa Declaration:

“We, the Directors General-Commissioners of the Customs Administrations of ASEM Member States met in Goa, India on 8-9 October 2015, and:

ACKNOWLEDGING the importance of a continuing dialogue for fulfilling our mandate, efficiently and fairly;

RECOGNISING the need to continue to closely work together to ably progress on the following identified priority areas:

- Trade Facilitation and Supply Chain Security,
- Combating Infringement on Intellectual Property Rights (IPR),
- Protecting Society and the Environment,
- Involving Business,
- Communication and Visibility;

NOTING that the members face common challenges thereby providing opportunities for exchange of ideas and best practices;

REALISING the opportunity afforded by advances in technology for greater coordination and cooperation in facilitating trade and ensuring compliance;

RESOLVED to continue the ASEM Customs-Trade-Days and to avail the opportunity afforded by their meetings for a dialogue with business aimed at a better assessment of priorities; and

CONCURRED with taking focused action in regard to the following activities during the next two years (2016-2017):

- Carry forward the Trade Facilitation Action Plan (TFAP) on Customs matters, matching of members needing and offering training, reinforce the monitoring of the TFAP, and

recommend TFAP for 2018-2019.

- Complement the WTO's TFA and awareness process, improve experience sharing by exchanging TFA implementation plans, examine how ASEM cooperation can contribute to ongoing world-wide work for better implementation of TFA.
- Support AEO programmes including mutual recognition processes by sharing experiences, further developing the compliance component, improving the overall benefits, and exploring further cooperation with other government authorities.
- Improve implementation of CBM and conduct a study on its possibilities in further facilitating the faster cross border flow of goods with a focus on mapping of the related logistical processes and the practical (operational) movement of goods.
- Examine the role of Customs and identify good practices in controlling product safety and compliance in the area of industrial products.
- Conduct a Joint Customs Operation on commodities of particular interest like pesticides, spare parts for automobiles, motorcycles, airplanes, trains and boats.
- Share the experience of use of PNR with a view to identify best practices, challenges and capacity building needs.
- Share the experience and best practices in facilitating paperless Customs processes.
- Revise and update the 2011 best practice guide on IPR enforcement; study the use of statistics in IPR enforcement with a view to avoid misleading comparisons and interpretations on statistics exchange.
- Identify effective communication and visibility tools including social media to examine how best to develop an ASEM Customs Appearance Strategy.

We, the Directors General-Commissioners of the Customs Administrations of the ASEM Member States shall make every effort to implement the above decisions”.

FIEO Lists 36 Items for Annual \$22bn New Exports

Out of the top 100 products of India's exports basket at 6 digit tariff lines, FIEO has identified 36 products using the parameters of

- a) Positive Revealed Comparative Advantage (RCA)
- b) Higher exports growth than India's average exports growth in 2010-2014 (Calendar year wise) in such products.
- c) Higher world-wise import growth than World's average imports growth in 2010-2014 (Calendar)

The 36 products showed a CAGR of 21% in India's exports during 2010-14 (as against overall exports CAGR of 9.56 %). The CAGR of World's Imports for such products was 16.63% in the same period (as against overall global imports CAGR of 5.3 % in the same period).

An additional US\$ 65bn to the exports sector can be added by these 36 products at 6 digit tariff lines observed FIEO.

FIEO suggested for consultation with products specific Export Promotion Councils and other organisations to understand the supply side challenges in meeting such targets and devising product specific strategy or a product market matrix strategy to boost exports.

International Organisations European Union and ASEAN Secretariate are participating in two day 11th Asia Europe Meeting (ASEM) of the Directors' General-Commissioners of Customs organised by the Central Board of Excise and Customs, Ministry of Finance here at Dona Paula near Panaji in Goa today. Mr. Kunio Mikuria, Secretary General of the 180 member strong World Customs Organization (WCO), is also participating in the meeting. The Meet will conclude tomorrow with an Action Plan in form of Goa Declaration based on two day discussions.

In 1996, the focus was on prevention of illicit trade in drugs and commercial frauds; simplification and harmonization of customs procedures was also recognized as being the way forward for Customs.

The next turning point came with the Yokohama Declaration in 2007 where for the first time the priority areas were defined. These were-

- trade facilitation and security
- enforcement of IPRs
- Protection of our societies And Environment and
- Fight against Fraud.

In this digital era, building systems to support digital handshake with every stakeholder (i.e logistics operators, banks, other regulatory agencies) so as to ensure paperless movement of cross border trade is one of the main concerns of every Customs Administration.

Please enjoy the wonderful hospitality and unique culture of Goa—an exotic mix of Portugese and Indian.

Najib Shah Inaugurates 44 Members Asia Europe Customs Meet at Goa, Calls for Income Tax and Customs Cooperation

The Chairman, Central Board of Excise and Customs (CBEC) Najib Shah said that emerging demands and changing dynamics of growing international mobility of goods and capital, demand greater cooperation amongst Customs Administrations. He said that on one hand, we have to mobilize and facilitate legitimate trade and on the other, we have to be at the forefront of the fight against importation of dangerous and harmful goods. NajibShah was speaking after inaugurating the



11th Asia Europe Meeting (ASEM) of the Directors' General-Commissioners of Customs at Dona Paula near Panaji in Goa on 8 October.

The Chairman, Central Board of Excise and Customs (CBEC) NajibShah further said that in order to have smooth flow of goods across different countries, there is need for increasing co-operation between Customs and tax authorities.

Representatives from 44 countries and two

WEEKLY INDEX OF CHANGES

Seed Quality Rice Export under Licence, Dealer Registration under Seed Act Required

- Paddy and Rough Rice Export Shifted to Restricted List
- Free Export of Milled Rice Continues



Subject: Export Policy of rice.

Effect of this notification: Export of rice of seed quality has been moved from 'Free' to 'Restricted' category.

23-Ntfn In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 of the Foreign Trade Policy, 2015-20, the Central Government hereby makes the following amendment, with immediate effect, in Chapter 10 of Schedule 2 of ITC (HS) Classification of Export & Import Items relating to export of rice:

2. The existing entries against Sl. No. 55, 56 & 58 of Chapter 10 of Schedule 2 of ITC(HS) Classification of Export & Import Items are replaced as under:

Chapter 10 – Cereals

Note 1 Export of wild variety of wheat and paddy seed is restricted. See chapter 12 for details.

SNo.	Tariff HS Code	Unit	Item Description	Export Policy	Nature of Restriction
55	1006 20 00	Kg.	Non Basmati Rice	Free	1. Export to be made by private parties from privately held stocks. State Trading Enterprises (STEs) including M/s.
	1006 30				NCCF & NAFED are also permitted to export privately held stocks of non-Basmati rice.
	1006 30 10				2. Export shall be through Custom EDI ports.
	1006 30 90				Export is also permitted through the non-EDI Land Custom Stations (LCS) on Indo-Bangladesh and Indo-Nepal border subject to registration of quantity with DGFT. RAs Kolkata & Patna and such other RAs as notified by DGFT from time to time will be the designated RAs for the purpose of such registration of quantity.
	1006 40 00				
56	1006 10 10	Kg	Rice of seed quality	Restricted	Export permitted under license subject to following conditions: (i) submission of following documents to Customs at the time of export: (a) A license to carry on the business of a dealer in seeds issued under Section 3 of the Seed Control Order (1983) from the State Government; (b) Declaration that the export consignment of seeds has been chemically treated and is not fit for human consumption; and (ii) Export packets will be labeled that seeds are treated with chemical insecticides and cannot be used for food or feed purposes.
58	1006 10 90	Kg	Other [rice in husk (paddy or rough) other than seed quality]	Restricted	Export permitted under license.

MEIS Claims for Wrongly Filled Shipping Bills for Exports between 1 April to 31 May 2015 Allowed

Customs EDI System from 1 June 2015 to Allow only Correctly Filled Shipping Bills for MEIS

Subject: Declaration of intent under MEIS Scheme.

Effect of this Public Notice: Shipping bills, where declaration of intent 'Y' has not been marked and 'N' has been ticked inadvertently in the 'reward item box' while filing shipping bill in Customs for exports made between 1.4.2015 to 31.5.2015, shall be transmitted by CBEC to DGFT.

40-PN DGFT has received various representations from exporters and trade & Industry that many Custom House Agents of exporters have inadvertently ticked "N" in the reward item box while filing the shipping bills with Customs. Even though in many cases the item of export is eligible for MEIS, as "N" has been ticked, such shipping bills have not been transmitted to the DGFT system and exporters are therefore unable to obtain / find these shipping bills on the system for submitting claims under MEIS. It is also noted that the system of marking "Y" or "N" is not new and is in operation since 2012. Since para 3.01 (g) of Hand Book of Procedure to FTP (2015-20) does not allow manual feeding of EDI shipping bill details, filling of such claims is not possible manually.

2. As per para 3.14 of Hand Book of Procedure to FTP (2015-20), all exporters while filling export shipments under all categories of the shipping bills are required to declare the following intent to claim benefit under MEIS:

"We intend to claim rewards under Merchandise Exports from India Scheme (MEIS)".

Declaration of intent is mandatory with effect from June 1, 2015. CBEC has also issued a circular no. 14/2015 dated April 20, 2015, which requires mandatory declaration of intent from 1.6.2015 onwards. In EDI generated shipping bills, exporters are required to tick mark "Y" in case they intend to claim benefits under MEIS and "N" in case they do not intend to claim benefit under MEIS.

3. In light of these circumstances and to address the matter, in exercise of powers conferred under paragraph 1.03 of the Foreign Trade Policy (2015-2020) read with reference to para 3.14 of Handbook of Procedures of FTP 2015-20, the Director General of Foreign Trade hereby allows the following procedure to be followed where exports have been made between 1.4.2015 to 31.5.2015, and where the exporter has inadvertently marked "N" in the "reward item box" and wishes to seek MEIS benefits:

Exporters shall submit physical copies of free shipping bills after electronic filing of application to RA at the time of submission of application for MEIS rewards in these cases. RA shall grant MEIS rewards after examination of such shipping bills in accordance with other provisions of FTP/HBP.

4. From 01.06.2015, only those shipping bills, which are transmitted by Custom Authorities to DGFT, shall be considered under MEIS.

Aircraft and Helicopters Free Importability Policy Updated, Indian Airlines and Vayudoot Deleted

Subject: Amendment in policy condition 1 of Chapter 88 of ITC (HS), 2012 – Schedule – 1 (Import Policy).

24-Ntfn In exercise of powers conferred by Section 3 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign

Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends the Policy Condition 1 of Chapter 88 of ITC (HS), 2012– Schedule – 1 (Import Policy) as under:

Revised Policy Condition 1 of Chapter 88 of ITC (HS), 2012 – Schedule – 1 (Import Policy):

1. Aircraft and Helicopters (including used/second hand aircraft and helicopters) may be imported by the following without the need to obtain an import licence from Directorate General of Foreign Trade.

- (a) Air India
- (b) Pawan Hans Limited
- (c) Airport Authority of India
- (d) Indira Gandhi Rashtriya Uran Academi (IGRUA) and such other flying clubs/ Academies recognised by the Ministry of Civil

Aviation, Government of India
(e) Any person who has been granted permission by Director General of Civil Aviation, for operating Scheduled or Non-Scheduled Air Transport Services (including Air Taxi Ser-

vices) for import of aircraft / helicopter subject to the condition that the import of the aircraft or helicopter and their use is in accordance with that permission.

Ancillary Services in Transportation of Goods will be Abated 70% for Service Tax, CBEC Clarifies using the "Essential Character" Argument

Subject: Service tax levy on services provided by a Goods Transport Agency.

186-ST The All India Transport
05.10.2015 Welfare Association (AITWA)
(DoR) has represented regarding the difficulties being faced by the

Goods Transport Agencies (GTAs) in respect of service tax levy on the services of goods transport. Doubts has been raised by the All India Motor Transport Congress (AIMTC) regarding treatment given

to various services provided by GTAs in the course of transportation of goods by road.

2. The issue has been examined. Since July 1, 2012, service tax has shifted to a negative list regime, by which all the services except those covered in negative list as mentioned in section 66D of the Finance Act, 1994 or those exempted by notification are chargeable to service tax.

3. Goods Transport Agency (GTA) has been defined to mean any person who provides service to a person in relation to transport of goods by road and issues consignment note, by whatever name called. The service provided is a composite service which may include various ancillary services such as loading/ unloading, packing/unpacking, transshipment, temporary storage etc., which are provided in the course of transportation of goods by road. These ancillary services may be provided by GTA himself or may be sub-contracted by the GTA. In either case, for the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of ancillary services provided in the course of transportation of goods by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road.

4. A single composite service need not be broken into its components and considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service. While taking a view, both the form and substance of the transaction are to be taken into account. The guiding principle is to identify the essential features of the transaction. The interpretation of specified descriptions of services in such cases shall be based on the principle of interpretation enumerated in section 66 F of the Finance Act, 1994. Thus, if ancillary services are provided in the course of transportation of goods by road and the charges for such services are included in the invoice issued by the GTA, and not by any other person, such services would form part of GTA service and, therefore, the abatement of 70%, presently applicable to GTA service, would be available on it.

5. It is also clarified that transportation of goods by road by a GTA, in cases where GTA undertakes to reach/deliver the goods at destination within a stipulated time, should be considered as 'services of goods transport agency in relation to transportation of goods' for the purpose of notification No. 26/2012-ST dated 20.06.2012, serial number 7, so long as (a) the entire transportation of goods is by road; and (b) the GTA issues a consignment note, by whatever name called.

6. Pending disputes on the above issues may accordingly be decided expeditiously.

7. Trade & field formations may be informed suitably.

[F.No. 354/98/2015-TRU]

Board Orders Non Implementation of Circulars Contrary to Orders of SC Special Bench Set up on 28 Feb 2015

Subject: - Clarification regarding binding nature of circular and instructions.

1006-CBEC A large number of judgements
21.09.2015 have been delivered by the
(DoR) Hon'ble Supreme Court on various aspects of Central

Excise, Service Tax or Customs consequent upon the constitution of special bench on 28.02.2015 to expeditiously decide appeals in Indirect taxes. However, there may be Board circulars on some of these issues which are contrary to the judgement delivered by Hon'ble Supreme Court. The issue is whether the field officers are bound by such circulars, during the period the circular has not been rescinded.

2. In this regard, attention is invited to the judgement of Hon'ble Supreme Court dated 14thOctober2008 [2008(231) E.L.T.22(SC)/2008-TIOL-104-SC-CX-CB] in case of M/s Ratan Melt-

ing & Wire Industries Vs Commissioner of Central Excise, Bolpur. In the said judgement Hon'ble Supreme Court has held at para 6 & 7 that-

"6.Circular and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court or the High Court declares the law on the question arising for consideration, it would not be appropriate for the court to direct that the circular should be given effect to and not to a view expressed in a decision of this court or the High Court. So far as the clarification/circulars issued by the central Government and of the state Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the court. It is for the court to declare what the particular provision of statute says and it is not for the

Molasses Cenvat Credit for Ethanol Blended Petrol Allowed

Seeks to further amend CENVAT Credit Rules, 2004 so as to allow input credit of duty paid on molasses generated from cane crushed in the sugar season 2015-16 i.e. 1st October, 2015 onwards, used for producing ethanol for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol, in terms of the provisions of S. No. 40A of the Table in notification No.12/2012-Central Excise, dated the 17th March, 2012, by including such supplies of exempted ethanol under rule 6(6) of the CENVAT Credit Rules, 2004.

21-CE(NT) In exercise of the powers
07.10.2015 conferred by section 37 of
(DoR) the Central Excise Act,
1944 (1 of 1944) and

section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the CENVAT Credit Rules, 2004, namely:-

1. (1) These rules may be called the CENVAT Credit (Fourth Amendment) Rules, 2015.

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

2. In the CENVAT Credit Rules, 2004 (hereinafter referred to as the said rules), in rule 6, in sub-rule (6), after clause (viii) and the entries relating thereto, the following shall be inserted, namely:-

(ix) Ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 i.e. 1st October, 2015 onwards, for supply to the public sector oil marketing companies, namely, Indian Oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd., for the purposes of blending with petrol, in terms of the provisions of S.No.40A of the Table in notification No.12/2012-Central Excise, dated the 17th March, 2012, number G.S.R. 163(E), dated that 17th March, 2012."

[F. No. 354/78/2009-TRU (Pt.)]

Executive. Looked at from other angle, a circular which is contrary to the statutory provisions has really no existence in law...

7 .. to lay content with the circular would mean that the valuable right of challenge would be denied to him and there would be no scope for adjudication by the High Court or the Supreme Court. That would be against very concept of majesty of law declared by Supreme Court and the binding effect in terms of Article 141 of the Constitution"

3. Therefore, it is clarified that Board Circulars contrary to the judgements of Hon'ble Supreme Court become non-est in law and should not be followed. Reference of such circulars should be made to the Board so that further action of rescinding these circulars can be expeditiously

taken up. Board may also initiate such action suo-moto. All pending cases on the issue, including those in the Call-Book, decided after the date of the judgement should, conform to the law laid by the Hon'ble Supreme Court or High Court, as the case may be, irrespective of whether the circular has been rescinded or not.

4. The above direction would also apply to the judgements of Hon'ble High Court where Board

has decided that no appeal would be filed on merit. However where appeal has been filed by revenue against the High Court's order, pending adjudication should be transferred to the Call-Book and such appeals should be kept alive.

5. Difficulty experienced, if any, in implementing the circular should be brought to the notice of the Board.

F.No.96/90/2015-CX.1

EOU to DTA Movement of Tags, Bags, Buttons Allowed in Course of Exports under Para 6.09(g) of FTP 2015-20

Issue of Central Excise notification (Non-Tariff) to notify conditions, safeguards and procedure for supply of tags, labels, printed bags, stickers, belts, buttons and hangers produced or manufactured in an EOU and cleared without payment of duty to DTA for exports in terms of Para 6.09 (g) of FTP 2015-20.

20-CE(NT) In exercise of the powers
24.09.2015 conferred by sub-rule (3) read
(DoR) with sub-rule (2) of rule 19 of
the Central Excise Rules, 2002,
the Central Board of Excise and Customs hereby notifies the conditions, safeguards and procedures for supply of items like tags, labels, printed bags, stickers, belts, buttons and hangers (hereinafter referred as "specified goods) produced or manufactured in an Export Oriented Undertaking (hereinafter referred to as EOU) and cleared without payment of duty to a Domestic Tariff Area (hereinafter referred to as DTA) unit in terms of Para 6.09 (g) of Foreign Trade Policy, 2015-20, for the purpose of their exportation out of India (hereinafter referred as specified purpose), namely:-

1. Conditions:-

(i) the EOU shall furnish a general bond in the Form specified in Annexure-I to the Ministry of Finance (Department of Revenue) notification No. 42/2001-Central Excise (N.T.), dated the 26th June, 2001, as amended from time to time, to the jurisdictional Deputy or Assistant Commissioner of Central Excise in a sum equal to the duty chargeable on the specified goods, with 5% Bank Guarantee or as cash security;

(ii) the specified goods after being used for the specified purpose shall be exported within six months from the date on which such goods cleared from EOU or within such extended period as the Deputy or Assistant Commissioner of Central Excise may in any particular case allow;

(iii) the shipping bill filed by the DTA exporter shall contain the name and I.E. Code of the DTA exporter along with the name and I.E. Code of the EOU as supporting manufacturer;

(iv) the DTA exporter shall apply for export incentives based on the Freight On Board (FOB) value of the consignment exported minus the value of specified goods.

2. Procedure to be followed by EOU manufacturing the specified goods:-

(i) after furnishing a bond alongwith Bank Guarantee or cash security, as the case may be, EOU is permitted to clear goods without payment of duty to DTA manufacturer or as the case may be, processor;

(ii) the EOU shall ensure that the debit in bond account does not exceed the credit available therein at any point of time;

3. Export of goods:-

(i) the DTA exporter shall export specified goods as part of export goods. The shipping bill filed by DTA exporter for export shall also contain name and address of the EOU as supporting manufacturer, details of the specified goods, like their description, quantity, value, etc., and reference of invoice number under which the said specified goods were received from the EOU. The value of the specified goods should not be less than the value of these goods removed by EOU:

Provided that in case of shipping bill filed claiming the benefits under any export promotion scheme, the FOB value of consignment exported shall exclude the value of specified goods procured from EOU for the purpose of claiming such benefits;

(ii) the EOU will submit attested photocopy of the shipping bill (EP copy), Customs attested copy of invoice and self-attested photocopy of bill of lading or air way bill to the jurisdictional Central Excise and Customs Superintendent for verification of export of the specified goods. The said Superintendent of Central Excise having jurisdiction over EOU shall verify the details of export of the specified goods with reference to the document submitted by exporter;

(iii) the proof of export should be submitted by the EOU to the jurisdictional Central Excise Office within a period of six months from the date of clearance of goods from the EOU;

(iv) on submitting certification of export of speci-

fied goods and proof of payment received for the exported goods in which the said specified goods were contained such supplies of specified goods shall be taken into account for counting towards discharge of export obligation of the EOU by the Development Commissioner.

4. Recovery of duty in certain cases:-

Where the specified goods are not received by the DTA Unit or are not exported by the DTA exporter within the specified period or the extended period as permitted by the Assistant or Deputy Commissioner in charge of EOU, the EOU shall be liable to pay the duty leviable on such specified goods alongwith interest and penalty, if any, in accordance with the provisions of the Central Excise Act, 1944 (1 of 1944).

Explanation 1.- For the removal of doubts, it is hereby clarified that the specified goods shall be deemed not to have been used for the specified purpose even if any of the quantity of the subject goods is lost or destroyed by natural causes or by unavoidable accidents or for any other reasons during transport from the place of procurement to the DTA exporter and no wastage of the specified goods shall be allowed and duty on such goods lost or destroyed shall be payable by the EOU, alongwith interest and penalty, if any, in accordance with provisions of Central Excise Act, 1944 (1 of 1944).

Explanation 2.- For the purpose of this notification,-

(i) "Export Oriented Undertaking" has the same meaning as assigned to "hundred per cent. export oriented undertaking" in clause (ii) to the Explanation of sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944);

(ii) "Domestic Tariff Area" means India except Special Economic Zone and hundred per cent. export oriented undertakings;

(iii) Foreign Trade Policy, 2015-20' means Foreign Trade Policy, 2015-20 notified by the Central Government in the Ministry of Commerce and Industry vide Notification No. 1/2015-2020, dated the 1st April, 2015 and as amended from time to time;

(iv) Development Commissioner" means Development Commissioner of Special Economic Zone.

(F.No.DGEP/EOU/04/2015)

FEMA Proceeding will be Dropped in Black Money Declaration Cases

Assets Abroad can be Retained Subject to RBI Approval

Sub: Regularisation of assets held abroad by a person resident in India under Foreign Exchange Management Act, 1999.

AP(DIR Srs) The Government of India has
Cir.18 enacted The Black Money
30.09.2015 (Undisclosed Foreign Income
(RBI) and Assets) and Imposition of
Tax Act, 2015 (Black Money
Act) on May 26, 2015 to address the issue of undisclosed assets held abroad. It provides for separate taxation of income and assets acquired abroad from income not disclosed but chargeable to tax in India.

2. To effectively deal with assets held abroad by persons resident in India in violation of the Foreign Exchange Management Act, 1999

(FEMA) for which declarations have been made and taxes and penalties have been paid under the provisions of the Black Money Act, Reserve Bank has issued the Foreign Exchange Management (Regularization of assets held abroad by a person resident in India) Regulations, 2015 notified through Notification No. FEMA 348/2015-RB dated September 25, 2015 vide G.S.R. No. 738 (E) dated September 25, 2015.

3. Accordingly, it is clarified that:

a) No proceedings shall lie under the Foreign Exchange Management Act, 1999 (FEMA) against the declarant with respect to an asset

held abroad for which taxes and penalties under the provisions of Black Money Act have been paid.

b) No permission under FEMA will be required to dispose of the asset so declared and bring back the proceeds to India through banking channels within 180 days from the date of declaration.

c) In case the declarant wishes to hold the asset so declared, she/ he may apply to the Reserve Bank of India within 180 days from the date of declaration if such permission is necessary as on date of application. Such applications will be dealt by the Reserve Bank of India as per extant regulations. In case such permission is not granted, the asset will have to be

disposed of within 180 days from the date of receipt of the communication from the Reserve Bank conveying refusal of permission or within such extended period as may be permitted by the Reserve Bank and proceeds brought back to India immediately through the banking channel.

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

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.

Coconut Oil in Small Packs cannot be Called Hair Oil, Exemption Applicable

Subject: - Withdrawal of Order under 37B of Central Excise Act, 1944 on classification of Coconut Oil packed in small containers.

12.10.2015 Circular No. 890/10/2009 (DoR) dated 3.6.2009 by which Board (CBEC) issued Order under

Section 37B on classification of Coconut Oil packed in containers of the sizes up to 200ml. References have been received on the subject from field formations on need to review the Circular due to judicial pronouncements on the subject. It was directed in the said Circular that coconut oil packed in small container of sizes upto 200ml shall be classified under Central Excise Tariff heading 3305.

2. The issue has been examined and it has been noted that there are decisions on the issue by Hon'ble Tribunals/Courts wherein it has been held that just because the retail packs of Coconut Oil are in sizes of 200ml or less, the same cannot be presumed to be meant for use as Hair oil and would not be classifiable under heading no. 3305. Following judgments are relevant in this regard: -

3.1 In case of Raj Oil Mills Ltd. vs. Commissioner, Central Excise [2014 (314) ELT 541/2013-TIOL-1609 CESTAT], Hon'ble Tribunal held that edible Coconut Oil in retail packing of 200ml or less is classifiable under Chapter 15 covering Animal or Vegetable Fats and Oils and not under Chapter 33 covering Cosmetics and

Toilet Preparation. Civil Appeal filed by the department against the order in the Hon'ble Supreme Court has been dismissed on merits.

3.2 In the case of Capital Technologies Ltd. & Ors vs CCE, Tirupati reported in [2015(321) ELT 479/2011-TIOL-775-CESTAT], Hon'ble Tribunal



examined the issue of classification of Coconut Oil packed in retail packs of 50 ml, 100 ml, 200 ml and 500 ml. After discussing the amendments to Chapter note 3 to Chapter 33 and Section Note 2 to Section VI w.e.f 28.02.2005, Tribunal held that the edible coconut oil packed in retail packs ibid would be classifiable as Coconut oil under heading no. 1513 and not as

Hair oil under heading no. 3305. Civil Appeal filed by the department against the order has been dismissed by the Hon'ble Supreme Court on facts only.

4. In view of the judgments of the Hon'ble Courts, the Central Board of Excise & Customs withdraws Circular No. 890/10/2009-CX dated June 03, 2009. The issue of classification may be decided by the field taking into consideration the facts of the case read with the judicial pronouncements.

5. Difficulty, if any, in implementing the circular should be brought to the notice of the Board.

F.No. 103/01/2015-CX-3

DGFT Releases Sugar Quota for EU (10,000 MTs) and US (8424 MTs) for Oct 2015 to Sept 2016

Subject: - Allocation of quantity for export of sugar to EU under CXL quota and to USA under Tariff Rate Quota.

Effect of this Public Notice: The quantity of sugar to be exported to EU under CXL Quota and to USA under TRQ upto 30.09.2016 has been notified.

41-PN In exercise of the powers conferred under Paragraphs (DGFT) 2.04 of the Foreign Trade

Policy, 2015-2020, the Director General of Foreign Trade hereby allocates a quantity of (i) 10,000 tons (Ten thousand tons) of white sugar for export of CXL Concessions sugar to European Union (EU) for the period October, 2015 to September, 2016 and (ii) 8424 MTs (Eight thousand four hundred and twenty four metric tons) of raw sugar (at 98 degree pol), out of non-levy (Free Sale) quota for export

under Tariff Rate Quota (TRQ) to USA for the US fiscal year 2016 (October 1, 2015 to September 30, 2016).

2. As per Notification No. 3/2015-20 dated 20.04.2015, export of sugar (HS Code 17010000) to EU under CXL Quota and export of sugar to USA under TRQ is 'Free' subject to the conditions notified in the 'Nature of Restrictions' in the above notification.

3. As per Article 10 of European Union Regulation (EC) No. 891/2009 of 25.9.2009 "release for free circulation for the quotas of CXL conces-

sion sugar with order no.09.4321 shall be subject to the presentation of a certificate of origin issued by the competent authority of the third country concerned in accordance with articles 55 to 65 of Regulation (EEC) No. 2454/93". Accordingly, the entries to be made in the export authorization document EUR and GSP are as follows:-

(i) CXL Concessions Sugar

"[Application of Regulation (EC) No. 891/2009 under Schedule CXL (European Communities). CXL Concessions Sugar Serial No. 09.4321]"

4. Certificate of Origin as per details given in para (3) above shall be issued by the Additional Director General of Foreign Trade, Mumbai and EUR Form is to be endorsed by Customs at the Port of Shipment.

5. Certificate of Origin, if required, for export of preferential sugar to USA, shall be issued by Additional Director General of Foreign Trade, Mumbai. Other certification requirement, if any, prescribed specifically for export of sugar to USA would continue to be followed.

6. The reporting requirement as notified vide Notification No. 3/2015-2020 dated 20.04.2015 would be required to be followed.

Builder Held for Not Depositing Service Tax for Six Years

[DGCEI, Bengaluru Press Note F.No. V/30/2015-16/BZU dated 9th October 2015]

The Officers of DGCEI, Bangalore Zonal Unit, Bengaluru arrested Shri. Sagar B. Muthappa, Managing Director of M/s. Vasoo Builders Pvt. Ltd. on 09.10.2015. M/ s. Vasoo Builders Pvt. Ltd is a company providing Works Contract Service.

It was found that the service provider, who was engaged in providing taxable services i.e., Construction of Commercial and Residential complexes/buildings on works contract basis, had failed to pay the Service Tax of Rs. 3.24 Crores for the period 2010-11 to 20 15-16 on the services so provided. It was also found that the service provider had collected Service Tax from his customers/clients. The Company has failed to file the statutory Service Tax returns, in addition to evading payment of tax. The tax dues, including interest recoverable is around Rs.5 Crores.

As per Section 89 (1)(d) read with Section 89 (1)(ii) of The Finance Act, 1994, who ever collects any amount as Service Tax in excess of Rs. 50 Lakhs but fails to credit the same to the Government account within a period of 6 months from the day on which such payment becomes due, is liable for imprisonment for a term which may extend to 7 years. Such offences shall be cognizable as per Section 90 of the Act. In the instant case, the amount of Service Tax collected from the customers but not paid to the Government account which is beyond a period of six months, works out to Rs. 3.21 Crores.

In view of the above, the Service provider was arrested today i.e., on 09.10.2015 under Section 91 of the Finance Act, 1994 and produced before the Special Judge, Special Economic Offences Court, Bengaluru. The accused has been remanded to judicial custody till 15.10.2015.

Mini Nairobi Package on LDCs for Nairobi WTO MC10

• Bangladesh Leads the LDC Pack

Bangladesh has presented, on behalf of the Least Developed Country (LDC) Group at the WTO, two submissions for consideration as possible deliverables for the organisation's upcoming ministerial conference later this year. While one submission involves preferential rules of origin, the other one requests a dedicated session of the Council for Trade in Services on the LDC services waiver to be held this month. These submissions were circulated to WTO members two weeks ago on 24 and 25 September.

Over the past months broad consensus has emerged among Geneva-based trade delegates that the ministerial – as a minimum – must meaningfully address development issues of concern to LDCs in Nairobi.

According to the WTO, issues that have received more convergence and might be potential deliverables for MC10 include development issues with a particular focus on LDCs, export competition in agriculture, and a set of possible outcomes to improve transparency in a number of areas.

More specifically, recent consultations held on LDC issues indicate that potential issues to be forwarded to Nairobi for decision-making

include, for example, elements of Special and Differential Treatment, issues of interest for LDCs in agriculture including domestic support, issues related to non-tariff barriers (NTBs), binding duty-free quota-free (DFQF) market access through scheduling, the operationalisation of the decisions on the services waiver and rules of origin, and the preservations of flexibilities contained in various decisions as well as strengthened technical assistance.

According to experts in the field, this submission seeks to transform the guidelines on preferential rules of origin contained in the Bali ministerial

decision into compulsory criteria.

Currently, these rules are designed on a unilateral basis without any harmonised standard, which critics say creates additional problems for the WTO's poorest members, forcing them to adapt to a range of rules depending on the intended export market.

During the last WTO ministerial conference in Bali, a decision was adopted on rules of origin to provide some guidelines to WTO members to develop or build on their individual rules of origin arrangements applicable to imports from LDCs.

In April this year, the LDC group submitted a paper entitled "Elements for a discussion on

preferential rules of origin for LDCs" intended to trigger a discussion among WTO members with regard to the implementation of the Bali ministerial decision on rules of origin in order to ultimately enhance market access for their products.

The submission by Bangladesh dated from 24 September presents in detail the rationale behind LDCs' request on preferential rules of origin under unilateral preference schemes and reiterates elements for a decision on preferential rules of origin for LDCs for adoption at MC10.

The submission also calls preference granting countries to take into account "the level of development, industrial capacity, scarcity of resources, human resources constraints, manufacturing capabilities, and administrative challenges of LDCs" while designing their rules of origin.

Additionally the document encourages WTO members to take into account the current global value chains reality "wherein production is fragmented and companies are inclined to source goods from efficient sources."

In terms of setting out the technical aspects of preferential rules of origin and ways to determine when substantial or sufficient transformation has taken place, the submission details a series of methodologies and provisions related to cumulation – the latter of which allows two or more parties to a preferential scheme to jointly fulfil the relevant local processing requirements

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BoB, HDFC in Forex Fraud Case of Rs. 3500 Crs

• Money Allegedly Circulated to Earn Drawback on Bogus Exports

Six persons, including Bank of Baroda's (BoB) branch head at Ashok Vihar, New Delhi, and an HDFC Bank employee, were arrested on 13 October on charges of "money laundering" and "drawback fraud".

The total value of illegal remittances through its Ashok Vihar Branch in New Delhi was \$546.10 million (Rs 3,500 crore), much lower than Rs 5,151 crore estimated by the Enforcement Directorate (ED) and Rs 6,000 crore by the Central Bureau of Investigation (CBI).

CBI arrested BoB's Ashok Vihar branch head S K Garg and the foreign exchange (forex) head of the bank branch, Jainis Dubey, for criminal conspiracy and cheating.

ED, which is jointly probing the case, arrested Kamal Kalra, working with the foreign exchange division of HDFC Bank and three other individuals — Chandan Bhatia, Gurucharan Singh Dhawan and Sanjay Aggarwal (none of them working with any bank) — after marathon questioning at its office here.

ED said the modus operandi used to launder money involved trade-based mechanism, where accused traders evaded custom duties, taxes and over-claim duty drawbacks to generate slush funds. Later, a Delhi court permitted ED four-day custody of the four accused for interrogation.

All the accused, ED said in a statement, were alleged middlemen for at least 15 fake companies, out of the total 59 involved in perpetrating the economic crime unearthed

recently and also being probed by the CBI.

ED said the four allegedly connived in "forming" fake companies and business entities overseas, particularly in Hong Kong by "overvaluing" the export value and subsequently claiming duty drawbacks.

For this overvaluation, such exporters require forex in the foreign country equivalent to overvaluation. Similarly, unscrupulous importers, importing items where customs duty is high, undervalue imports in order to save customs duty, and for this purpose, importers also require availability of forex in foreign country to pay the difference.

(It is a moot point whether the chargers will survive given the surveillance on export and import at the customs frontier and the returns to Reserve Bank on export liabilities. All advance payments are monitored by bank and the transaction has squared by a customs assessed Bill of Entry. The competence of the ED run by Police officers in this field is suspect).

ED investigations under the Prevention of Money Laundering Act claimed that the HDFC Bank employee was allegedly helping Bhatia and Aggarwal in remitting the amount through BoB against a commission of 30-50 paise per dollar remitted abroad. Bhatia was allegedly instrumental in forming the companies in India and used to remit money to companies based in Hong Kong. Dhawan, an exporter of readymade garments, helped Bhatia. Aggarwal was allegedly successful in sending tainted foreign remittances worth Rs 430 crore through BoB's branch in Ashok Vihar in a short span of time.

ED said BoB on Monday informed it that "the total amount deposited in the 59 accounts is Rs 5,151 crore and only 6.66 per cent (Rs 343 crore) of this amount has been deposited in cash in the bank, while the remaining Rs 4,808 crore came through other banking channels."

CBI sources had said these remittances were sent by splitting them into amounts below \$100,000 to avoid automatic detection by software used by banks to alert them about such transactions.

CBI found that an estimated Rs 6,000 crore was transferred through nearly 8,000 transactions done between July 2014 and July 2015.

Both the agencies pursued the case after an internal investigation by the bank showed Rs 6,172 crore was sent from India to Hong Kong for import of cashewnuts, pulses and rice, but nothing was imported and the money was deposited in 59 bank accounts of several companies.

During investigation, CBI found that most addresses given by the companies were either false or the companies did not exist at the said addresses.

Most of the forex related transactions were carried out in newly-opened current accounts wherein heavy cash receipts were observed, but the branch did not generate exceptional transaction report and did not monitor the high-value transactions, a CBI spokesperson had said.

Gold Surge to 3½-Month High

Gold prices rose to \$1,174.73 per troy ounce during Asian morning hours, the highest level since July 1, before easing slightly to \$1,172.48 per ounce.

The biggest headwind for gold earlier this year was the possibility of a rise in U.S. interest rates. That concern has eased since the summer, and gold has received further support since the Fed last week indicated economic conditions may not yet be right for an increase. Since then the dollar has trended lower, benefiting gold prices which move in inverse relation to the U.S. currency. After remaining below \$1,150 per troy ounce for almost a month, gold finally rose above that level at the end of last week and has continued rising higher since.

Meanwhile, there are signs of resurgent interest in gold-buying from Chinese consumers, many of whom are looking for alternative investments following the sharp fall in China's stock markets since the summer.

Typically, most Chinese gold buying takes place between the Golden Week holidays in October and Lunar New Year in February, as shoppers buy gold for festivals and to give as gifts.

The surge in Chinese demand is likely to be supported by strong Indian demand over the next month and a half because of a series of Hindu festivals, when it is considered auspicious to buy gold. India and China together account for around half of global physical demand for gold.

Excise Revenue Jumps 70%

CBEC Press Release dated 09.10.2015

(Rs. in crores)

Tax Head	For September		%	Upto September		%	% of BE achievement	
	B.E. 2015-16	2014-15		2015-16	2014-15			2015-16
Customs	208336	17710	18312	3.4	88031	103450	17.5	49.7
Central Excise*	228157	13356	22489	68.4	74019	125530	69.6	55.0
Service Tax	209774	15158	20483	35.1	76851	95493	24.3	45.5
Total	646267	46224	61284	32.6	238901	324473	35.8	50.2

*Exclusive of cess administered by other departments.

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Regarding the value addition threshold, the Group suggests for example allowing foreign inputs to a maximum of 75 percent of value in order for a good to qualify for benefits under LDC preferential trade arrangements.

Services waiver

Bangladesh submitted on 25 September a communication requesting a dedicated session of the WTO Council for Trade in Services (CTS) to examine the results emerging from the Bali decision on the operationalisation of the services waiver for LDCs.

Following the Bali decisions, the LDC group submitted a collective request back in July 2014 articulating the preferences in terms of sectors and modes of supply that they would like to receive from preference granting countries. It was agreed in the decision adopted in Bali that six months after such a collective request, a high-level meeting would take place for WTO

members to signal their preferential treatment to services and services suppliers of LDCs based on the collective request.

To date, Australia, Canada, Norway, Hong Kong China, Republic of Korea, Chinese Taipei, Japan, New Zealand, Singapore, Switzerland, Mexico and India have notified their preferences to the CTS. The European Union and Chile also recently announced their intentions of notification and the United States and Turkey submitted their notifications last month.

The LDC communication underlines the appreciation by the Group for some of the extensive notifications made by certain WTO members especially when those included more preferences than what had been earlier announced.

The services waiver decision provides a two-track approach. On the one hand, market access preferences of the type referred to in GATS Article XVI can be automatically covered by the waiver. On the other hand, non-market access measures are not automatically covered, but can be authorised by the WTO CTS. These can include, for example, regulatory preferences, preferential national treatment, and exemptions for quotas or taxes.

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Customs Valuation Exchange Rates

2 October 2015		Imports	Exports
Schedule I [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]			
1	Australian Dollar	46.95	45.60
2	Bahrain Dinar	179.30	168.90
3	Canadian Dollar	49.90	48.80
4	Danish Kroner	9.95	9.70
5	EURO	74.10	72.30
6	Hong Kong Dollar	8.55	8.40
7	Kuwaiti Dinar	223.40	211.15
8	New Zealand Dollar	42.65	41.50
9	Norwegian Kroner	7.80	7.60
10	Pound Sterling	100.40	98.15
11	Singapore Dollar	46.50	45.55
12	South African Rand	4.90	4.60
13	South Arabian Riyal	18.00	17.00
14	Swedish Kroner	7.95	7.75
15	Swiss Franc	68.00	66.45
16	UAE Dirham	18.40	17.40
17	U.S. Dollar	66.15	65.10
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]			
1	Japanese Yen	55.25	54.00
2	Kenyan Shilling	64.55	60.90

(Source: Customs Notification 97(NT)/01.10.2015)