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## India Takes US to WTO Over H1B and L1 Visa Fee Hike in Dec 2015, Claims MFN and NT Violation

### • Nasscom Alleges Annual Injury \$400mn

India has brought a WTO challenge (DS503) against certain measures involving the US' non-immigrant temporary working visas, filing a request for consultations on Thursday 3 March.

At issue in the complaint are the increased fees imposed on certain applicants for two categories of non-immigrant temporary working visas, specifically "L-1" and "H-1B," as well as numerical commitments for the latter visas, according to the consultations request.

(L-1 visas allow a US employer to transfer certain types of high-level employees from an affiliated foreign office to an American one. The H-1B visa applies to people who wish to work in a specialty occupation, including Department of Defence (DOD) projects, or as a fashion model.)

#### Visa fee increases \$4500

Under the Consolidated Appropriations Act of 2016, Washington increased fees for L-1 type visas by US\$4500 and for H-1B type visas by US\$4000 for companies with 50 or more employees in the US, if more than 50 percent of their employees are non-immigrants employed on such visas. It was signed into law by President Barack Obama in December 2015, with the measures in place through September 2025.

India claims that these measures, along with earlier fee increases between August 2010 and September 2015, appear to violate the US' commitments under its Schedule of Specific Commitments under the WTO's General Agreement on Trade in Services (GATS) – the set of global rules involving services trade-along with being inconsistent with other GATS provisions.

According to India, the above-mentioned visa fee increases effectively treat Indian services suppliers with a commercial presence in the North American nation in a less favourable way than US entities providing like services, in sectors such as "Computer and Related Services." Also, the movement of natural persons seeking to supply services is affected in a way that violates Washington's commitments under its GATS schedule, while nullifying or impairing benefits that should accrue to India.

The Indian IT industry is a major user of these types of temporary visas, with India's National Association of Software and Services Companies claiming that the changes may put a burden of up to US\$400 million annually to India's export-driven IT outsourcing firms.

### Commitments to Singapore and Chile at Expense of India

Furthermore, New Delhi is also claiming that recent US changes to its numerical commitment for H-1B visas – specifically due to modifications Washington has made under FTAs with Singapore and Chile – also are inconsistent with its GATS schedule.

According to the consultations request, the US included under its horizontal commitments regarding mode 4 – that involving the movement of natural persons – that it would permit up to 65,000 people annually on a worldwide basis under the category of fashion models and specialty occupations.

Under the two FTAs mentioned above, these "numerical commitments" have allegedly been changed. According to India,

US homeland security officials must now set country-specific limits for both countries, with these numbers taken away from the global total of 65,000 receiving H-1B visas.

Along with allegedly violating the US' schedule, "these measures also appear to raise the overall barriers for service suppliers from India seeking entry into the United States under section 1101(a)(15)(H)(i)(b) of the [Immigration and Nationality Act], compared to the level applicable prior to the implementation of the United States' Free Trade Agreements with Singapore and Chile," says the consultations request.

The request also includes a series of other alleged GATS violations as a result of these measures.

#### Next steps

The US and India must now hold consultations for a minimum of 60 days in an effort to resolve their differences. Should a mutually agreed solution not be reached during that process, New Delhi may then request that a WTO panel be established to hear the case.



#### Crude is Marginally Down to \$35.42

Crude Oil (Indian Basket) from 09 – 15 March 2016

	9 Mar	10 Mar	11 Mar	14 Mar	15 Mar
(\$/bbl)	36.80	37.01	37.33	36.47	35.42
(Rs/bbl)	2482.93	2481.51	2504.57	2444.07	2381.35
(Rs/\$)	67.46	67.05	67.09	67.02	67.23

(Previous Trading Day Price)

Source: Ministry of Petroleum & Natural Gas

Released on 4 March

Now on Sale

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BUDGET 2016-17 Edn.

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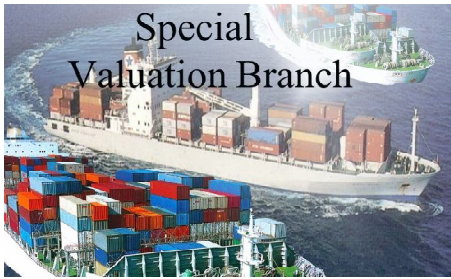
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## SVB Procedures for Related Party Transactions Simplified for Quick Decisions (Ref: CBEC Circular No. 05 dated 9th February 2016)

- No Extra Duty Deposit where all Docs Provided to SVB
- SVB Jurisdiction under Field Commissioner



The days of delays in finalisation of SVB investigations, continued uncertainty due to provisional assessments, extra duty deposits and renewal of SVB orders seems to be over. WCO's has issued Guide to Customs Valuation and Transfer Pricing (June 2015). The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 has been released. The new guidelines issued by the Board on 9 Feb deals with these issues. The highlights of the guidelines are:

- The Special Valuation Branches function under the supervisory control of the jurisdictional Chief Commissioner/Principal Commissioner/Commissioner. DGoV only in support the SVBs by issuing advisories on legal issues & guidance notes or qualitatively monitor investigation orders issued by SVBs.
- The importer will be free to select the SVB of the Customs House of import or the Customs House most proximate to the corporate office, as convenient to him.
- Imports were being assessed provisionally on the basis of a PD Bond but without any EDD after four months. No security in the form of EDD shall be obtained from the importers. However, if the importer fails to provide documents and information required for SVB inquiries, within 60 days of such requisition, security deposit at a rate of 5% of the declared assessable value will be imposed by the Commissioner for a period not exceeding the next three months.
- Practice relating to levy of 'Extra Duty Deposits' (EDD) in cases where SVB investigations are undertaken. It has been taken into consideration that 'Extra Duty Deposit' @ 1% of declared assessable value is being obtained from the importer for a period of 4 months during which time he is required to submit required documents and information to the SVB. In the event of his failing to do so, the EDD can be increased to 5% till such time the importer complies.

Simultaneously, the importer shall be granted a further period of 60 days to comply with the requisition for information & documents. If the importer fails to submit documents within this extended period, the Commissioner in charge of SVB may consider the use of other provisions of the Customs Act for obtaining documents / information from an importer for conducting investigations. In no case shall the imposition of Security

Deposit exceed the period of three months specified above.

Security Deposit to be provided for the purposes of provisional assessment can be by way of cash deposit or a Bank Guarantee.

- It has now been decided that the SVB shall not issue an appealable order. Instead, the SVB shall convey its investigative findings by way of an Investigation Report to the referring customs formation for finalizing the provisional assessments. This would obviate multiple streams of appeals for the trade.
- A questionnaire to be filled by the importer, which would enable the jurisdictional Commissioner to take a decision on whether a case needs to be referred to SVB for investigations.

### • Exemption from SVB

The following cases shall not be taken up for inquiries by SVBs :

- Import of **samples and prototypes** from related sellers
- Imports from related sellers where **duty chargeable (including additional duty of Customs etc.) is unconditionally fully exempted or nil.**
- Any transaction where the **value of imported goods is less than Rs 1 lac** but cumulatively these transactions do not exceed Rs 25 lacs in any financial year.
- **Cases, which may be considered for SVB Investigations**
  - (a) '**royalty and licence fee**' under Rule 10 (1)(c) of CVR, 2007 or
  - (b) where the value of any part **of proceeds of any subsequent resale, disposal or use of imported goods accrues to the seller** [i.e. Rule (10)(1)(d)] of CVR, 2007 or
  - (c) where any other payments are made or are contemplated to be made in future **by buyer to seller as a condition of sale of imported goods** etc., [i.e. Rule 10(1)(e)] of CVR, 2007

*No reference to SVB would be necessary where any additions are sought to be made under **Clauses (a) and (b) of Rule 10(1)**, as it is expected that such matters would be decided routinely by Appraising Groups.*

### • Procedure for considering reference to SVB – Prior Bill of Entry

Importers are advised that if their transaction falls in such a category they should, in so far as possible, file a prior bill of entry preferably 15 days prior to the import. The importers are also advised to provide information as prescribed in Annexure A to this circular

He shall complete such examination within 3 days of the filing of Bill of Entry and the matter submitted before the Commissioner. While examining the information submitted by the importer, the proper officer will carefully examine the "circumstances surrounding the sale" and evaluate the case on the following parameters:-

- Has the importer declared the price of the goods imported is a "transfer price"?

- What is the basis on which the price has been settled between the buyer & seller?
- Has the price been settled in a manner consistent with the way the seller settles prices for sales to buyer who are not related to the seller?
- Does the nature of relationship between the buyer and seller appear to influence the price?
- Is the information provided by the importer in terms of rule 3 (3) (b) able to demonstrate that the transaction is at arms length?
- Are there any payments, such as royalty, licence fee etc., actually made or to be made, as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation cast by the seller? Are such payments included in the price actually paid or payable?
- Whether any part of the proceeds of subsequent re-sale, disposal or use of the imported goods accrues, directly or indirectly, to the seller?
- What is the nature of other payments, if any, made or to be made by the buyer as a condition of sale of the imported goods?
- Has the importer entered into an Advance Pricing Agreement with the Income Tax Authorities or obtained an Advance Ruling?
- Will the prices paid or payable by the importer be settled with the seller at the end of a defined period by means of a debit note / credit note?

### • Procedure for reference to SVB:

- In the event of the Commissioner directing investigations by SVB, the proper officer shall promptly carry out provisional assessment in terms of section 18 of the Customs Act, 1962 and ensure that no delays occur in the release of the goods.
- In order to facilitate expeditious inquiries by the SVB, the proper officer shall alongside of provisionally assessing the bill of entry, requisition further information from the importer.

### • Finalisation of assessments

The proper officer shall issue a show cause notice to the importer within 15 days of the receipt of the IR, under intimation to the concerned SVB.

In cases where imports have been cleared through multiple customs locations, the jurisdictional commissioner of the SVB shall, after issue of notices by the proper officers in the said locations, make a proposal addressed to the Commissioner (Customs), CBEC recommending appointment of a common adjudicating authority by the Board for the purpose of passing order for finalization of the provisional assessments.

The adjudicating authority shall, after following the principles of natural justice, pass an order quantifying the extent of influence on the declared transaction value. The Order shall be endorsed to the Risk Management Division and the DGoV, for updating the Central Registry Database.

The appellate provisions under Section XV of the Customs Act would apply for filing appeals against the order passed by the adjudicating authority.

The system of renewal of SVB orders has been discontinued with immediate effect.

**[Full text of the Circular along with Annexures available at [www.worldtradesScanner.com](http://www.worldtradesScanner.com)]**

## WEEKLY INDEX OF CHANGES

### No MRP Based Assessment of CVD for Set Top Boxes to be Supplied Free to Consumers – Ratio of Bharti Telemedia Case to be Followed, Says CBEC

Subject: Valuation of imported Set top boxes under Section 4 of the Central Excise Act, 1944.

1020-CBEC Reference has been received  
11.03.2016 in Board regarding assessment  
(DoR) of CVD payable on set top  
boxes (STBs), when imported  
by a Direct to Home (DTH) broadcasting service  
provider and where STBs are provided free of cost  
to the consumers of DTH service. The issue is, in  
such conditions, should the value for the pur-  
poses of calculation of CVD be determined on the  
basis of Retail Sale Price (RSP) in terms of  
proviso to section 3(2) of the Customs Tariff Act,  
1975.

2. The issue stands decided by Hon'ble Tribunal  
in case of M/s Bharti Telemedia Ltd. Vs Commis-  
sioner of Customs (Import), Nhava Sheva reported  
as [2016 (331) E.L.T. 138 (Tri.-Mumbai)] or [2015-  
TIOL-1863-CESAT-MUM], wherein it has been  
held that one of the conditions to be met for CVD  
to be levied on Retail Sale Price is that under the  
Legal Metrology Act, there should be requirement  
to declare on the package, the retail sale price  
(RSP) of the goods. Hon'ble Tribunal in this case  
in paragraph 7 has inter alia held that-

".....  
(k) "retail package" means the package which are  
intended for retail sale to the ultimate consumer  
for the purpose of consumption of the commodity  
contained therein and includes the imported pack-  
ages:

*Provided that for the purpose of this clause, the  
expression 'ultimate consumer' shall not include  
industrial or institutional consumers;*

.....

(m) "retail sale price" means the maximum price  
at which the commodity in packaged form may be  
sold to the consumer and the price shall be  
printed on the package in the manner given  
below;

.....

*The retail sale price is defined above as the  
maximum price at which retail package may be  
sold. And retail package means packages which  
are intended for retail sale to the ultimate con-  
sumer. In other words the retail price will be  
required to be declared on the package only if it  
is intended for retail sale ..... It is seen from  
the definition that there should be a transfer of  
property for any consideration or there should be  
a transfer on the hire-purchase system or by any  
system of payment by any instalments. We find  
in the present case that there is no transfer of  
property or hire-purchase system involved nor  
there is a system of payment by instalments.  
Thus there appears to be no sale in the use of the  
Set Top Box by the ultimate consumer*

3. After detailed analysis, Hon'ble Tribunal held  
that in the given circumstances CVD shall not be  
leviable on the basis of Retail Sale Price. In view  
of the above, it is clarified the judgement of  
Hon'ble Tribunal in case of M/s Bharti Telemedia  
Ltd (supra), may be followed for assessment of  
CVD on imported STBs, where the circumstances  
are identical.

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

F.No. 6/5/2015-CX.I

### CBEC Simplifies 1% Jewellery Excise System to Ward off Trade Offensive

In this year's Budget, a nominal excise duty of 1%  
[without input tax credit] and 12.5% [with input  
tax credit] has been imposed on articles of  
jewellery. Even for this nominal 1% excise duty,  
manufacturers are allowed to take credit of input  
services, which can be utilised for payment of  
duty on jewellery.

Some doubts have been expressed by the trade  
and industry regarding this levy. In that context,  
salient features of this levy are explained as under:

Easy compliance with provision for on line  
application for registration, payment of excise  
duty and filing of returns, with zero interface with  
the departmental officers.

The central excise officers have been directed  
not to visit the premises of Jewellery manufactur-  
ers.

Articles of silver jewellery [other than those  
studded with diamonds, ruby, emerald or sap-  
phire] are exempt from this duty.

An artisan or goldsmith who only manufactures  
jewellery on job-work basis is not required to  
register with the Central Excise, pay duty and file  
returns, as all these obligations will be on the  
principal manufacturers [Rule 12AA of the Central  
Excise Rules, 2002].

There is a substantially high Small Scale Indus-  
tries excise duty exemption limit of Rs. 6 crore in

a year [as against normal SSI exemption limit of  
Rs. 1.5 crore] along with a higher eligibility limit of  
Rs. 12 crore [as against normal SSI eligibility limit  
of Rs. 4 crore].

Thus, only if the turnover of a jeweler during  
preceding financial year was more than Rs. 12  
crore, he will be liable to pay the excise duty.  
Jewelers having turnover below Rs. 12 crore  
during preceding financial year will be eligible for  
exemption upto Rs. 6 crore during next financial  
year. Such small jewelers will be eligible for  
exemptions upto Rs. 50 lakh for the month of  
March, 2016.

For determination of eligibility for the SSI ex-  
emption for the month of March, 2016 or financial  
year 2016-17, a certificate from a Chartered  
Accountant, based on the books of accounts for  
2014-15 and 2015-16 respectively, would suffice.

Further, facility of Optional Centralized Regis-  
tration has also been provided. Thus, there is no  
need for a jewellery manufacturer to take separate  
registrations for all his premises.

Field formations have been directed to grant  
hassle free registrations, within two working days  
of submission of the registration application.  
Further, there will be no post registration physical  
verification of the premises [online registration –  
<https://www.aces.gov.in/>].

### Wireless Microphones with Wireless Receiver are in 85181000

Subject: Clarification with regard to classifica-  
tion of Wireless microphone sets/systems  
consisting of one or more wireless microphones  
and a wireless receiver.

09-CBEC It has been brought to the  
11.03.2016 notice of the Board that  
(DoR) wireless microphone sets  
systems consisting of one or  
more wireless microphones and a wireless  
receiver are not being uniformly classified un-  
der Customs Tariff Act, 1975.

2. The matter has been examined by the Board in  
the context of description of the item, WCO  
position, test of common parlance or trade  
practice and an analysis of the suggestion  
given by the High Level Committee to interact  
with Trade and Industry on Tax Laws.

3. Wireless microphone sets/systems consist-  
ing of one or more wireless microphones and a  
wireless receiver were classifiable under CTH  
8525 50 50. In the Finance Bill, 2016 this tariff  
line has been omitted. This change comes into  
effect immediately.

4. Tariff heading 8518 inter-alia provides for  
classification of Microphones and stand there-  
for. This heading covers all kinds of micro-  
phones including Wireless microphone sets/  
systems consisting of one or more wireless  
microphones and a wireless receiver. There-  
fore, consequent to deletion of tariff line 8525  
50 50, it is clarified that all microphones includ-  
ing Wireless microphone sets/systems consist-  
ing of one or more wireless microphones and  
a wireless receiver are classifiable under  
tariff item 8518 10 00.

5. All pending assessments, if any, may be  
finalized accordingly.

F. No. 528/08/2014-STO (TU)

Jeweler's private records or records for State  
VAT or records for Bureau of Indian Standards (in  
the case of hallmarked jewellery) will be accepted  
for all Central Excise purposes. Also, there is no  
requirement to file a stock declaration to the  
jurisdictional central excise authorities.

Excise duty is to be paid on monthly basis and  
not on each clearance, with first installment of  
duty payment for the month of March, 2016 to be  
paid by 31<sup>st</sup> March for March, 2016.

A simplified quarterly return has also been  
prescribed, for duty paying jewelers [ER-8].

Moreover, simplified export procedure is avail-  
able for exempted units [Part III of chapter 7 of  
CBEC's Central Excise Manual].

**[Ref: D.O. Chairman/CBEC/27/2016 dated 3<sup>rd</sup>  
March 2016]**

I would like to invite your attention to the DO F No.  
334/8/2016- TRU dated 29th February, 2016 of  
the Joint Secretary (TRU-I) regarding changes in  
Customs and Central Excise duty rates and law  
and procedure made as part of this year's Budget.

2. In particular, to the changes made in excise  
duty rates for precious metal jewellery and  
readymade garments and made up articles of  
textiles and instructions issued by the JS (TRU-  
I) relating to facilitating compliance to these new  
levies.

3. In this context, I would like to highlight that in  
the era of self assessment, our main role is to

facilitate trade and industry. That being so, I would like to emphasize the following, particularly in the context of changes in excise duty rates for precious metal jewellery and readymade garments/made up articles of textiles:

- i. Registration/Centralized Registration once applied for shall be granted within two working days, as per the simplified registration procedure prescribed under Notification No. 35/2001-CE [NT].
- ii. Further, there should be no post registration verification of the registered premises. Relevant Notification No. 35/2001-CE [NT] has been suitably amended in this regard.
- iii. Aforesaid instructions also provide that no stock declaration will be required to be made to the jurisdictional central excise authorities by jewellery manufacturers. To further allay any possible apprehensions of the industry, I would request you to ensure that the officers

of the department do not visit the premises of these assesses for any routine purposes, like stock verification, verification of records, etc.

- iv. Officers should continue to facilitate export consignments of these goods, and ensure that under no circumstances the same are held up or delayed on account of the new levy.
- v. As per the Rule 12AA of the Central Excise Rules; 2002, jeweler who gets his jewellery manufactured from any other person [like artisans etc.], will have to follow the procedures [such as taking registrations, paying duty and filing returns] and pay duty. In such cases, the levy will not be on the job worker [like artisans etc.]

For further details you may refer to the aforesaid letter of JS (TRU- I).

3. Need less to say there should be no deviation from the instructions above.

## India-ASEAN Trade in Goods Agreement (Safeguard Measures) Rules, 2016

- Concept of "Critical Circumstance" Leading to Possible Injury to Domestic Industry Introduced Due to Sudden Increase in Imports from ASEAN
- DG has Powers to Raise Duty to Normal Rate for 200 Days (Provisional) and Max 3 Months (Final Findings)
- Safeguard Duty to Apply to All ASEAN Members

[Ref: Customs Notification No. 37 (Non Tariff) dated 4th March 2016]

- |  |  |
|--|--|
| 1. Short title and commencement                                | 10. Final findings   |
| 2. Definitions   | 11. Application of safeguard measure                             |
| 3. Duties of Director General                                  | 12. Imposition of safeguard measures on non-discriminatory basis |
| 4. Initiation of investigation.                                | 13. Date of commencement of safeguard measure                    |
| 5. Principles governing investigation.                         | 14. Refund of duty   |
| 6. Confidential information                                    | 15. Transition period  |
| 7. Determination of serious injury or threat of serious injury | 16. Duration   |
| 8. Preliminary findings.                                       | 17. Liberalisation of safeguard measure                          |
| 9. Application of provisionalsafeguard measures                | 18. Review   |

[Full text available at worldtradesscanner.com]

## CBEC Withdraws Prosecution in Central Excise Cases Older than 15 Years Involving Duty Less than Rs. 5 Lakhs

Subject: - Withdrawal from prosecution in Central Excise cases older than 15 years involving duty less than rupees five lakhs.

1018-CBEC CAG submitted its report  
29.02.2016 regarding administration of  
(DoR) prosecution and penalty in  
Central Excise and Service Tax

wherein regarding withdrawal of old cases of prosecution, it noted that "though the discretion to allow withdrawal of prosecution ultimately rests with the Court, it is the department's responsibility to ensure periodic monitoring of the status of long pending cases as to ensure that cases which in the opinion of the department merit withdrawal are being brought to the notice of the Court alongwith all supporting facts at the proper time in terms of Sections 257 and 321 of CrPC 1973."

2. The issue has been examined. The present limit for arrest and prosecution in Central Excise cases is Rupees one crore which was made effective vide Circular No. 1010/17/2015-CX dated 23.10.2015. Earlier, the limit for launching prosecution was Rs.25 Lakhs, which came into effect

vide letter F.No. 208/31/97-CX6 dated 04.04.1994. Taking into consideration this increase in the limit for prosecution over a period of time, expenditure involved in continuing with old prosecution and equivalent value of the present threshold limit of rupees one crore in the past, it was decided to collect information on prosecution pending in courts for more than fifteen years where the duty involved is less than rupees five lakhs. On the basis of the reports received, it was found that there are 288 cases older than fifteen years, involving duty of rupees five lakh or less. In these 288 cases, the total amount of duty evasion involved was found to be Rs.2.31 crore, which comes to an average of Rs. 80,000/- per case.

3. Provisions relating to withdrawal of prosecution are contained in Section 257 and Section 321 of the CrPC. Further, in the case of Sheo Nandan Paswan Vs. State of Bihar and Others, (1983) 1 SCC 438, Hon'ble Supreme Court noted, while

## Board Withdraws Restriction on Carrying 100 Rupee Notes by Foreign Going Vessels for Wages Payment

Subject: - Issue of Indian Currency Note- Foreign going vessels-Instructions

07-CBEC Kind reference is invited to  
07.03.2016 Boards Circular No. 51/99  
(DoR) dated 12.08.1999 on the  
subject cited above wherein

Board had decided to allow Merchant Ship to carry Indian currency notes of Rs. 100/-denomination for disbursement of wages etc. on board of foreign going vessel, subject to the usual conditions prescribed by RBI.

2. It has been brought to notice of the Board that revised guidelines issued by RBI has not prescribed any restriction on denomination of Indian currency, carried by an Indian traveller or Captain of a Ship. In the light of the revised RBI guidelines, Board has decided to withdraw the restriction on denomination of Indian currency imposed vide earlier Circular No. 51/1999 dated 12.08.1999.

3. Suitable Public Notices may be issued by the jurisdictional Chief Commissioners.

4. Difficulty faced in this regard, if any, may be brought to the notice of the Board.

examining the scope of Section 321, four grounds for seeking withdrawal from prosecution. Out of these four grounds, two relevant grounds for Central Excise are as under:-

- (i) Inexpediency of the prosecution for reasons of State and Public Policy, and
- (ii) Adverse effects that the continuance of the prosecution will bring to the public interest in the light of the changed situation.

4. In the light of the legal provisions under section 257 and 321 of the Code of Criminal Procedure 1973, and the judgement of the Hon'ble Supreme Court, it appeared that Central Excise cases involving duty amount less than Rs. five lakhs and undergoing prosecution in the courts for more than fifteen years may be considered for withdrawal from prosecution. Accordingly, these cases where evasion of Central Excise duty is less than Rs. 5 lakh and pending in court for more than 15 years were brought to the notice of the Competent Authority suggesting that withdrawal from prosecution would be desirable in these cases on the following grounds:

4.1 Present limit for arrest and prosecution in Central Excise is Rupees one crore. This enhanced limit of one crore was prescribed on 23.10.2015. Before this date, the limit since 1994 was rupees twenty five lakhs. The present enhanced monetary limit indicates a liberal policy of the government in relation to prosecution. If this limit is interpolated to a value fifteen years back, it would be higher than Rupees five lakh. Therefore, it would be reasonable to conclude that the equivalent cases, of the cases under consideration, would not undergo prosecution today,

4.2 Withdrawal from prosecution would be in conformity with the policy of the Government to reduce litigation in taxation,

4.3 Expenditure involved in continuing with such prosecution may not be commensurate with the result likely to be achieved,

4.4 The Human resources saved can be redeployed to garner more revenue for the exchequer.

4.5 Withdrawal of such cases would send a positive message to the manufacturing sector in which policy of "Make in India" is being actively pursued.

5. After due consideration, it has been decided with the approval of the competent authority to recommend filling of application before the Hon'ble Court to withdraw from prosecution of the cases where evasion of Central Excise duty is less than Rupees five lakhs and prosecution is pending for more than fifteen years. Chief Commissioner shall give direction to the Central Excise Officer in the concerned Commissionerate to request the Public Prosecutor to file an application requesting the Court to allow withdrawal from prosecution in accordance with law. It may be noted that on filing of such applications, it is for Hon'ble Courts to finally decide whether or not to pursue the prosecution.

6. Attention is also invited to the circular no. 1010/17/2015-CX dated 23.10.2015 on withdrawal from prosecution where quasi-judicial proceedings on identical facts have failed. Appropriate

action as per this Circular may be taken where necessary.

7. Application should also be moved for withdrawal from prosecution against the conoticees in a case, where the prosecution, against the main noticee is proposed to be withdrawn, as the grounds for withdrawal of prosecution would apply equally to the conoticees.

8. On examination of specific cases, if there are more grounds available for discontinuation of prosecution proceedings, the same may be incorporated in the application before writing to the Public Prosecutor to file the application. On the other hand, if there are valid grounds available for continuation of the prosecutions proceedings, the same should be examined by the Chief Commissioner and where it is proposed to continue with prosecution, it should be brought to the notice of the Central Excise wing in the Board with necessary justification.

9. This shall come into force from 1st of March, 2016. Difficulty, if any, in the implementation of the circular should be brought to the notice of the Board.

### Payment Certificate for Proof of Payment of Excise Duty Now Available to All Categories

*Subject: Certificate evidencing payment of Central Excise duty.*

1017-CBEC I am directed to refer to the 29.02.2016 Boards circular 620/11/2002-(DoR) CX, dated 20.02.2002 wherein facility of issuing of Certificate as proof of payment of Central Excise duty was extended to Small Scale Industry. References have been received from Trade for extending this facility of issuing Certificate as proof of payment of Central Excise duty to all categories of industries.

2. These representations have been examined and it has been decided that benefit of Circular No.620/11/2002-CX dated 20.02.2002 shall be extended to the entire industry as a matter of trade facilitation.

3. This circular shall come into force from 1st of March, 2016. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board. Trade, industry and field formations may suitably be informed.

### Two Premises in Same Range can be Registered as Single Premise under Excise

*Subject: Registration of two or more premises as one registrant in Central Excise.*

1016-CBEC Notification No. 36/2001-Central 29.02.2016 Excise (NT), dated 26.06.2001 (DoR) has been amended vide

Notification No. 19/2016-Central Excise(NT), dated 01.03.2016 to provide that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper account of the movement of goods from one premise to

other and such other conditions and limitations, as may be prescribed, allow single registration.

2. In light of the above, sub-paragraph (1) of paragraph 3 of Circular No. 586/23/2001-CX dated the 12th September, 2001, and instructions in paragraph 3.2 of Chapter 2 (Registration) of Central Excise Manual of Supplementary Instructions, 2005, stands amended accordingly.

3. This circular shall come into force from 1st of March, 2016. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board. The trade, industry and field formations may suitably be informed.

### Interest Rate Cut to 15% from 24% on Goods Warehoused for Export when Cleared to DTA

*Subject: Change in rate of interest on goods warehoused for export, when cleared to DTA.*

1019-CBEC Kind attention is invited to 29.02.2016 Board's Circular No. 581/18/ (DoR) 2001-CX, dated 29.06.2001, specifying conditions,

procedures, class of exporters and places under sub-rule (2) of rule 20 of Central Excise (No. 2), Rules, 2001 for Central Excise who can avail facility of export warehousing.

2. Paragraph 10.3 in the said circular deals with liability of interest on goods, warehoused for export, when diverted for home-consumption. In

the said paragraph 10.3, for the words, symbols and figures, "interest @ 24% per annum", the words, symbols and figures, "interest @ 15% per annum", shall be substituted. The change would bring down the rate of interest to fifteen per cent. per annum.

3. This circular shall come into force on 1.4.2016. Field formations may be suitably informed. Receipt of this Circular may please be acknowledged.

### Anti-dumping on Polypropylene from Singapore – Duty Reduced in Review

Ntnf07-ADD Whereas, the designated 08.03.2016 authority, vide notification No. (DoR) 15/14/2014-DGAD, dated the 28th July, 2014, published in

the Gazette of India, Extraordinary, Part I, Section 1, had initiated a review in the matter of continuation of anti-dumping duty on imports of Polypropylene (hereinafter referred to as the subject goods) falling under tariff items 3902 10 00 or 3902 30 00 of the First Schedule to the Customs

Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in or exported from Singapore (hereinafter referred to as the subject country), imposed vide notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 119/2010-Customs, dated the 19th November, 2010, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 919(E), dated the 19th November, 2010;

And whereas, the Central Government had extended the anti-dumping duty on the subject goods, originating in or exported from the subject country upto and inclusive of the 29th July, 2015, vide notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 38/2014-Customs (ADD), dated the 13th August, 2014, published in Part II, Section 3, Sub-section (i) of the Gazette of India, Extraordinary, vide number G.S.R 587(E), dated the 13th August, 2014;

And whereas, in the matter of review of anti-dumping duty on import of the subject goods, originating in or exported from the subject country, the designated authority in its final findings, published vide notification No. 15/14/2014-DGAD, dated the 27th January, 2016, in the Gazette of India, Extraordinary, Part I, Section 1, has come to the conclusion that injury to the domestic industry is likely to continue in the event of cessation of anti-dumping duty on imports of subject goods from the non-cooperative producers or exporters from subject country and has recommended imposition of the anti-dumping duty on the subject goods, originating in or exported from the subject country.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff items of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the

corresponding entry in column (7), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table, namely:-

**Table**

SNo.	Tariff item	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	3902 10 00, 3902 30 00	Polypropylene (i.e. homopolymers of propylene and copolymers of propylene and ethylene)	Singapore	Singapore	The Polyolefin company (Singapore) Pte. Ltd.	Itochu Plastics Pte. Ltd.	Nil	MT	US Dollar
2.	-do-	-do-	Singapore	Singapore	The Polyolefin company (Singapore) Pte. Ltd.	Any other	145.2	MT	US dollar
3.	-do-	-do-	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific	Exxon Mobil Chemical Asia Pacific	Nil	MT	US Dollar
4.	-do-	-do-	Singapore	Singapore	Exxon Mobil Chemical Asia Pacific, Singapore	Any other	145.2	MT	US Dollar
5.	-do-	-do-	Singapore	Singapore	Any combination other than as specified at Sl. Nos. 1-4.		145.2	MT	US Dollar
6.	-do-	-do-	Singapore	Any country other than Singapore	Any	Any	145.2	MT	US Dollar
7.	-do-	-do-	Any country other than Singapore	Singapore	Any	Any	145.2	MT	US Dollar

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

*Explanation.-* For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the

Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F.No. 354/140/2009-TRU (Pt.-II)]

to the domestic industry;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), and exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), exported by the exporters as specified in the corresponding entry in column (7), imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (8), in the currency as specified in the corresponding entry in column (10) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table, namely:-

## Anti-dumping Duty on Phenol from EU, Singapore and Korea – Final Findings

Ntfn 06-ADD 08.03.2016 (DoR) Whereas, in the matter of Phenol (hereinafter referred to as the subject goods), falling under tariff item 2907 11 10 of

Chapter 29 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from, the European Union, Singapore and Korea RP (hereinafter referred to as the subject countries), and imported into India, the designated authority in its final findings published in the Gazette of India, Extraordinary, Part I, Section 1, vide notification number 14/13/2014-

DGAD, dated the 12th January, 2016, has come to the conclusion that-

- (i) the subject goods have been exported to India from the subject countries below its associated normal value resulting in its dumping;
- (ii) the domestic industry has suffered material injury in respect of subject goods;
- (iii) the material injury has been caused by the dumped imports from subject countries, and has recommended imposition of definitive anti-dumping duty on imports of the subject goods, originating in, or exported from subject countries and imported into India, in order to remove injury

**Table**

SNo.	Tariff Item	Description of goods	Country of origin	Country of export	Producer	Exporter	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	2907 11 10	Phenol	Korea RP	Korea RP	M/s LG Chem Ltd,	Vinmar International Ltd, USA, Haresh Petrochem Singapore Pte Ltd, Singapore, Hyundai Corporation, Korea RP, ICC Chemical Corporation, USA, Kempar Energy Pte Ltd, Singapore, Dinowic Pte Ltd, Singapore, Hazel Middle East FZE, UAE, Integra Petrochemicals Pte Ltd, Singapore, Continent International Ltd, Hong Kong, Oxyde Chemicals China Ltd, Hong Kong	Nil	MT	US Dollar
2.	2907 11 10	Phenol	Korea RP	Korea RP	M/s LG Chem Ltd,	Any other than at Sl. No. 1	77.19	MT	US Dollar

3.	2907 11 10	Phenol	Korea RP	Korea RP	M/s Kumho P&B Chemicals Inc	Humade Corporation, Korea RP, Woori P and C Corporation, Korea RP, Canko Marketing Inc., Korea RP	Nil	MT	US Dollar
4.	2907 11 10	Phenol	Korea RP	Korea RP	M/s Kumho P&B Chemicals Inc	Any other than at Sl. No. 4	77.19	MT	US Dollar
5.	2907 11 10	Phenol	Korea RP	Korea RP	Any other combination	Any other combination	77.19	MT	US Dollar
6.	2907 11 10	Phenol	Korea RP	Any	Any	Any	77.19	MT	US Dollar
7.	2907 11 10	Phenol	Any country other than subject countries	Korea RP	Any	Any	77.19	MT	US Dollar
8.	2907 11 10	Phenol	Singapore	Singapore	M/s Mitsui Phenols Singapore Pte Ltd	M/s Mitsui & Co. (Asia Pacific) Pte. Ltd, Singapore, M/s Sumitomo Corporation Asia and Oceania Pvt Ltd, Singapore Petrochem Asia Pte Ltd, Singapore	Nil	MT	US Dollar
9.	2907 11 10	Phenol	Singapore	Singapore	M/s Mitsui Phenols Singapore Pte Ltd	Any other than at Sl. No. 9	219.58	MT	US Dollar
10.	2907 11 10	Phenol	Singapore	Singapore	Any other combination	Any other combination	219.58	MT	US Dollar
11.	2907 11 10	Phenol	Singapore	Any	Any	Any	219.58	MT	US Dollar
12.	2907 11 10	Phenol	Any country other than subject countries	Singapore	Any	Any	219.58	MT	US Dollar
13.	2907 11 10	Phenol	European Union	European Union	Any	Any	253.06	MT	US Dollar
14.	2907 11 10	Phenol	European Union	Any	Any	Any	253.06	MT	US Dollar
15.	2907 11 10	Phenol	Any country other than subject countries	European Union	Any	Any	253.06	MT	US Dollar

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

*Explanation.*- For the purposes of this notification, rate of exchange applicable for the purpose of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the

Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.

[F.No. 354/202/2015-TRU]

### **Tobacco Board, Guntur Empowered to Issue GSP Certificate for Tobacco and Tobacco Products**

*Subject: Amendment in Appendix 2C of Appendices and ANF of FTP 2015-20, list of agencies authorized to issue Generalized System of Preferences (GSP).*

63-PN In exercise of powers conferred  
07.03.2016 under paragraph 2.04 of the  
(DGFT) Foreign Trade Policy 2015  
2020, the Director General of

Foreign Trade hereby makes amendment in Appendix 2C of Appendices and Aayat Niryat Forms of FTP 2015-20 i.e., list of agencies authorized to issue Generalized System of Preferences (GSP) Certification to include Tobacco Board, in the list as under:-

SNo.	Agencies authorized to issue GSP Certificate of Origin	Authorized for
16.	Tobacco Board, Guntur	Tobacco & Tobacco products

### **One NOC for Bonded Goods from PGA Enough**

**[CBEC Instruction F.No. 450/147/2015-Cus-IV dated 26<sup>th</sup> February 2016]**

*Subject: Single Window Project-Problems in clearance of Ex-Bond Bills of Entry in online clearance facility.*

Kind reference is invited to Single Window NOC Module launched at major Customs locations with effect from 5<sup>th</sup> February, 2016.

2. It has been brought to notice of Board that after implementation of Single Window NOC Module, ex-bond Bills of Entry are getting referred to Participating Government Agencies (PGAs) for **No Objection Certificate** even though the same goods had received NOC from PGA at the time of warehousing i.e at the into bond Bill of Entry stage.

3. The issue has been examined and it is decided that all regulatory checks shall be applied at the into bond stage for a Bill of Entry for

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37-Cus(NT)/04.03.16	India-ASEAN Trade in Goods Agreement (Safeguard Measures) Rules, 2016	6657	<b>364</b>
<b>CBEC Circular</b>			
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1016-CBEC/29.02.16	Two Premises in Same Range can be Registered as Single Premise under Excise	6667	<b>365</b>
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<b>*See details in www.worldtradesScanner.com</b>			

Warehousing. However, in-case of imported goods, of a nature, in respect of which it may not be feasible for PGA to give NOC immediately then such goods may be allowed facility of section 49 of the Customs Act, 1962, till such time the issue of NOC is decided. 4. Difficulty faced in this regard, if any, may be brought to the notice of the Board.

**Country of Export for PVC Suspension Grade Anti-dumping Duty Amended to “Taiwan” from “EU”, “USA” in China General Plastics Corp Case**

Ntnfn08-ADD In exercise of the powers 11.03.2016 conferred by sub-section(1and (DoR) sub-section (5) of section 9A of the Customs Tariff Act, 1975(51 of 1975), read with rules 18, 20 and 23 of the Customs Tariff(Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance(Department of Revenue), No. 27/2014-Customs (ADD), dated the 13thJune, 2014, published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), vide number G.S.R. 405(E), dated the 13th June, 2014, namely:- In the said notification, in the Table,-  
i. against serial numbers 3, 4, and 5, for the entry in column (5), the entry Taiwan shall be substituted;  
ii. against serial number 12, for the entry in column (5), the entry People’s Republic of China shall be substituted.

[F.No.354/70/2007-TRU (Pt-I)]

Customs Valuation Exchange Rates		
4 March 2016	Imports	Exports
<b>Schedule I</b> [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]		
1 Australian Dollar	49.95	48.55
2 Bahrain Dinar	184.35	173.70
3 Canadian Dollar	50.85	49.80
4 Danish Kroner	9.95	9.70
5 EURO	74.10	72.30
6 Hong Kong Dollar	8.75	8.60
7 Kuwaiti Dinar	230.75	218.05
8 New Zealand Dollar	45.70	44.35
9 Norwegian Kroner	7.90	7.70
10 Pound Sterling	96.05	93.90
11 Singapore Dollar	48.90	47.90
12 South African Rand	4.45	4.20
13 South Arabian Riyal	18.50	17.50
14 Swedish Kroner	7.95	7.75
15 Swiss Franc	68.50	66.80
16 UAE Dirham	18.90	17.85
17 U.S. Dollar	68.00	66.95
18 Chinese Yuan	10.45	10.20
<b>Schedule II</b> [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees ]		
1 Japanese Yen	59.90	58.55
2 Kenyan Shilling	68.40	64.65

(Source: Customs Notification 36(NT)/03.03.2016)

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