

**PRE-BUDGET MEMORANDUM 2021-22: CUSTOMS**

<b>Sl.</b>	<b>Subject</b>	<b>Rationale</b>	<b>Recommendation</b>
	<b><u>Export Oriented Units</u></b>		
1.	Time limit for bringing back goods from the job worker's premises	<p>Para 2 of the Circular No. 26/2003 dated 1 April 2003 provides that goods sent out for job-work is required to be returned to EOU within a period of 90 days. In case of non-receipt of goods within the stipulated time limit, recovery of duty can be initiated by the department.</p> <p>Time limit of 90 days prescribed for bringing back goods from the job worker's premises is inadequate.</p> <p>Section 143 of Central Goods and Services Tax Act, 2017 provides one year time limit for bringing back the goods from job worker's premises.</p>	Time limit of 90 days prescribed for return of goods to EOU from the sub-contractor / job worker should be increased to one year.
2.	Payment of customs duty for domestic clearances	<p>Presently EOUs are required to pay back the customs duty exemption claimed on imported inputs (or inputs contained in finished goods) which are cleared domestically. (Notification No. 52/2003 Custom dated 31 March 2003)</p> <p>The methodology of calculation leads to delay in shipments. Computation of the amount is very difficult in respect of each domestic dispatch and this can also lead to potential disputes.</p>	An option should be provided to the supplier of goods to pay a fixed percentage of duty on domestic clearances. Also, such duty should be payable on a monthly basis instead of payment at the time of clearance.

3.	Exemption from payment of IGST and Compensation Cess	Exemption from payment of Integrated Tax and Compensation Cess under EOU Scheme for import of goods is valid only till 31 March 2021. (Notification No. 52/2003 Custom dated 31 March 2003)	In order to continue to promote exports and increase the foreign exchange earnings, the exemption should be extended till 31 March 2022.
<b>Duty Drawback</b>			
4.	Duty Drawback for Defence Goods	<p>Duty Drawback rate for Defence goods is currently NIL. The government has recently increased the incentive on various goods by way of higher duty drawback to boost exports and also ease the liquidity crunch faced by exporters after the roll out of the Goods and Services Tax.</p> <p>The drawback neutralises customs duty and GST component on the inputs used for products exported. Duty drawback make India's exports more competitive in global economy.</p>	In order to promote Defence sector, the exporter should be given incentive by way of duty drawback.
5.	Disbursement of Drawback Claims	<p>The following two issues are contributing to the delay in realization of Drawback claim by exporters</p> <ul style="list-style-type: none"> <li>○ Para 2 of Circular No. 17/2000-Cus dated 29 February 2000 provides for mandatory appraisalment of DBK claim for claim value of more than INR 1 lakh.</li> <li>○ After the disbursement of DBK claim by Customs department, there is a delay from bank in disbursing the claim amount to exporters.</li> </ul>	<p>Since the claims are system approved based on All India rates, the current appraisalment limit of INR 1 lakh to be raised to INR 5 lakhs.</p> <p>Further, appropriate guidelines be issued to bank for time bound release of claim amount to exporters.</p>

6.	Status of drawback under section 74 to be available on ICEGATE	Presently, it takes longer time for obtaining drawback under section 74 of Customs Act, 1962 as there is no transparency and data is not available online.	<p>All drawbacks under section 74 of Customs Act, 1962 should be made available on ICEGATE and deficiencies and replies should be handled thru E-Sanchit only.</p> <p>Monitoring of claims, acceptance, rejection and drawback status should also be available on ICEGATE.</p> <p>After approval of claims, money should be transferred to importer's account automatically like AIR Drawback.</p>
7.	DBK on Social Welfare Surcharge (SWS) paid through Merchandise Exports from India Scheme (MEIS) scrip	<p>SWS was introduced vide section 110 of Finance Act, 2018.</p> <p>SWS, which is levied @ 10% on Basic Custom Duty (BCD), is also a part of Custom duty and hence SWS component should be allowed in Drawback claim.</p> <p>Payment of SWS using MEIS scrips is equivalent to cash payment. Mere mode of payment should not restrict the right of claiming SWS under Drawback scheme.</p> <p>Vide CBIC Circular No. 02/2020-Customs dated 10 January 2020, Board has informed that past cases should not be disturbed for ensuring ease of doing business.</p>	DBK to be allowed on SWS component paid through MEIS scrip.

<b>Duty credit scrips</b>			
8.	Utilization of SEIS scrips by supplier/ contractor of the Exporter	<p>As per para 2 of Notification No. 25/2015 – Cus dated 8 April 2015, SEIS scrip is allowed to be used only by the person/ exporter in whose favour it is issued (without its transfer).</p> <p>To facilitate the industry, especially in COVID-19 situation, SEIS scrip should be allowed to be used by the supplier/ contractor of the exporter for supply of imported goods.</p>	Relevant provisions should be brought to introduce the mechanism of utilization of SEIS scrip by the supplier/ contractor (who remains importer on record) of exporter without transferring the same.
9.	Utilization of MEIS & SEIS scrips for payment of GST	<p>As per para 3.02 of the FTP 2015-20, MEIS and SEIS scrips can be utilized for the payment of Basic Customs Duty and Additional Customs Duty specified under Sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 and central excise duty on domestic procurement of inputs or goods.</p> <p>However, they cannot be utilized for the payment of IGST &amp; GST Compensation Cess on imports and CGST, SGST/UTGST, IGST &amp; GST Compensation Cess on domestic procurement, leading to financial burden on importers.</p>	Foreign Trade Policy 2015-2020 and Customs law be amended for allowing the utilization of MEIS and SEIS scrips towards the payment of GST on imports and domestic procurements.

<b>Duty free shops (DFS)</b>			
10.	Customs Audit to be done annually for duty free shops	<p>As of now, there is no time period prescribed for Customs Department to conduct audit to ascertain duties on damaged stock etc. As a result, duty free shops have to preserve such damaged stock for Customs Department to physically inspect and verify it and have to incur huge warehousing charges.</p> <p>If annual audit is carried out, then such damaged stock etc. can be removed from the warehouse after payment of necessary duties to the Customs Department on an annual basis.</p>	There should be a provision to conduct customs audit on annual basis for duty free shops.
11.	Period of bond for DFS	<p>As per section 61 of the Customs Act, 1962 read with Circular No. 21/2016 dated 31 May 2016, in case of goods other than capital goods or those intended for use in any hundred per cent export-oriented undertaking, the bond is valid till three years.</p> <p>Since, the sales of goods by duty free shops is also considered as exports, the period of bond for duty free shops be also extended to three years instead of one year as currently applicable. Also, as part of ease of doing business agenda of the Government, the bonding permission be made online.</p>	Bond period for DFS should be extended from 1 year to 3 years with online application for obtaining bond permission.

12.	Duty payment on damaged, expired and disposed goods	<p>The genesis of business of duty free shops is sale of goods to international passengers without payment of duties. On the said premise, no duty is being charged upon import of goods by duty free shops. However, duty is being levied on damaged, expired and disposed goods which is bound to occur in any business.</p> <p>As per section 72(1)(d) of Customs Act, 1962, duty on goods which are under bond can be charged if they are not duly accounted for to the satisfaction of proper officer. But duty-free shops properly account for damaged, expired and disposed goods. These goods physically exist with duty free shops. Despite this, duties are being charged which is against the intent of provisions of the Customs Act and undue burden on duty free shops.</p>	Duty should not be charged on damaged, expired and disposed goods in case of duty free shops.
<b>Others</b>			
13.	Payment of duty in case of redemption of Advance Authorisation/ EPCG license	<p>In case of redemption of licenses, Customs law requires duty exemption claimed on procurement of imported goods to be paid back if export obligations are not fulfilled. (Notification no. 16/2015-Cus and 18/2015-Cus dated 1 April 2015)</p> <p>For pre-GST imports, importer is left with no option but to pay CVD and SAD along with BCD through TR-6 challan.</p>	<p>In case of duty-free imports made under EPCG and Advance Authorisation licenses, Customs law should be suitably amended to allow importers to pay the CVD and SAD component as "IGST".</p> <p>In the alternative, there should be a provision to allow refund of CVD and SAD to the importers.</p>

14.	Extra Duty Deposit (EDD) under Special Valuation Branch (SVB)	<p>By virtue of circular 5/2016-Customs dated 9 February 2016, the levy of EDD has been discontinued. However, if an importer fails to provide the requisite documents and information within a period of three months, SVB have been given the right to collect deposit @ 5% for a period not exceeding the following three months.</p> <p>The said deposit continues to be retained beyond the period of three months even when the requisite documents and information are been provided. Further, disposal of SVB applications are invariably delayed.</p>	Suitable amendments be made in the law to ensure completion of SVB cases within the prescribed time limit.
15.	Time Limit of Provisional Assessment	<p>As per Customs (Finalization of Provisional Assessment) Regulations, 2018, the time limit for finalization of provisional assessment is two months from the receipt of an enquiry, investigation, verification report.</p> <p>However, no time limit has been prescribed for submission of enquiry, investigation, verification report.</p>	Time limit for furnishing of enquiry, investigation, verification report should also be fixed under the law.
16.	Pre-deposit and under protest payment	<p>Section 129E of the Customs Act, 1962 provides for mandatory pre-deposit.</p> <p>Such mandatory pre-deposit or payment of duty under protest is to be made through Demand Draft and the same needs to be submitted to respective Custom station along with TR-6 challan manually.</p>	Mandatory pre-deposit or payment of duty under protest should be routed through ICEGATE.

17.	PAN based turnover criteria for quantum of Bank Guarantee	As per the Circular No. 48/2017, importers have to provide bank guarantee @25% of exemption claimed in case the annual turnover in the preceding year is less than INR 1 crore. For computation of turnover limit, jurisdictional officers are considering turnover of individual registration (GSTIN wise) instead of PAN based/ IEC based turnover of the importer.	Clarification should be issued that annual turnover as referred in Circular no. 48/2017 shall mean the turnover of the legal entity (under a single PAN).
18.	Payment of Customs duty for clearances from Custom Bonded Warehouse	<p>Section 68 of the Customs Act, 1962 provides that any warehoused goods may be cleared from the warehouse for home consumption, if bill of entry for home consumption has been presented and import duty has been paid.</p> <p>It is difficult to manage and make payment for each ex-bond transaction manually. Presently, this is critical point affecting bonded warehouse usage where there are significant number of domestic dispatches.</p>	Custom duty should be collected on a monthly basis for various ex-bond transactions made during the month.
19.	Clearance of goods imported for repairs	<p>Goods imported for repair and return, are sometimes non-repairable after analysis. Expenses and logistics efforts of exporting these small units are too high.</p> <p>In certain cases, goods are not allowed to be cleared in India even on payment of custom duty. (Notification No. 134/94-Cus dated 22 June 1994 and 153/94-Cus dated 13 July 1994)</p>	<p>The imported goods found non-repairable should be allowed to be cleared on payment of applicable duty.</p> <p>Destruction of such goods can be certificated by Chartered Engineer or can be given to authorized E-waste companies based on the type of goods.</p>



20.	Imports by R&D units registered under DSIR	<p>Partial exemption has been provided on imports by R&amp;D units registered under DSIR. Currently, the exemption is granted over and above 5% duty on specified goods. In case the items imported are not in the specified list, full duty has to be paid. (Notification No 51/96-Cus read with 43/2017-Cus dated 30 June 2017)</p> <p>While credit is available in respect of duty paid on imports, it results in huge accumulation of ITC, thereby increasing the cost of R&amp;D activities. Exempting such goods will reduce the cost of R&amp;D mainly the cost of bulk drugs or dosage manufactured by pharma industry.</p>	<p>Specified goods imported by R&amp;D units registered under DSIR should be fully exempt from duty.</p> <p>Such exemption should be extended even in respect of goods not specified but are imported by R&amp;D units based on a proper certification by the R&amp;D head.</p>
21.	Time limit for payment of customs duty	<p>As a trade facilitation measure, the facility of deferred payment of customs duty was notified in the Finance Act, 2016. Consequently, Deferred Payment of Import Duty Rules, 2016 were notified vide Notification No. 134/2016-Customs (NT) and 135/ 2016-Customs (NT) dated 2 November 2016.</p> <p>By virtue of such notifications, AEOs are given certain benefits. One such benefit is 15 days deferred customs duty payments. This timeline needs to be increased to 30 days as it will facilitate the cash flow for the industries in the current situation.</p>	Timeline for payment of customs duty by AEO should be increased to 30 days.

22.	<p>One-time amnesty-cum-dispute resolution scheme for disputes and litigations under Customs law</p>	<p>Government of India has in the past notified “Sabkha Vishwas (Legacy Dispute Resolution) Scheme 2019” covering litigations under the erstwhile Central Excise and Service Tax law.</p> <p>This was a welcome measure as it gave a major relief to Industry from long pending and protracted litigations. In addition, it facilitated the industry to focus on GST compliance and Government could also allocate the resources involved in litigation sharply for ensuring compliance of GST and subsequent audits.</p> <p>Similarly, customs litigations pending at various forums for a very long time also requires time and efforts to be spent by both the taxpayer as well as Government in resolving them.</p> <p>A Scheme similar to “Sabkha Vishwas (Legacy Dispute Resolution) Scheme 2019” for customs litigation would go a long way in freeing up time for Industry from such protracted litigations and to focus on business.</p>	<p>Chamber recommends that a one-time amnesty-cum-dispute resolution scheme similar to Sabkha Vishwas (Legacy Dispute Resolution) Scheme 2019 may be introduced for resolution of long pending and protracted litigation under the Customs law.</p>
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