



सीमा शुल्क (निवारक) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
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C. No. VIII/09/01/2017-Cus.Tech (PF-I)

Dated:26.04.2018

PUBLIC NOTICE No. 19 / 2018 - Customs

Subject: - Classification of remnant fuel & oils – Regarding.

Attention of all the Importers, Exporters, Customs Brokers, Steamer Agents Custodians/Customs Cargo Service Providers, Trade Associations/Chamber of Commerce, Members of the RAC/PGC and the public is invited to the Board's Circular No. 09/2018-Customs dated 19.04.2018 on the above subject. In the said circular, Board has inter-alia clarified that in the case of a vessel brought for ship breaking, the remnant fuel and oil (other than fuel and oil contained in the vessel machinery and engines), ships stores etc. are classifiable separately in their appropriate headings and not in CTH 8908.

2. Bills of entries related to ship breaking are being provisionally assessed in view of the dismissal of the departmental Civil Appeal against the CESTAT order dated 08.07.2014 by Supreme Court in D.No.41289 of 2014 dated 31.07.2015. In the said order, CESTAT held that classification of the ships/vessels brought in for breaking up along with surplus fuel, will have to be considered classifiable under CTH89.08 of the import policy as an integral part of the vessel/ships and as the imports under CTH 89.08 are free without any restriction, therefore, such MGO/HSD contained in vessels brought in for breaking up, cannot be held as liable for confiscation and no penalties imposable under section 112(a) of the Customs Act, 1962. As mentioned above, Hon' ble SC vide order dated 31.07.2015 upheld the order of the CESTAT.

3. Field formations have stated that in view of the dismissal of the departmental appeal, clarification is required on the classification of remnant fuel and oil other than that contained in vessel's machinery etc. Industry Association have also requested to revisit the said circular and to classify remaining fuel and oil along with other items like stores and spares etc. as integral part of the vessel under 89.09 in view of the Hon'ble SC order dated 31.07.2015.

4. The matter has been examined in detail. This issue was also deliberated at length in the Annual Tariff Conference of Chief Commissioners/Directors Generals held in Delhi on 4/5th March 2018.

5. The background of the case is that CESTAT decided a bunch of appeals wherein the appellants were challenging levy of redemption fine on remnant fuel and imposition of penalty on the importers who had filed bills of entry for ship breaking. The importers had classified the remnant fuel under tariff heading of chapter 27 in accordance with the Board Circular 37/96-Cus dated 03.07.96 and paid the duties accordingly. However, adjudicating authority/appellate authority took a view that since items under Chapter 27 were canalized, therefore, the said goods (remnant fuel) were duly confiscated, redemption fine levied and penalties imposed. The matter was challenged before CESTAT which agreed with the view of DGFT that so far as classification of the ships/vessels brought in for breaking up along with remnant fuel, will have to be considered classifiable under heading 89.08 of the import policy as an integral part of the vessels/ship. Department's appeal against the said CESTAT order was dismissed by the Supreme Court. The issue has attained finality as the SC's order accepted by the Department.

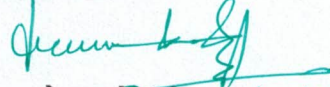
6. However, in a subsequent change of stand, DGFT changed its stand vide notification No. 07/2015-2020 dated 20th May, 2015 and reverted to the earlier view that remnant fuels (HSD/LDO) would be classified under Chapter 27. It also freed these items from policy restrictions when imported, brought on board in old ships/vessels meant for breaking (copy attached).

7. In view of the above, import of remnant fuels referred to in para 2(d) of Board circular 37/96-customs would not be subject to any policy condition under chapter 27 prior to 20th May 2015. As on 20th May 2015, DGFT has made special dispensation

with regard to remnant fuels classifiable under heading 2710 and freed them from policy restriction vide notification no. 07/2015-2020.

8. Difficulties, if any, in implementation of this Public Notice may be brought to the notice of the Commissioner of Customs (Preventive), Vijayawada.

// Attested //



(के. राज शेखर रेड्डी) 26.04.2018

K. RAJA SEKHARA REDDY

सहायक आयुक्त (तकनीकी)

Asst. Commissioner (Tech.)

Sd/- 26.04.2018

(सुधा कोका / SUDHA KOKA)

आयुक्त / COMMISSIONER

To

Importers, Exporter and Customs Brokers of Customs Preventive Commissionerate, Vijayawada (Through the Joint Commissioner of Customs, Krishnapatnam / Kakinada, Customs House and Asst./Deputy Commissioner of Customs, ICD, Marripalem, Guntur).

1. Copy submitted to the Chief Commissioner of Customs & Central Tax, Visakhapatnam Zone, G.S.T. Bhavan, Port area, Visakhapatnam for information.

Copy to:

1. The Commissioner of Central Tax Guntur Commissionerate / Visakhapatnam Commissionerate / Tirupati Commissionerate with a request to circulate the same to all concerned.
2. The Joint Commissioner of Customs, Kakinada Customs House/ Krishnapatnam Customs House.
3. The Assistant / Deputy Commissioner of Customs, ICD, Marripalem, Guntur.
4. The Assistant/Deputy Commissioner of Customs, Customs Divisions, Tirupati / Kakinada / Visakhapatnam.
5. Copy to Computer Section, CPC, Hqrs. Office, Vijayawada to upload into website.
6. Copy to Notice Board.