



भारत सरकार GOVERNMENT OF INDIA
वित्त मंत्रालय MINISTRY OF FINANCE
राजस्व विभाग DEPARTMENT OF REVENUE
केन्द्रीय अप्रत्यक्ष कर और सीमा शुल्क बोर्ड
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
सीमा शुल्क आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS
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CIRCULAR.No.05/2019

Sub: Permanent Trade Facilitation Committee- Minutes of the meeting held on 22.01.2019 Reg.

Meeting of the Permanent Trade Facilitation Committee was held at 2.30 pm on 22.01.2019 in the Conference Hall of Custom House, Cochin. Shri. Sumit Kumar, IRS, Commissioner chaired the meeting.

The following officers of Customs were present. S/Shri/Smt

1. B G Krishnan, IRS, Joint Commissioner
2. Mahendiravarmaa R A, IRS, Deputy Commissioner
3. Dr.Raji N S, IRS, Deputy Commissioner
4. E V Sivaraman, IRS. Assistant Commissioner
4. Sabu Sebastain, IRS, Assistant Commissioner
5. Phillip Sebastain, IRS, Assistant Commissioner
6. Joseph Sebastain, IRS, Assistant Commissioner
7. Bhuvanachandran P, Scientist E', NIC
8. Bajju Daniel, Appraising Officer
9. Anjana Menon, Superintendent of Customs

The Trade and other Govt. Organizations related to trade were represented by S/Shri:

1. Raj Vinod, Cochin Port Trust
2. Paul J Kocheril, Cochin International Airport
3. Abraham Phillip, Indian Chamber of Commerce & Industry
4. A K Vijayakumar, FIEO
5. Dhanya K N, FSSAI
6. Manoj C R, IGTPL
7. Girish Sekhar, IGTPL
8. T K Biju, CFS, CPT
9. Biju R, CFS, Pettah
10. Rejo Peter, CFS, Concor
11. Josemon M J, CFS, KSIE
12. Paul Joseph, CFS, MIV
13. Alan Jose, Cochin Customs Brokers Association
14. Subodh T P, Cochin Steamer Agents Association
15. Alex K Ninan, Sea Food Exporters Association of India
16. Antony Kottaram, Kerala Chamber of Commerce & Industry
17. K Sreekumar, Reserve Bank of India
18. K Mohankumar, Consolidators Association of India

The Chair welcomed the members to the meeting. The minutes of the previous meeting and the action taken in respect of points thereon was taken for consideration after which fresh points were taken up.

FRESH POINTS TAKEN UP FOR DISCUSSION

Point No. 1 Correction required in the Minutes of PTFC (Point No.1) held on 18.12.2018

According to Mr.Nandakumar, who attended the meeting on behalf of CCBA, as stated in minutes, he never demanded the examination to be conducted within the container in the marked area itself. The point he said was whenever containers are subjected for scanning, the Bill of Entry have to be recalled which is a process which takes 1 to 2 days and thereby causes undue delay. Then Commissioner said, recalling of Bill of Entry is a process which cannot be avoided. Then he clarified that our concern on the issue was on the delay caused in the process and any methodology the Commissioner deems fit is ok with us as long as the delay is avoided to which the Commissioner said, he will look into it.

Understand from other stake holders who had attended the meeting that this is exactly what transpired in the meeting.

In the above situation, we request you to amend the minutes of the meeting accordingly and also correct the Circular No.01/2019 dated 15.01.2019

The Chair requested the member CCBA to explain the points which was raised in the written submission. Shri Alan Jose representing the CCBA read out the point mentioned in the written submission. On the basis on the submission Shri Alan Jose was requested to explain the submission as to why the minutes were stated to be incorrect.

Shri Alan Jose submitted that this point was raised on the basis of what the previous president had informed him regarding the minutes. Shri Alan Jose also submitted that the request was that the Bill of Entry may not be recalled as per the Para- No.7.4 of the Public Notice and thereby reducing the dwell time in respect of DPD containers which are facilitated. He also stated that the subject submission was based on the information provided to him and was not personally known to him.

At this moment Dr.Raji N S Deputy Commissioner informed that the minutes was correctly recorded as the issue raised was removal of containers which were facilitated. Wherein the members of the Brokers Association had submitted that the visual examination of the goods may be conducted in the terminal, in case of suspicious containers based on the images available from the scanning.

She further informed that when gate pass being given from ICTT Vallarpadom there are two types of things happening, in case of containers eligible for DPD technically "Out of charge" can be given directly inside the terminal. but in case of such containers if something suspicious is found department has to recall the Bill of Entry because already it is technically Out of Charged and the container would have to be taken to nearby CFS for detailed examination.

Chair informed the members that they are not supposed to raise points which are not actually known to them. When the members make a suggestion it was requested that there should not be a contradiction in their suggestion.

Shri. Bhuvanachandran P, Scientist E', NIC stated that at the point of scanning and finding anything suspicious "Out of charge" for Bill of Entry is not at all in place scanning is based on the IGM not against the Bill of Entry.

The Chair pointed out that as far DPD containers are concerned because the out of Charge is being given by the CFS prior to the DPD scanning and OCC directly can happen in those cases. In case of containers which has to go to CFS it can both be for assessment or examination and it would be RMS facilitated also. In such cases those containers has to be opened and prior permission of Additional Commissioner of Customs is required statutorily and legally.

The Chair also stated that RMS facilitation is not equivalent of granting of "Out of Charge" it is only facilitation for assessment "Out of charge" cannot be given, its not necessary that all the scanned containers Bill of Entries is to be filed.

(For Action: Point Dropped)

Point No. 2 Circulation of Draft minutes for approval of stake holders prior to issuance of Customs Circular.

The CCBA requested the Commissioner to give instructions to the proper officer to circulate the draft minutes of the PTFC meeting within one or two days of the meeting to avoid such mistakes as stated above.

It was informed to the members that the practice of circulation of draft minutes is not in vogue in this Custom House and the minutes are signed by the Chair. The request for the Circulation of the draft minutes is not practical. Further, there are no apparent mistakes in the minutes of the meetings circulated so far.

(For Action: Point Dropped)

Point No.3 Modification/Amendment of Public Notice No.39/2018-19 dated 26.11.2018 with respect to Container Scanning Department.

As per the Clause No.2 of this Circular, Container Scanning Decision headed by Deputy Commissioner of Customs has been created and is functioning from ICTT, Vallarpadom, Cochin. Clause No.5.8 states that no containers shall be examined at the Container Scanning Division, but the containers with suspected cargo shall be on hold by CSD and "shall be moved to the designated isolated area inside the D.P.World (Terminal) for examination and further necessary action". In clause 6(iii) in the procedure to be followed for DPD facilitated containers if selected for scanning and found suspicious, on the contrary to procedure laid down in para 5.8, the terminal operator is directed to send the containers to Concor CFS for 100% destuffing. Again clause 7.4 states that the B.E is facilitated under RMS without examination and DPD, then such bills shall be recalled for proper examination order with the permission of ADC/JC through AC(CSD). By this clause the entire purpose of RMS facilitation /DPD facility provided are defeated and the dwell time for clearance will increase to another 3 days minimum as per the procedures followed at Cochin Customs.

In the above situation, we request to amend the PN suitably providing the charge to open/inspect suspicious containers by the DC/AC (CSD) and write manual report on the hard copy of B.E or write remarks in the system without recalling the B.E and speed up the process in the interest of Trade Facilitation and Ease of Doing Business.

The Chair requested the member to produce the statistics regarding the number of Bills/containers recalled in such manner. Shri Alan Jose replied that he doesnot have any statistics with him readily, but shall produce if required on a later date.

Shri.Joseph Sebastain Assistant Commissioner in Charge of Container Scanner Division (CSD) informed the Chair and the members that they had collated the data for the Containers which are processed by the CSD section. It was also informed that the total number of Bills/Containers which was selected for Examination on the basis on suspicion was less than 2% of the total Containers. In this regard Public Notice No.39/2018 dated 26.11.2018 has already been issued and the points have been discussed in respect of point No.1.

(For Action: Point Dropped)

Point No.4 Value Loading by Customs for self-assessed/RMS facilitated Bills of Entry.

In Cochin Customs, the value of the imported goods are loaded by demanding value acceptance letter from the importer u/s 17(5) of the Customs Act, 1962 (52 of 1962) quoting NIDB / DGOV instructions without assessing u/s 17(4) or opting for audit u/s 17(6). The importer is forced to give the value acceptance letter due to the heavy container detention charges accrued and due to the urgency of the imported raw materials for processing in the factory.

The Directorate General of Valuation, Central Board of Indirect Taxes & Customs, Government of India very clearly mentioned how NIDB to be used as a tool.

As per DGOV, Import Database is a tool for:

- Risk Assessment
- Means for checking truth and accuracy of the declared value
- Detection of Commercial frauds
- Support of Post Clearance Audit

DGOV also instructed that the NIDB IS NOT TO BE USED AS:

- As a substitute value for loading declared prices
- To fix minimum values
- To reject the declared value only on the basis of the database value

It is also to be noted that the Government of India in its efforts to facilitate the trade in the interest of Ease of Doing Business, introduced Onsite Post Clearance Audit (OSPCA) in the year 2011 and come up with modified the OSPCA procedure vide Circular No.02/2019-Customs dated 6th January 2019. But, Cochin Customs is still adopting the value loading at the assessment level. It may also be noted that in the recent order in Supreme Court by Hon'ble Mr. Justice A.K.Sikkri in Civil Appeal No.18300-18305 of 2017 upheld that the value of the imported goods to be assessed based on the value declared in the Bill of Entry.

Based on the above grounds, we request that the Bills of Entry may be assessed based on the declared value where there is no minimum Import Price or Tariff Value fixed by the Government in the interest of Trade Facilitation and Ease of Doing Business.

The Chair informed the members that the enhancement of the value was based the instructions to the officers by the way of alerts by different agencies and also based on the contemporaneous import prices available to the officers. The trade is at liberty to challenge the assessment of the proper officer before the Appellate authorities if so warranted.

The Chair also enquired to the member CCBA about the number of cases in which enhancement was done on the previous month. The Chair remarked that it was better to bring out the actual cases in real time and not in theoretical manner so that such problems can be solved in real time then action can be taken accordingly.

The Deputy Commissioner Dr.Raji N S has informed even in cases where the NIDB value data is found to be more we accept the declared value if sufficient documentary evidences are produced to the satisfaction of the proper authority. She also informed a recent case in which the letter of credit was mis represented to show a lower value than the value in the country of origin certificate.

The Chair informed the members that where ever there is a query raised by the Appraiser for value verification of the Bill of Entry it is to be approved by the Assistant Commissioner/Deputy Commissioner. In all the cases wherever value acceptance takes place will the reply to the query in the system directly goes to the concerned Assistant Commissioner/Deputy Commissioner. The acceptance also is being recorded by the officer in the system.

It was also informed that there is an Appellate Authority mechanism where orders are being passed. The trade may request for a speaking order in case of dispute. It was further clarified that the officers who are assessing are also bound by certain constrains, alerts, and other instructions by various allied agencies. They have no personal enmity with the importers.

The Chair informed the members that the requirement of the Customs Brokers Chair hanging around the office has been reduced since the implementation of E-Sanchit.

It was also informed that number of facilitation/training sessions were conducted for the benefit of the trade in collaboration with the FIEO. The Chair asked Shri. A K Vijayakumar, FIEO whether any feedback was been received from the trade to which Shri Vijaykumar replied in the negative.

(For Action: Point Dropped)

Point No.5 Non-Acceptance of Preferential Certificate of Origins issued by LDCs.

There are several instances at Cochin Customs that the proper officer not accepting the Certificate of Origin issued by Least Developed Countries issued as per DFTP for LDC Rules 2015 vide Notfn: 29/2015 — Cus (NT) dated 10/03/2015. The regular reasons stated by the proper officer for non-acceptance are given below:

- The Printed Format is not in English (even though the details are in English)
- The Seal & Signature verification not available
- C.O.O is in foreign language (even though certified translation is produced)
- Insisting to clear the consignment under provisional assessment on production of Bond & bank Guarantee

We are to submit that the COO is issued as per the Notfn: 29/2015 and the same is done as per the bilateral trade agreements between the countries and specific procedure to be followed are prescribed in the notification. In several instances, OSD,CBIC, NewDelhi confirmed that the details of approval of seal & signatures are sent to all Customs Stations together, but only Cochin Customs state that the same not available. The AO insists the Custom Broker to assess B.E. provisionally by providing the Bond and Bank Guarantee from the Importer for no fault of theirs and even after submitting all the documents.

The proper officer may please be instructed to refrain from such acts and may be advised to do immediate verification by email / phone to the concerned officer in tune with the Government Policy of Ease of Doing Business / Trade Facilitation. Also certified translation of the COO may be accepted, by taking necessary permissions if required.

The Chair informed the members that the benefit of the LDC countries were restricted to the specified countries and also being subject to the conditions regarding the eligibly/ genuineness of the COO certificate and the signature of the authorized persons being available with the Custom House authorities. The certificate has to be in the prescribed format and should be signed by the authorized person whose signature are available with the Custom House. The CBEC Circular No.38/2016 dated 22.08.2016 provides for release of goods under provisional assessment for the in respect of the consignments claiming the benefit of FTA on execution of Bond and Bank Gurantee at the rate of 100% where the details of the FTA certificate is subject to verification.

(For Action: Point Dropped)

Point No.6 Non-Implementation of Circular No:22/2015-Customs dated 03.09.2015

In order to facilitate genuine trade and to reduce the dwell time in clearance, Board has issued the above circular. Clause 2 of the circular clearly state that genuine clarification sought from importers / exporters are to be raised in one go and not in a piece meal manner. It may be noted that the proper officers are completely ignoring this circular which can be seen from the history of queries raised

It may also be noticed that the Service Centres are not accepting the reply to the queries raised without having the signature of the A.O. which amounts to arm twisting by the Officer to answer the query according to his requirement and not as per the CB / Importer.

The time taken to release the queries from the AC/DC is also humongous which increases the dwell time for clearance to several days.

The Proper Officers may please be advised to avoid such piece meal queries and to release the queries from their system immediately / within a time frame to reduce the dwell time and the service centre may be instructed to accept the replies without the signature of the A.O.

The Chair requested the member CCBA to elaborate on the point. The member reiterated the points in the written submission. He contended that the signature of the

Appraiser before the query reply shouldn't be insisted upon and multiple queries may not be given.

Dr.Raji N S Deputy Commissioner informed that usually there are only single queries in a Bill of Entry multiple queries are rare. The signature of the Appraiser is to ensure that the information furnished by the Broker is the same as that is sought for, and to avoid multiple queries in the same of Bill of Entry.

The Chair instructed the member CCBA to inform his colleagues to file the documents correctly in order to avoid queries.

(The same issue was pointed out as point No.04 in the PTFC meeting held on 30.08.2016 vide Circular No.36/2016-17)

(For Action: Point Dropped)

Point No.7 Cancellation of Trade Facility No.01/2018 dated 02.02.2018 relating to Self-Sealing Procedure.

As per the said circular, many of the exporters are facing difficulty and confusion in the E-Sealing process who are using multiple ports for their exports. No such notifications have been issued by any of the neighboring Customs Stations to file a separate application at the Customs website and most of the exporters are diverting their cargoes to other nearby ports which are more cost effective and trade friendly. Also note that even the exporters who are using Cochin Port also not updating this website due to duplication of their works.

In the above situation, we request Commissioner of Customs, Cochin to rescind the TF 01/2018, again in the interest of Trade Facilitation.

Dr.Raji N S Deputy Commissioner informed the Chair and the members that the Trade Facility was issued in pursuance to the instruction by the CBIC and was not done locally. In the light of this the request for cancellation of the Trade Facility cannot be accepted.

(For Action: Point Dropped)

Point No.8 Stopping of EP copy generation at Air Cargo Complex.

EP copy of Shipping Bills are generated at Air Cargo Complex, Cochin which may please be avoided as being done in Sea Cargo.

Shri. Bhuvanachandran P, Scientist E', NIC informed that the generation of EP copy of Shipping Bills at Aircargo Complexes are due to the ICES system requirements and not due to local applications. He further informed that presently the EP copies are not been generated at Sea Ports. As the data is being transmitted to DGFT digitally. In respect of the Shipping Bills at Aircargo Complexes the EP Copy is generated prior to the filling of EGM, whereas in Sea Ports it is done after the EGM is filed.

(For Action: Point Dropped)

Point No.9 Delay in getting Wild Life clearance for Export Cargo

As you are aware, every shipments of Rosewood Products, Ayurvedic Medicines etc, requires Wild Life Clearance. Presently, the application for wild life clearance is forwarded to the their office at Kakkanad and many times the officer will not be available due to his work load. This cause heavy delays in drawing the sample and arranging the inspection and in-turn the dwell time for clearance of export cargo increase for so many days. Request to have a suitable procedure to reduce the dwell time.

The Chair stated that the System have automatically accessibility of Risk Management System of the the Wild Life authorities Shipping Bills have direct access with the Wild Life authorities, the same bills have to be cleared from the wild life authorities also. The officers in the department has no control over the consignments. Clearance which is to done in the system has to be done in the system itself. The chair requested the CCBA to advise its members to make use of the provision of advance /prior filling of Shipping Bill and you are not supposed to file the Shipping Bill at the

place of export so that delay in clearance may be avoided. After taking the samples make some online procedure in order of getting clearances from Wild life authorities.

(For Action: Point Dropped)

Point No.10 Undue Delay in getting Amendment of SB u/s 149 of Customs Act.

Request the Commissioner of Customs, Cochin to kindly note that most of your officers are taking the sincere efforts in understanding the difficulties faced by the trade due to non-issuance of such amendment which Customs is legally bound to provide subject to the real facts presented before Customs. The same is denied / delayed stating that the ICEGATE system donot provide any procedure for cancellation of LEO/ amendment once the cargo is sailed and the EGM is filed.

Our humble submission to the Commissioner is to take a note that the Systems whether ICEGATE or ICES are developed only to support the legal framework of Customs Act / Rules / Regulations. The limitation if any in the ICEGATE / ICES system cannot be linked with the legal frame work as provided in the law and there are provisions to use discretionary powers which most of the officers are neither using nor afraid of using for reasons not known to us.

Request the intervention of the Commissioner of Customs, Cochin to make Cochin as one the most trade friendly port without stepping back in any of the statutory requirements, but by changing the attitude of the officers.

Shri Alan Jose submitted that he had himself made a request of amendment a Shipping Bill before the Department which was pending for action. This was a case where the Shipper had incorrectly given the weight of the consignment and was cleared under self assessment basis. However, he realized his mistake after the sailing of the vessel. The subject container has been brought back and is pending for amendment by the department.

Shri. Bhuvanachandran P, Scientist E', NIC informed the members that he had examined the subject case in the system and found that the item level it was mentioned incorrectly at 10MTS as declared. The subject consignment was laden onboard the sailed vessel and the EGM was also filed. In such a case where the consignment is endorsed as "Port Gate In" in the system, the LEO cannot be cancelled in the system.

Dr.Raji N S Deputy Commissioner informed the Chair and the members that request letters from the trade with request to change the Port of Discharge, Quantity, Description etc amendments and also without necessary supporting documents in most of the cases. It was also informed that all assessments are presently under self assessment method, As per Customs self assessment manual, 2011 it is the duty of the persons making the declarations to ascertain that these are true and correct. All the documents which are submitted at the time of filling are final. If any declarations are found to be incorrect. Whatever declared is incorrect the persons concerned are liable for penal action. According to Section 149 of the Customs Act, the amendment is possible only based on the documents available at the time of Export/Import.

Once the LEO has been already granted and the EGM has been filed there is no provisions under the Customs Act, to amend the Shipping Bill. The datas goes to all other stake holders through online.

Shri Alan Jose informed the Chair that he had taken up the matter with the ADG Systems, Smt. Aarthi Agarwal in connection with the amendment. He informed that he was told that that amendment may be possible, if the local systems manager takes up matter with ICES.

Shri Sabu Sebastian Assistant Commissioner (EDI) informed the Chair as the matter was already taken up with the ICES and the DG Systems through e-mail as per the Brokers request. However, no reply/feedback was received from the DG Systems till date.

(For Action: Point Dropped)

Point No.11 Inclusion of CCBA in the CCFC meeting.

We are aware that the CCFC is constituted as per the guidelines provided in the Board Circular 13/2015 — Customs dated 13/04/2015. In clause 3 of the said

circular, major Departments / Agencies that are involved in the customs processes are given as 2(1) to 2(6). In para 3 of the said circular, it is also mentioned that in addition, other local agencies concerned with logistics, manpower etc., with seaports and airports also facilitate the Customs Clearance process.

In clause 5 of the said circular it is clearly mentioned that CCFC membership would include the senior most functionary of the various departments / agencies stake holders at the particular seaport/airport and clause 5 (x) includes any other Department / Agency / Stakeholder to be co-opted on need basis.

We, CCBA feel that Customs Brokers are extended arm of Customs and should have to work with hand in glove to achieve the target of the Government on achieving the 50th position in the World Ranking in Ease of Doing Business from the 77th position this year and we have to work together to achieve the goal of our Government.

We were told by the AO, CCU unit, Cochin Customs that we are not a part of CCFC and cannot be a part of any CCFC deliberations and can take up our deliberations only in PTFC.

We understand the real importance of CCFC as we are the most Important network in the logistics and the bridge between Customs and the importer/ exporter and if you are not able to include us in the CCFC based on clause 5 (ix) of the Circular, it will only be a loss to the Government's idea of Trade Facilitation and Ease of Doing Business. It may also be noted that in all the major Customs Stations, the Customs Broker Association approved by the Commissioner is invited / included in the CCFC.

The Chair asked the member whether they are prevented raising any issue in this forum which could raised in the CCFC meeting. Shri Alan Jose informed that they were not prevented from raising any issue in this forum. However, they would want to be a participant in the CCFC meeting also. The Chair informed that the CCFC meetings are only for major Departments/ Agencies that are involved in the Customs clearance processes and is Chaired by him, there appeared to be no sufficient reason for the consideration of the request of the Customs Brokers at this juncture.

(For Action: Point Dropped)

Point No.12 Delay in getting the Duty drawback

Shri Alex K Ninan representing, Sea Food Exporters Association of India read out the point stating that there is a considerable delay in getting the Duty drawback amount these days and some the payments are pending for a long time. We are giving below the scroll numbers against which the payments are still pending.

- (i) Scroll No. 29811 dated 24.09.2018
- (ii) Scroll No. 30350 dated 24.10.2018.

The Assistant Commissioner Drawback, Shri. E.V Sivaraman informed the Chair and the members that the issue was taken up with the DG Systems. It has been informed by the DG Systems that in respect of one Scroll the issue of grant of Drawback. The issue with the system was resolved and the amount would be credited in the respective bank Accounts in a couple of days time. The issue with the second scroll was promised to be resolved shortly.

(For Action: Asst. Commissioner Drawback)

Point No.13 Drawback not yet received kindly check Shipping Nos and confirm.

The Assistant Commissioner Drawback, Shri. E V Sivaraman informed the Chair and the members that the issue in majority of the cases stand resolved from the Customs side. He also stated that the some of the Shipping Bills numbers were incorrectly mentioned in which no actions were pending.

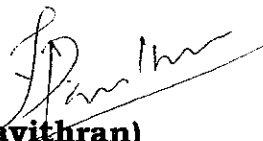
(For Action: Point Dropped)

The date for next meeting of the Permanent Trade Facilitation Committee will be intimated through the Custom House website www.cochincustoms.nic.in. Points for discussion, if any, may be sent. Enquiries if any may be made at the telephone number 0484-2667040 or by email at ccu@cochincustoms.gov.in or ccucochin@gmail.com.

Sd/-
(Sumit Kumar, IRS)
Commissioner

F.No. S.65/17/2018-CCU-CUS
Dated: 21.02.2019

//Attested//


(T Pavithran)
Supdt. of Customs

The Hindi version follows.

Submitted to:

1. The Chief Commissioner of Central Excise, Central Tax & Customs, Kerala Zone, Cochin.
2. The Additional Director General, Directorate of Tax Payer Service, Bangalore Zonal Unit, 4th Floor TTMC Building , Above BMTC Bus Stand, Domlur, Bangalore-560071.

Copy to:

Joint Commissioner
All D.Cs & A.Cs
All members

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