

OFFICE OF THE COMMISSIONER OF CUSTOMS

CUSTOM HOUSE, WILLINGDON ISLAND, COCHIN – 682 009

F.No. S18/Misc/01/2018 R. Cus

Date: 20.02.2018

TRADE FACILITY NO. 05/2018

Sub: Refund of 4% Additional duty in pursuance of Notification No.42/2017-Customs dated 30.06.2017 as amended – Documentary and procedural requirements to be fulfilled by the Claimants to ensure expeditious disposal of claims – reg.

Attention of Trade and Industry is invited to Notification No.42/2017 Cus dated 30.06.2017, Notification No.102/2007 Cus dated 14.09.20107 & Notification No.93/2008 Cus dated 01.08.2008 regarding refund of 4% addl. duty (generally referred to as "SAD") kind attention is also drawn to Trade facility No.18/2012 dated 27.11.2012.

2. Trade have represented to issue clarification regarding payment of SAD refund when the import has taken place prior to 1st July, 2017 (i.e. SAD on import has been paid prior to 1st July, 2017) and the sale of the imported goods have effected on or after 1st July, 2017

3. The issue has been examined. To give effect for refund of 4% SAD on GST regime enabling amendment were made in Notification No.42/2017 Cus dated 30.06.2017. The said amendment is applicable to the goods which were imported on payment of SAD and were being sold after payment of appropriate GST instead of VAT/CST in GST regime. In view of the Notification No.42/2017 Cus dated 30.06.2017 importers are entitled for SAD refund on merit subject to fulfilment of other conditions as envisaged by extant provisions of law.

4. Refund claims submitted by importers are also being processed in terms of the said Notification No. 42/2017-Cus dated 30.06.2017. However, in order to clarify the doubts and to streamline the procedure, it is being proposed that refund claims filed to avail refund of 4% ACD (paid prior to 1st July,2017) and sales made thereafter), importers are required to submit following documents/declaration in addition to the documents mentioned in Trade facility No.18/2012 dated 27.11.2012 :

- (i) Annexure – -importer's self declaration where sales invoices are submitted in electronic media in the revised format
- (ii) Annexure -Certificate by CA in the revised format
- (iii) Annexure- -correlation sheet in the revised format
- (iv) Annexure- -Self declaration for not passing on the incidence of 4% Addl. duty to any other person & Summary of sales invoices

- (v) The importers are also required to submit evidence /proof of payment of IGST or CGST+SGST/UTGST as the case may be**
- (vi) Non availment of input Tax Credit for 4% SAD**

5. The procedure as prescribed under Trade Facility No.18/2012 dated 27.11.2012 may be followed for refund claims where goods are sold to before 01.07.2017.

6. The trade and industry may take note of above, and comply with the requirements and assist the department in ensuring speedy disposals of refund claims.

Encl: Annexures

Sd/-
(SUMIT KUMAR I R S)
COMMISSIONER

Copy to :

1. The chief Commissioner of Customs, Kerala Zone, Cochin.
2. CHA Association
- 3/ EDI section for uploading on Website of Cochin Customs
4. All Sections
5. Notice Board.

//ATTESTED//



(M.S.SURESH)
ASSISTANT COMMISSIONER OF CUSTOMS (REFUNDS)

**SELF-DECLARATION WHERE SALES INVOICES ARE SUBMITTED IN
ELECTRONIC MEDIA**

REFUND ON THE BILL/S OF ENTRY NO. _____ DATED _____ / LIST ENCLOSED

We, M/s _____, the importers, declare and certify that

the refund of 4% Additional duty (levied under section 3(5) of the Customs Tariff Act, 1975) is being claimed in terms of the Notification No.102/2007 Cus dated 14-09-2007 as amended by Notification No.42/2017 Cus dated 30.06.2017 and is required to be considered as the conditions stipulated therein are fulfilled in respect of the Bill/s of Entry No. _____ dated _____ / List enclosed.

(a) We are registered with VAT/CSTGST authorities of the state ofunder TIN No. _____.

(b) For the purpose of fulfilment of the condition at para 2(e)(ii) of the Notification No.102/2007-Customs dated 14-9-2007, we are herewith submitting copy of invoices in electronic form (CD/DVD/.....).

We further declare and state that -

1. The electronic media (CD/DVD/..... enclosed herewith) is containing the details of sales invoices pertaining to the subject claim and is being submitted along with this paper declaration indicating the invoice numbers (listed below) contained in the media.
2. The copies of invoices contained in the media are true copies of the original sale invoices/carbon copy/office copy (original) of the said invoices and the originals will be submitted, if so required.

Place:..... Signature:.....

Date:..... Name:.....

Designation:.....

For M/s _____

Summary of the invoices contained in the media

Sl. No.	Sales Inv. No.	Date	Amount of Sales in Rs.	VAT/CST/GST paid therein	Remarks

CERTIFICATE FROM THE CHARTERED ACCOUNTANT FOR NOT SUBMITTING ORIGINAL ST/ VAT CHALLANS AND FOR SUBMITTING COPIES OF ST/VAT CHALLANS OR COPIES OF ST/VAT PAYMENT DOCUMENTS IN DIFFERENT FORMS EVIDENCING PAYMENT OF ST/VAT/GST

With regard to the imports made vide Bill/s of Entry No. _____ dated _____ and TR6 Challan/s No. _____ dated _____ (*List Enclosed*) wherein the 4% Additional Duty has been paid and the refund is sought by M/s _____ under Notification No. 102/2007 dated 14-09-2007 as amended Notification No.42/2017 Cus dated 30.06.2017, we certify as follows:

- 1.It is certified that we are the Statutory Auditors / Chartered Accountants who certify the annual financial accounts and the statement of accounts of M/s _____ under the Companies Act /ST/VAT Act/Income Tax Act. (Board Resolution / Claimant Company's Appointment Letter / to that effect as proof enclosed herewith);
- 2.To fulfill the requirement in terms of Para 2(e) (iii) of the Notification No.102/2007- Customs dated 14-09-2007, we certify that the Sales Tax Authorities for M/s _____ accept payment of VAT/CST/GST through cash or adjustment of input tax credit as effective discharge of VAT/CST/GST payment on sale of goods;
- 3.To fulfill the requirement in terms of Para 2(e) (iii) of the Notification No. 102/2007- Customs dated 14-9-2007 as amended by Notification No.,42/2017 Cus dated 30.06.2017, we state that for the relevant months/period, we have verified the VAT/CST/GST returns filed by the importer and certify that M/s _____ has effectively discharged the VAT/CST/GST liability therein by payment of the same to the respective State Government/s on the sale of imported goods against which the refund of 4% AD is being claimed. The copies of VAT/CST/GST returns & documents evidencing the payment of VAT/CST/GST (*as effective discharge of VAT/CST /GST payment on imported goods*), *duly certified by us as true copies of their originals* are enclosed herewith. /

Details of returns & documents verified by us evidencing payment of VAT/CST/GST for relevant states/periods are given in the *following abstract*. (*Strike out wherever not applicable*).

ABSTRACT

State where VAT/CST/GST PAID	Return for the Month /PERIOD	CST VAT GST	VAT/CST Payment Mode (Challan/Cheque/DD/e-payment/Bank STATEMENTS/INPUT TAX CREDIT ADJUSTMENTS Statements/Input	VAT/CST/GST Payment Reference NO. & DATE	Total VAT/CST/GST paid in (RS)	Amount of VAT/CST/GST paid on sale of goods pertaining to subject claim

Place:..... Signature:

Date:..... Name :

For M/s _____ (CA)

Membership No.....

Enclosure: Certified copies (*by CA*) of returns & documents evidencing payment of VAT/CST/GST (*Strike out if not applicable*)

**CERTIFICATE* FROM STATUTORY AUDITOR/CHARTERED
ACCOUNTANT CERTIFYING THE IMPORTER'S FINANCIAL RECORDS UNDER
THE COMPANIES ACT, 1956/ST/VAT ACT / INCOME TAX ACT, 1961**

- (i) Co-relating the payment of VAT/CST/GST on the sale of imported goods (in respect of which refund is being claimed) with the invoices of sale;
- (ii) Certifying that the burden of 4% AD has not been passed on by the importer to the buyer or any other person and that the requirement to rule out unjust enrichment is fulfilled; and
- (iii) Explaining how the burden of 4% AD has not been passed on by the importer and how the requirement to rule out unjust enrichment is fulfilled.

With regard to the imports made by M/s _____ under various Bills of Entry No(s) and Dates (as detailed in the correlation sheet enclosed herewith) against /which the 4% Additional Duty under section 3(5) of the Customs Tariff Act, 1975 has been paid under various TR6 Challans & Dates (as detailed in the correlation sheet enclosed herewith) and refund being claimed under Notification No. 102/2007 dated 14-09-2007, as amended Notification No.42/2017 Cus dated 30.06.2017 , we hereby certify as follows:

- 1.It is certified that we, are the Statutory Auditors/Chartered Accountants who certify the annual financial records of M/s _____ under the Companies Act, 1956/ST/VAT Act of the State Government/the Income Tax Act, 1961. (Board Resolution/Claimant Company's Appointment Letter/ to that effect as proof is enclosed herewith);
2. It is certified that the claimant M/s. _____ has at the point of sale made an endorsement in all the sales invoices against which the imported goods had been sold for which refund has been claimed (as detailed in the correlation sheet) to the effect that "No credit of the Additional duty of Customs leviable under section 3 (5) of the Customs Tariff Act, 1975 shall be admissible". We further certify that the claimant has not availed any Cenvat credit in respect of items imported under the Bills of Entry (to the extent for which refund has been claimed) as detailed in the correlation sheet.
- 3.The VAT/Sales Tax Authorities for M/s _____ accept payment of VAT/CST/GST through cash or adjustment of input tax credit as effective discharge of VAT/CST/GST payment on sale of goods;
- 4.For purpose of fulfillment of the condition at Para 2 (d) of the Notification No.102/2007 Cus dated 14-09-2007 , Notification No.42/2017 Cus dated 30.06.2017 and for considering sanction of refund of 4% AD, as Statutory Auditor/ Chartered Accountant of M/s _____, we hereby certify that we have verified the Bills of Entry & corresponding TR6 challans/e-receipts, invoices of sale, along with supporting documents towards proof of payment of appropriate ST/VAT/GST from the original VAT/CST/SGST/CGST/IGST/UTGST CHALLANS and /or evidence for adjustment of input tax credit as effective discharge of on sale of goods VAT/CST/SGST/CGST/IGST/UTGST vide said invoices [viz., VAT/CST challans / returns & details of cheques / DD's /.....], sales registers etc. Based on said verification, we certify that the goods imported under the Bills of entry (as detailed in the correlation sheet enclosed herewith) have been sold under various sales invoices (as detailed in the correlation sheet enclosed herewith) and on each such sale, appropriate VAT/CST/GST had been paid to the concerned VAT/Sales Tax/ GST authorities (as detailed in the correlation sheet enclosed herewith);
5. For the purpose of examining the clause of unjust enrichment to the importer in respect of subject refund claim, we have verified the importer's Books of Accounts and other relevant documents & records/cost sheets/price structure/ etc., of the goods. Based on such verification, we have satisfied ourselves that the price at which the imported goods have been sold to buyers (including those cases where the goods were subjected to RSP/MRP based assessment at the time of import) vide various invoices does not include the component of the said 4% Additional Duty of Customs

levied under Section 3(5) of the Customs Tariff Act, 1975 which was paid at the time of import. As such, we certify that the claimant has not passed on the incidence of the 4% Additional Duty to the buyer or any other person and hence the requirement to rule out unjust enrichment to the importer/claimant is fulfilled in respect of all goods imported and sold as covered by the subject claim (as detailed in the correlation sheet enclosed herewith).

6. For coming to such conclusion that the burden of 4% Additional Duty has not been passed on by the importer to the buyer or any other person and that the requirement to rule out unjust enrichment has been fulfilled, we further give the following explanation/justification/ grounds:

(i) The 4% Additional Duty being claimed as refund has been shown in the Books of Accounts/Balance Sheet / Trial Balance for the period _____ as

"Receivables/Recoverables in cash /" under the sub-heading "Loans & Advances /" under the head, „Current Assets /.....";

(ii) The 4% Additional Duty claimed as refund has not been charged to „Expenses /....." in the Profit and Loss Account of the company and therefore the same is not forming part of the cost of the goods and hence the burden of 4% AD is not being passed on to the buyer or any other person.

(iii).....

Place:..... Signature:.....

Date:..... Name:.....

For M/s _____ (CA)

Membership No.....

** To be filled in with appropriate details and strike out wherever not applicable*

Enclosure 1: Co-relation Sheet with details of imports & 4%AD paid, Sales & VAT/CSTGST Paid.

Enclosure 2: Documentary evidence supporting the fact that the CA issuing the certificate is the Statutory Auditor / Chartered Accountant certifying the importer's financial records under the Companies Act, 1956 / ST/VAT Act / Income Tax Act, 1961.

**CERTIFICATE FROM A CHARTERED ACCOUNTANT WHO EITHER CERTIFIES
THE IMPORTER'S FINANCIAL RECORDS UNDER THE COMPANIES ACT,
1956/ST/VAT/GST ACT/INCOME TAX ACT IN CASES WHERE IMPORTED GOODS ARE
SOLD THROUGH CONSIGNMENT AGENT/STOCKIST**

With regard to the imports under Bill/s of Entry No. _____ dated
_____ and TR6 Challan/s No. _____ dated _____ (*List*

enclosed) wherein the 4% Additional Duty has been paid and the refund under
Notification No. 102/2007Cus dated 14-09-2007, Notification No.42/2017 Cus dated
30.06.2017 as amended, is sought by M/s. _____.

1. It is certified that we are the Statutory Auditors / Chartered Accountants who certify
the annual financial accounts and the statement of accounts of M/s _____ under the
Companies Act / ST/VAT Act /GST ACT/Income Tax Act. (*Board Resolution / Claimant
Company's Appointment Letter / to that effect as proof enclosed herewith.*

2. To fulfill the requirement of the Notification No.102/2007-Cus dated 14-09-2007,
Notification no.42/2017 Cus dated 30.06.2017 we certify that -

(i) M/s _____ has been authorised as Consignment agent/Stockist to
sell the imported goods in terms of the agreement entered into between the importer
M/s _____ and consignment agent/stockist M/s _____; (*Agreement copy
attested by us enclosed herewith*)

(ii) that each of the sale invoices issued by the consignment agent/stockist indicates
that the sale is made by him on behalf of the importer in the capacity of importer's
consignment agent/stockist.

(iii) appropriate VAT/CST/GST has been paid by Consignment Agent/Stockist, M/s _____
_____ on behalf of importer M/s _____ and that the importer, M/s _____ in
turn, has paid/reimbursed the VAT/CST/GST amount to his Consignment Agent/Stockist
M/s _____

(iv) VAT/CST/GST payment made to concerned authorities is correlated with 4% AD paid
on imported goods (*as per enclosed correlation sheet*)

Place:..... Signature:.....

Date:..... Name:.....

For M/s _____ (CA)

Membership No.....

Enclosures: *As above*__

Annexure -III

Co-relation Sheet between Imports, Sales and VAT/CST/GST paid thereon

Importer's Name :

Date of filing claim with Customs :

DETAILS OF IMPORTS						DETAILS OF SALES & VAT/CST/GST PAYMENT THEREON							
S.I. No.	B/E No. & Date	TR 6 Challan No. & Date	Description of imported goods	Qty Imported	4% AD paid (Rs.)	Sales Invoice No. & Date	Name of buyer	Qty. sold	State from which goods were sold	Applicable Rate of VAT/CST/GST	VAT/CS T/GST paid (Rs.)	VAT/CS T/GST Ref	Refund Claimed (Rs.)
1.													
(i)													
	Subtotal for each individual item of B/Entry and total for each B/Entry and grant total for total number of B/Entry			Sub total	Sub total			Sub total					SUBTOTAL
				Total	TOTAL			Total					Total
				GRAND TOTAL	GRAND TOTAL			GRAND TOTAL					GRAND TOTAL

SELF-DECLARATION FOR NOT PASSING ON THE INCIDENCE OF 4% AD TO ANY OTHER PERSON

Refund on the Bill/s of Entry No. _____ dated _____ / List enclosed

We, M/s _____, the importers, declare and certify that

the refund of 4% Additional duty (*levied under section 3(5) of the Customs Tariff Act, 1975*) is being claimed in terms of the Notification No. 102/2007Cus dated 14-09-2007, Notification No.42/2017 Cus dated 30.06.2017 and is required to be considered as the conditions stipulated therein are fulfilled in respect of the Bill/s of Entry No. _____ dated _____ / List enclosed

(a) We are registered with VAT/CST/GST authorities of the state of under TIN No. _____/GSTN No _____.

(b) For the purpose of fulfillment of requirement to rule out unjust enrichment in the subject case of refund of 4% AD, we declare and state as follows:

1. We have paid, at the time of import, applicable duties of customs including the 4% Additional Duty of Customs levied under section 3(5) of the Customs Tariff Act, 1975. The imported goods were subsequently sold by us to buyers vide various invoices and applicable VAT/CST/GST was paid on such sales (*to the VAT/CST /GST authorities of the State Government/s*).

2. We declare that the price at which the imported goods have been sold to buyers vide various invoices does not include the component of the said 4% Additional Duty of Customs levied under Section 3(5) of the Customs Tariff Act, 1975 which was paid at the time of import. As such, we state and certify that we have not passed on the incidence of 4% Additional Duty of Customs levied under section 3(5) of the Customs Tariff Act, 1975 to the buyer or any other person.

Place:..... Signature:.....

Date:..... Name:.....

Designation:.....

For M/s _____

SUMMARY OF SALE INVOICES

Refund on the Bill of Entry No. _____ dated _____ permitted to be filed within the maximum time period of one year refundable under Notification No. 102/2007 -Cus dated 14.09.2007 and Notification No. 42/2017-Cus dated 30.06.2017.

Certificate correlating the payment of ST/VAT/CGST/SGST/IGST/UTGST on the imported goods (in respect of which refund is claimed) with the invoices of sale/supply.

Sl. No.	Sale Bill/Invoice No.	Date	Name of Party	Quantity in Bags	Total Sale Value	VAT	CST	CGST/SGST/IGST
CGST/SGST/IGST/UTGST payment Dated _____ in the								
Bank :								
Being Register under No. :								
Total								

It is further certified that

- 1 The above information is from the sale/supply invoices and carbon copy/office copy in original of the said invoices will be furnished, if so required.
- 2 Against these sale/supply, no refund of Additional duty of Customs duty has been claimed and no claim in future will be made in respect of these sale/supply.
- 3 Incidence of Additional Customs duty deposited at the time of customs clearance and now covered by the refund claim has not been passed on to the customers and this amount has not been included in the sales/supply value.
- 4 Amount of Customs duty received as refund of duty deposited at the time of Customs clearance will be treated appropriately for tax purpose.

Place:

Date:

For M/s. _____

Signature of the Applicant. :