

**Chapter 33****On-site Post Clearance Audit****1. Introduction:**

- 1.1 Customs On-Site Post Clearance Audit (OSPCA) is an initiative based on global best practices and is aimed at creating an environment of increased compliance while allowing the Department the flexibility to increase the facilitation for importers and exporters. OSPCA marks a fundamental shift in the functioning of the Indian Customs since for the first time legal compliance and correct assessment of Customs duties will be verified by the Customs at the premises of importers and exporters.
- 1.2 OSPCA is not to be confused with the 'Post Clearance Compliance Verification' (PCCV) that was introduced in 2005 when the Risk Management System was operationalised. PCA, which is done in the Custom Houses, shall continue side by side with OSPCA. To prevent duplication both PCA and OSPCA shall not be done for the same transaction. OSPCA is a broad based audit with focus on systems and procedures even though the short levies of duties, if any, shall continue to be determined on transaction basis. OSPCA allows verification of self-assessment on periodic basis by scrutiny of relevant business records at the importers / exporters premise. Thus, an importer or exporter can benefit from reduced clearance time and can deal with the goods promptly, saving on insurance, warehouse and storage charges. On the other hand, the Customs can do a comprehensive company oriented check to ensure that imports or exports conform to the declarations
- 1.3 OSPCA has requisite legal authority in terms of Sections 17(6) and 157 of the Customs Act, 1962. Section 17(6) of the Customs Act, 1962 empowers the proper officer for verification of correctness of assessment of duty on imported or export goods at the premise of importer or exporter. Further, Section 157 of the said Act empowers the Board to frame regulations on the manner of conducting audit at the premise of the importer or exporter. Other recent supporting legislative changes include enhancing time limit to one year for refund of Customs duty and for demanding Customs duty under Sections 27 and 28 of the Customs Act, 1962 respectively.
- 1.4 OSPCA requires considerable coordination between Commissionerates of Central Excise when multi-locational importers / exporters are to be audited simultaneously. Furthermore, short levies can be demanded only by the Customs Commissionerates of import and this would require coordination between the auditing Commissionerate and the Custom House. Also, DG, Systems, DG, Audit and DG, NACEN are involved in the preparation for OSPCA by exchanging information on importers / exporters, issue of modus operandi circulars etc. as well as training of Auditors. Therefore, Chief Commissioners / Directors General should ensure proper coordination by appointing a Nodal Officer for OSPCA. Needless to state, communication including exchange of document / information by e-mail should be encouraged.
- 1.5. OSPCA has been operationalized w.e.f. 1-10-2011 only for importers registered under the Accredited Client Programme (ACP). It has also been decided that ACP importers shall be subjected to OSPCA once during each financial year. Coverage of OSPCA shall be increased in subsequent phases and the periodicity of audit in respect of other entities prescribed at that stage.

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- 1.6 For coordinated and effective OSPCA, the ACP importers have been categorized as under:
- (a) Those registered with LTU Commissionerates would be audited by the audit wing of LTU concerned;
  - (b) Multi Location Units would be audited by the Central Excise Commissionerates with the nodal Commissionerate being the one having jurisdiction over the registered / head office of the ACP importer; and
  - (c) Others ACP importers would be audited by the Central Excise Commissionerate having jurisdiction over the head office / registered office of the ACP importer.
- 1.7 OSPCA is viewed as a trade facilitation measure and one way to do away with avoidable interface with the Department. ACP importers with manufacturing facilities and / or those registered as service providers / recipients with the department would already be undergoing Central Excise and / or Service Tax audit. Therefore, in order to avoid duplication of exercise and reduce interface, OSPCA shall be done simultaneously with Central Excise and Service Tax.
- 1.8 PCCV or PCA at the respective Custom House of import has been dispensed with for ACP importers subjected to OSPCA.

[Refer Circular No.47/2011-Cus., dated 21-10-2011]

## **2. On-site Post Clearance Audit at the Premises of Importers and Exporters Regulations, 2011:**

- 2.1 On Site Post Clearance Regulations (OSPCA) 2011 prescribe the manner of conducting audit at the premises of importer or exporter. As per the regulations the importer or exporter, shall make available in a timely manner the books of account, records of transaction and other relevant documents maintained by him for a period of five years from the date of import or export, relating to imported or export goods as required by the proper officer. Further, the importer or exporter will also render assistance to the proper officer in the discharge of his official duty and shall in no case refuse or obstruct the proper officer in discharge of official duty. The importer or exporter is required to provide true and correct information to the proper officer.

- 1.1 Following guidelines are prescribed under the OSPCA Regulations 2011:

- (a) The proper officer shall give at least 15 days advance notice to the importer or exporter and where considered necessary, obtain from the importer or exporter, prior information relating to imported or export goods before conducting audit; visit the premises to gather relevant information relating to imported or export goods.
- (b) The proper officer shall inform the importer or exporter of the objections, if any, before preparing the draft audit report to provide him an opportunity to offer clarifications with supporting documents. Where the importer or exporter is in agreement with the audit findings, in part or in full, he may make voluntary payments of duty due, if any, and the proper officer shall record the same in the audit report.
- (c) The proper officer may, where necessary, inspect the imported or export goods, where such goods are available during the course of audit.

- (d) Samples of imported or export goods in the presence of the importer or exporter and copy of relevant documents to verify the correctness of assessment of duty may be taken by the proper officer.
- 2.3. Importers or exporters, who contravene any provision of OSPCA Regulations 2011 or abet contravention thereof or fail to comply with any its provisions regulations shall be liable to a penalty which may extend to Rs.50,000.
- 2.4 Superintendent of Customs and Central Excise or Appraiser has been made 'Proper officer for the purpose of the OSPCA Regulations 2011.

[Refer Notification No 104/2012-Cus( NT)., dated 26-12-2012]

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