

Chapter 16

Import and Export through Courier

1. Introduction:

- 1.1 Imports and exports through courier are becoming increasingly popular. At present, the courier clearances are allowed both under manual mode as well as electronic mode. The courier clearances under the manual mode are governed by Courier Imports and Exports (Clearance) Regulations, 1998, and courier clearance under electronic mode are governed by Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010. The courier goods are cleared through a fast track basis on observance of simple formalities by courier companies. Examination of parcels is kept to the minimum and clearance is allowed on the basis of selective scrutiny of documents. The duty, where leviable, is paid by the courier company on behalf of importers/exporters before taking delivery of the parcels.
- 1.2 The facility of imports and exports through courier mode is allowed to only to those courier companies which are registered by the Customs. These courier companies are called "Authorized Couriers". The courier parcels are normally carried by passenger/ cargo aircrafts. In the case of clearance through Land Customs Stations (LCS), other mode of transport is used. Both of them are allowed to file the Courier Import Manifest.
- 1.3 At present, the facility of courier clearance under the manual mode is available at Customs airports in Mumbai, Delhi, Chennai, Calcutta, Bangalore, Hyderabad, Ahmedabad, Jaipur, Trivandrum, Cochin, Coimbatore and Land Customs Stations at Petrapole and Gojadanga. The courier clearances under the electronic mode of Customs clearance will be soon made operational at Delhi and Mumbai airports.
- 1.4 The scheme of Customs clearance of imports and exports by courier mode introduces certain procedural relaxation. Such imports and exports shall, however, continue to be governed by the applicable provisions of the FTP or any other law, for the time being in force.

2. Categories of goods allowed import through courier:

- 2.1 Except for certain excluded categories, all goods are allowed to be imported through the courier mode. The exclusion of certain categories of goods is based upon the fact that these broadly require specific conditions to be fulfilled under any other Act or rule or regulation such as testing of samples etc. on reference to the relevant authorities or experts before their clearance. In these cases, due to additional compliance requirements, the assessment and clearance takes time. These goods, therefore, do not fit into the scheme, which envisages Customs clearance on a fast track basis. Further, air terminals and LCS are not equipped to handle certain goods. Thus, in general the following categories of goods are not allowed import through the courier mode:
 - (a) Precious and semi precious cargo;
 - (b) Animals and plants;
 - (c) Perishables;
 - (d) Publications containing maps depicting incorrect boundaries of India;

- (e) Precious and semi precious stones, gold or silver in any form;
- (f) Goods under Export Promotion Schemes including EOU scheme;
- (g) Goods exceeding weight limit of 70 kgs. (individual packages) imported through courier under manual mode. However, under the electronic mode, no such restriction regarding weight has been provided.

2.2 Clearance of goods under EOU scheme is permitted under the electronic mode.

3. Categories of goods allowed export through courier:

3.1 As in the case of imports, all goods are allowed to be exported through courier except for the following excluded categories:

- (a) Goods attracting any duty on exports;
- (b) Goods exported under export promotion schemes, such as Drawback, DEEC, EPCG etc.;
- (c) Goods where the value of the consignment is above Rs.25,000/- and transaction in foreign exchange is involved (the limit of Rs.25,000/- does not apply where the G.R. waiver or specific permission has been obtained from the RBI).

4. Import and export of gems and jewellery:

4.1 Import of gems and jewellery including samples thereof by EOUs or SEZ units is allowed through courier. Likewise, export of cut and polished diamond, gems and jewellery under any scheme of FTP from EOUs, SEZs or DTA is allowed through courier subject to the condition that the value of each export consignment under such export does not exceed Rs.20 lakhs.

5. Procedure for clearance of import goods:

5.1 For facilitating Customs clearance, the goods imported by courier are divided into the following categories:

- (a) Documents that include any message, information or data recorded on paper, cards or photographs having no commercial value, and which do not attract any duty or subject to any prohibition/restriction on their import or export;
- (b) Samples - any bonafide commercial samples and prototypes of goods supplied free of charge of a value not exceeding Rs.50,000/- for exports and Rs.10,000/- for imports which are not subject to any prohibition or restriction on their import or export and which does not involve transfer of foreign exchange.
- (c) Free gifts - any bonafide gifts of articles for personal use of a value not exceeding rupees 25,000/- for a consignment in case of exports and Rs.10,000/- for imports which are not subject to any prohibition or restriction on their import or export and which do not involve transfer of foreign exchange.
- (d) Low value dutiable or commercial goods - goods having a declared value of upto Rs.1,00,000/-; and
- (e) Dutiable or commercial goods - goods having a declared value of more than Rs.1,00,000/-.

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- 5.2 Different Customs declaration forms have been prescribed under the Courier Regulations for manual mode and electronic mode. Under the manual mode, simplified Bills of Entry have been specified, as mentioned below, for the clearance of goods. The goods are assessed to duty on merits like any other imported goods, and exemption, wherever available, is allowed to such imports when claimed.
- (a) Courier Bill of Entry-III for documents,
 - (b) Courier Bill of Entry-IV for samples and free gifts, and
 - (c) Courier Bill of Entry-V for commercial shipments upto a declared value of Rs. one lakh.
- 5.3 The courier regulations for the manual mode stipulate that for certain categories of imports, a regular Bill of Entry prescribed in the Bill of Entry (Forms) Regulations, 1976 is to be filed. These include, (a) goods imported under EOU scheme; (b) goods imported under DEEC and EPCG schemes; (c) goods imported against the license issued under the Foreign Trade (Development and Regulation), Act, 1992; (d) goods imported by a related person defined under the Customs Valuation Rules, 1988 (e) goods in respect of which the proper officer directs filing of a Bill of Entry; and (f) goods having a declared value of more than Rs. one lakh.
- 5.4 Under the courier Regulations for the electronic mode the forms prescribed for filing Customs declarations are:
- (a) Courier Bill of Entry-XI (CBE-XI) for documents in Form B,
 - (b) Courier Bill of Entry-XII (CBE-XII) for free gifts and samples in Form C,
 - (c) Courier Bill of Entry-XIII (CBE-XIII) for low value dutiable consignments in Form D, and
 - (d) Courier Bill of Entry-XIV (CBE-XIV) for other dutiable consignments in Form E for import consignments.
- 6. Procedural formalities for clearance of export goods:**
- 6.1 In case of export goods, the Authorised Courier files Courier Shipping Bills with the proper officer of Customs at the airport or LCS before departure of flight or other mode of transport, as the case may be. Different Forms have been prescribed for export of documents and other goods. The Authorised Courier is required to present the export goods to the proper officer for inspection, examination and assessment.
- 6.2 For certain categories of export goods, a regular Shipping Bill, as prescribed in the Shipping Bill and Bill of Export (Form) Regulations, 1991 is required to be filed. Such Shipping Bills are processed at the Air Cargo Complex or the EOUs or STP or EHTP and thereafter with the permission of Customs, the goods are handed over to a courier agency for onward dispatch. The goods to which this procedure applies are:
- a. Goods originating from EOUs/STPs/EHTP,
 - b. Goods exported under DEEC, EPCG and Drawback schemes, and
 - c. Goods which require a licence for export under the Foreign Trade (Development and Regulation) Act, 1992.

- 6.3 Under courier Regulations for electronic mode, the forms for filing Customs declarations for export goods are (a) Courier Shipping Bill-III (CSB-III) for documents in Form G and (b) Courier Shipping Bill-IV (CSB-IV) for goods in Form H.

7. Examination norms for goods imported or exported by courier:

7.1 The following examination norms are provided for import and export of courier consignments:

- (a) 100% screening of import/ export consignments (documents and all types of cargo) is required to be done through X-ray or other NII techniques. Wherever possible the facility of X-ray machines available with Customs could be used; otherwise the airlines or AAI's screening facility may be resorted to for such screening. Further, wherever feasible such screening by multi-agencies could be combined to reduce the time taken and avoid duplicity.
- (b) Physical examination of export documents, gifts, samples and export goods limited up to a maximum of 10% of the total courier consignments or specific intelligence. The consignments so selected will be examined 100%.
- (c) Physical examination of import documents, gifts, samples and dutiable goods limited upto a maximum of 10% of the total courier consignments. The consignments so selected will be examined 100%.
- (d) Selection of consignments physical examination would be based on the various parameters such as nature of goods, value, weight, status of importer etc.
- (e) Commissioner of Customs in respective port can exercise the discretion of random examination of goods, on specific parameter such as country of import/ export, nature of goods as presently provided in the EDI system.
- (f) Any consignment can be examined by the Customs (even upto 100% examination), if there is any specific intelligence or there is doubt during X-ray in respect of the said consignment.
- (g) Under the automated process the consignments would be identified for examination on the basis of 'risk analysis'.

[Refer Circular No. 23/2006-Cus, 25-8-2006]

8. CENVAT credit:

- 8.1 Whenever a consignee intends to take CENVAT credit of the duty paid on imported goods, normal Bill of Entry may be filed. This applies to courier clearances under the manual mode.

[Refer Circular No. 31/2007-Cus, dated 29-8-2007]

9. Transshipment of goods:

- 9.1 The facility of transshipment between two Customs stations is available under courier mode as per the provisions of the Customs Act, 1962, Goods Imported (Conditions of Transshipment) Regulations, 1995 and other instructions. Many times consignments imported through courier mode may also need to be transferred to cargo terminal of the

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same airport for clearance purposes. Such transfer is akin to local movement of cargo from one custom area of the Customs station to another custom area of the same station and is covered by local procedure evolved by the jurisdictional Commissioner of Customs.

[Refer Circular No.18/2009-Cus, dated 8-6-2009]

10. Disposal of uncleared goods:

- 10.1 The Courier regulations for both manual and electronic mode prescribe a procedure for clearance of uncleared goods. In case of imported goods, the same are required to be detained by Customs and a notice issued to the Authorised Courier and goods can be disposed of after the expiry of 30 days of the arrival of the said goods. The charges payable for storage and holding of such goods are to be borne by the Authorised Courier.
- 10.2 In the case of export goods, a similar procedure as in respect of imported goods is prescribed, the only difference being that such goods can be disposed of if they have not been exported within 7 days of arrival into the Customs Area or within such extended period as may be permitted by the Customs.

11. Registration of Authorised Courier:

- 11.1 A person desirous of operating as an Authorised Courier is required to get himself registered with the jurisdictional Commissioner of Customs. Under the regulations for the manual mode, the registration is valid for 10 years and renewable for another 10 years if performance of courier is satisfactory. Similar provisions are contained in the regulation for the electronic mode except that the initial registration period is fixed as 2 years.
- 11.2 The person applying for registration should be financially viable and in support thereof he is required to produce a certificate issued by a scheduled bank or such other proof evidencing possession of assets of a value not less than Rs. 25 lakhs. Further, he will have to execute a bond with a security of Rs. 10 lakhs for registration at Mumbai, Calcutta, Delhi and Chennai. At other airports and LCS, the security deposit is kept at Rs. 5 lakh. The security can be in cash or in the form of postal security or National Savings Certificate or Bank Guarantee. A condition of registration is that the applicant agrees to pay the duty, if any, not levied or short levied with interest, if applicable, on any goods taken clearance by the Authorised Courier.
- 11.3 An Authorised Courier registered at one Customs station is allowed to transact business at more than one airport or LCS subject to giving of intimation in the prescribed form. However, separate bond and security will have to be furnished at each airport and LCS.
- 11.4 Existing Authorised Couriers who are registered or transacting business in terms of Regulation 12 of the Courier Imports and Exports (Clearance) Regulations 1998 at locations where automated clearance facilities become operational shall be eligible to file declarations under the electronic mode without any requirement for fresh appointment or fresh intimation, subject to the fulfilment of other conditions or requirements imposed under courier Regulations for the electronic mode. In short, once a person is registered as an Authorized Courier, he can file declarations under both the modes subject to compliance of other requirements of the respective Regulations.

12. Obligation of Authorised Courier:

- 12.1 A number of obligations are cast on the Authorised Courier. These include obtaining an authorization from the consignees for clearance of import or export goods (except import goods having a declared value of Rs.10,000 or less, where the authorization may be obtained at the time of delivery of the consignments to consignee). Some of the important obligations are as follows:
- (a) File declarations, for clearance of imported or export goods, through a person who has passed the examination referred to in Regulation 8 or 19 of the CustomHouse Agents Licensing Regulations, 2004 and who are duly authorised under Section 146 of the Act;
 - (b) Advise his client to comply with the provisions of the Customs Act, 1962 and rules and regulations made there-under;
 - (c) Verify the antecedent, correctness of Importer Exporter Code (IEC), identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information;
 - (d) Exercise due diligence in furnishing information to the Customs in relation to clearance of import or export goods;
 - (e) Not withhold any information communicated to him by Customs relating to assessment and clearance of import/export goods from a client;
 - (f) Not withhold any information relating to assessment and clearance of import/ export goods from the assessing officer and not attempting to influence the conduct of any officer of Customs in any matter by the use of threat, false accusation, duress or offer of any special inducement etc.; and
 - (g) Maintain records and accounts prescribed by the Customs and abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder.
- 12.2 The obligation on the Authorized Courier to verify the antecedents, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information is based upon the increasing number of offences involving various modus-operandi such as fraud and duty evasion by bogus IEC holders etc. In this regard, the detailed guidelines on the list of documents to be verified and obtained from the client/ customer are laid down. It is obligatory for the client/ customer to furnish to the Authorised Courier any two of the listed documents. However, there is no requirement for the client/ customer to furnish a photograph separately to the Authorised Courier.

[Refer Circular No.9/2010-Cus, dated 8-4-2010]

13. Outsourcing/Sub-letting:

- 13.1 On the lines of similar requirement for Customs Cargo Service Providers (CCSP) under the Handling of Cargo in Customs Areas Regulations, 2009, a provision is made prescribing the requirement of prior permission of Customs if the Authorised Courier wants to sub-let/

outsource any of the components in the door-to-door supply chain. This is necessary since an Authorized Courier is defined as one, who, in relation to import or export of goods, is a person engaged in the international transportation of goods for export and imports on door-to-door delivery basis, and is registered in this behalf by the jurisdictional Commissioner. Also, the basic reason for expeditious clearance facilities being extended is that Authorized Couriers have in place verifiable and secure work processes on a global basis backed by an elaborate IT infrastructure for knowledge and information management. These companies have their own in-house mechanisms to guard against use of express supply chain by unscrupulous elements. Therefore, any unauthorized sub-letting or outsourcing of any of the components in the door-to-door supply chain may defeat the very purpose behind facility of expeditious clearance. Hence, the Commissioners of Customs should review the facilities available with the Authorised Couriers appointed under their charge to ensure compliance. Further, while allowing, any sub-letting or outsourcing due care should be taken to ensure that it does not go against the very purpose behind facility of expeditious clearance.

14. De-registration and forfeiture of security:

- 14.1 The registration of an Authorised courier can be revoked by the Commissioner and his security can be forfeited on grounds of his failure to comply with the conditions of the bond, the provisions of regulations and misconduct. Revocation of registration can be made only after a notice is issued to the Authorised Courier and he is given an opportunity to present his case in writing as well as opportunity of being heard in the matter. In cases where an inquiry needs to be conducted to establish prima facie the grounds against the Authorised Courier, the Commissioner of Customs can, pending such inquiry, suspend the registration. An Authorised Courier, if aggrieved by the order of the Commissioner, may represent to the Chief Commissioner within 60 days of communication of the impugned order.

[Refer Courier Imports and Exports (Clearance) Regulations, 1988, Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010, Circulars No.56/95-Cus, dated 30-5-1995, No.85/98-Cus, dated 13-11-1998, No.23/2006-Cus, dated 25-8-2006, No.31/2007-Cus, dated 29-8-2007 and No.33/2010-Cus, dated 7-9-2010]

15. Courier electronic clearance procedure:

- 15.1 Clearance of imported goods shall be affected in the following manner:
- (i) The Authorised Courier or his agent shall file with the proper officer, in an electronic form, a manifest for imported goods prior to its arrival viz. Express Cargo Manifest - Import (ECM-I) in Form A;
 - (ii) The courier packages containing the imported goods shall not be dealt with in any manner except as may be directed by the Commissioner of Customs and no person shall, except with the permission of proper officer, open any packages.
 - (iii) The Authorised Courier or his agent shall make entry of goods imported by him, in an electronic declaration, by presenting to the proper officer the Courier Bill of Entry-XI (CBE-XI) for documents in Form B or the Courier Bill of Entry-XII (CBE- XII) for free gifts and samples in Form C or the Courier Bill of Entry-XIII (CBE-XIII)

for low value dutiable consignments in Form D or the Courier Bill of Entry-XIV (CBE-XIV) for other dutiable consignments in Form E.

- (iv) The Authorised Courier shall present imported goods for inspection, screening, examination and assessment thereof.
- (v) Imported goods which are not taken clearance within 30 days of arrival, shall be detained by proper officer and shall be sold or disposed of by the person having custody thereof, after notice to the Authorised Courier and to the declared importer, if any, and the charges payable for storage and holding of such goods shall be payable by the Authorised Courier.

15.2 Clearance of export goods shall be done as follows:

- (i) The Authorised Courier or his agent shall, on or after such date as the Board may specify by notification, file in an electronic form, a manifest for export goods before its export with the proper officer viz. Courier Export Manifest (CEM) in Form F.
- (ii) The courier packages containing the export goods shall not be dealt with after presentation of documents to the proper officer in any manner except as may be directed by the Commissioner of Customs and no person shall, except with the permission of proper officer, open any package of export goods, brought into the Customs area, to be loaded on a flight.
- (iii) The Authorized Courier or his agent shall make entry of goods for export, in Courier Shipping Bill-III (CSB-III) for documents in Form G or, as the case may be, in the Courier Shipping Bill-IV (CSB-IV) for goods in Form H, before presenting it to the proper officer.
- (iv) The Authorized Courier shall present the export goods to the proper officer for inspection, screening, examination and assessment thereof.
- (v) Any export goods brought into customs area for export purpose and not exported within 7 days or within such extended period as permitted by the proper officer in case of delay beyond the control of the Authorized Courier and declared exporter, may be detained by the proper officer and sold or disposed off by the custodian, after notice to the concerned Authorized Courier and declared exporter. The charges for storage and handling of such goods shall be paid by such Authorized Courier.

15.3 The Authorized Courier or his agent empowered to deal with the imported/export goods shall be required to pass the examination referred to in the Custom Brokers Licensing Regulations, 2013.

15.4 In Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010, 'Low Value Dutiable Consignment' is defined as an import consignment other than documents, gifts and samples of an invoice value upto Rs. one lakh.

15.5 Regulation 13 of the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 provides for suspension or revocation of registration of authorized courier on the basis of grounds specified therein. The following procedure has been prescribed for revoking registration:

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- (i) The Commissioner of Customs shall issue a notice in writing to the Authorised Courier stating the grounds on which it is proposed to revoke the registration and requiring the said Authorised Courier to submit, within such time as may be specified in the notice, not being less than 45 days, to the Deputy /Assistant Commissioner of Customs nominated by him, a written statement of defence and also to specify in the said statement whether the Authorised Courier desires to be heard in person by the said Deputy / Assistant Commissioner of Customs.
- (ii) The Commissioner of Customs may, on receipt of the written statement from the Authorised Courier, or where no such statement has been received within the time-limit specified in the notice, direct the Deputy / Assistant Commissioner of Customs to inquire within a period of 3 months, from the order of suspension or from the date of initiation of enquiry, as the case may be, into the grounds which are not admitted by the Authorised Courier.
- (iii) The Deputy / Assistant Commissioner of Customs shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Authorised Courier, for the purpose of ascertaining the correct position.
- (iv) The Authorised Courier shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings. If the Deputy / Assistant Commissioner of Customs declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.
- (v) At the conclusion of the inquiry, the Deputy / Assistant Commissioner of Customs shall prepare a report of the inquiry recording his findings.
- (vi) The Commissioner of Customs shall furnish to the Authorised Courier a copy of the report of the Deputy / Assistant Commissioner of Customs and shall require the Authorised Courier to submit, within the specified period not being less than 60 days, any representation that he may wish to make against the findings of the Deputy / Assistant Commissioner of Customs.
- (vii) The Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Authorised Courier, pass such orders as he deems fit.

[Refer Instruction F.No.450/54/2008-Cus.IV, dated 9-2-2011 and
Notification No. 65/2012- Cus (N.T.), dated 26.07.2012]
