

**F. No. 467/45/2008-CusV**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

Dated the 10<sup>th</sup> November, 2008

To

The Chief Commissioners of Customs (All)  
The Chief Commissioners of Central Excise (All)  
The Chief Commissioners of Central Excise & Customs (All)  
The Director General of Revenue Intelligence/ Central Excise Intelligence/ Systems and Data Management/Audit/ Export Promotion/ Safeguards  
The Chief Departmental Representative (CESTAT), Delhi

Sir,

**Sub: Computation of Value under Section 14 for Levy of Export Duty.**

1. After the imposition of export duty on steel at ad valorem rates in May 2008, a doubt has been raised regarding the manner of calculation of export duty, particularly in view of the introduction of transaction value concept under Section 14 as part of the 2007 budgetary exercise. Specifically, the doubt is whether the export duty should be charged simply as a percentage of FOB price or whether the FOB price should be taken as the 'cum-duty price' for determination of assessable value and duty due thereon.
2. Hitherto, the export duty and cesses were calculated by taking the FOB price declared by the exporter as the cum-duty price and working backwards from the FOB price. This methodology is based on instructions issued by the Board (contained in Appraising Manual) in 1966. This view was reconfirmed by the Board in 2000 while developing the software for Indian Customs EDI System (ICES-Exports) for the purpose of levy of cess under various enactments of different Ministries.
3. The matter has been examined in consultation with the Ministry of Law who have opined that *Section 14 of the Customs Act or the rules framed thereunder, do not specify any procedure for calculation of assessable value for the purpose of charging export duty in a situation where the exporter has not collected any amount in excess of what has been declared in the shipping bill/invoice. As per practice in vogue for the last more than four decades, transaction value of export goods has invariably been taken as 'cum-duty price'. This practice is not in conflict with any of the statutory provisions. Amendments made in Section 14 of the Customs Act by the Finance Act, 2007 have also not brought any change in the procedure for calculation of assessable value for the purpose of charging export duty. However, any decision on this issue is essentially a matter of policy on which decision is to be taken by the administrative department.*
4. In view of the above, a policy decision has been taken that till 31.12.2008, the existing practice of computation of export duty and cesses by taking the FOB price as the cum-duty price may be continued. All pending cases may be finalized accordingly.

5. It has also been decided that with effect from 1<sup>st</sup> January, 2009, the practice of computation of export duty shall be changed. It is proposed that for the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, shall be the FOB price of such goods at the time and place of exportation. For example if the transaction is at Rs 100 FOB, and the duty is 15%, the export duty will be 15% of FOB price, that is Rs 15. In case the transaction is on CIF basis, the FOB price may be deduced from the CIF value, and then the export duty be calculated as 15% of such FOB price.

6. Any difficulties which are anticipated in the implementation of the change in computation of export duty from 1<sup>st</sup> January, 2009 may be brought to the notice of the Board by 20<sup>th</sup> November, 2008 positively.

7. The contents of this Circular may be brought to the notice of the field formations and the Trade under your jurisdiction.

8. Hindi version follows.

Yours faithfully

(P.S. Pruthi)  
Commissioner (Customs & EP)