

Chapter 7

Provisional Assessment

1. Introduction:

- 1.1 The Finance Act, 2011 introduced self-assessment under which importers and exporters are mandatorily required to self-assess the duty in terms of Section 17 of the Customs Act, 1962. This self-assessment is subject to verification by the proper officer of the Customs and may lead to reassessment by the proper officer of Customs if it is found to be incorrect. However, in terms of Section 17(1) of the Customs Act, 1962 in case an importer or exporter is not able to make self-assessment he may, request in writing to the proper officer for assessment. Also, in terms of Section 18 of the Customs Act, 1962 in case the proper officer is not able to verify the self-assessment or make re-assessment of duty or he deems it necessary to subject any imported or export goods to any chemical or other tests or where necessary documents have not been furnished or information has not been furnished and the it is necessary to make further enquiry, he may direct that the duty leviable on such goods be assessed provisionally. Customs (Provisional Duty Assessment) Regulations, 2011 have been notified to prescribe conditions for allowing provisional assessment, terms of bond, penal provisions etc. A penalty of upto Rs.50,000 may be imposed on contravention of these Regulations.

2. Bond for provisional assessment:

- 2.1 For making provisional assessment the proper officer is required to estimate the duty to be levied i.e. the provisional duty. Thereafter, the importer or the exporter has to execute a bond in an amount equal to the difference between the duty that may be finally assessed or re-assessed and the provisional duty. He shall also deposit with the proper officer such sum not exceeding twenty per cent of the provisional duty, as the proper officer may direct. The terms of the bond include the following:
- (i) The importer or exporter shall pay the deficiency, if any, between the duty finally assessed or re-assessed, as the case may be, and the duty provisionally assessed.
 - (ii) Where provisional assessment is allowed pending the production of any document or furnishing of any information, the importer / exporter shall produce the same within one month or within such extended period as the proper officer may allow.

3. Finalization of provisional assessment:

- 3.1 The assessments must be finalized expeditiously, well within 6 months. However, in cases involving machinery contracts or large project imports, where imports take place over long period, such finalization may take more time. Here too, effort should be made to finalize the cases within 6 months of the date of import of the last consignment covered by the contract.

[Refer Instructions F.No.512/5/72-Cus.VI, dated 23-4-1973 and F.No.511/7/77-Cus.VI, dated 9-I-1978 and Circular No. 17/2011-Cus., dated 8-4-2011]
