


**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT),
APPRAISING MAIN, JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA
SHEVA, TALUKA URAN, DISTRICT RAIGAD, MAHARASHTRA-400 707.**











F.NO.










S/22-GEN-

244/2010 AM(I)  DATE: 11.10.2010

STANDING ORDER NO.    63 /2010

 The Finance Minister, in the meeting held on 01.09.2010 with the Chief Commissioners of Mumbai Zone on revenue realization for the Financial Year 2010-11, emphasized that efforts should be made on priority to realize the revenue blocked in litigation and that litigation should be reduced, wherever possible.

2.         It is observed that in a number of cases the Adjudicating Authorities are not passing proper speaking orders especially in cases involving enhancement of declared value.  In the past, cases have been noticed where even though there is sufficient ground for enhancement of value, the Order-in-Assessment/Order-in-Original does not give the specific evidence of contemporaneous imports on the basis of which value has been enhanced.  At other times, it is noticed that sufficient grounds have not been given in the Order-in-Original for rejection of transaction value/declared value and/or the Valuation Rules has not been applied sequentially.

3.         It is also seen that in such cases where the importers have filed appeal with Commissioner (Appeals), the Assessment Groups are not providing the evidence of value either by way of relied upon B/E or NIDB data to the Appellate Authority at the time of filing of cross objections along with the reasons for adopting the particular value for the impugned Bill of Entry.  As the order lacks evidence on the basis of which value has been enhanced and as sufficient effort is not made by the Assessment Group to give such evidence at the time of filing of counter objection at appeal stage, it has not been possible for the Appellate Authority to sustain the enhancement in value.

4. Attention is invited to Board's letter F.No. 275/34/2006-CX 8.A dated 18.02.2010 which states that in view of the observation of Hon'ble Supreme Court in the case of MIL India Ltd and the judgment of Hon'ble High Court of Punjab & Haryana in the case of M/s. Enkay (India) Rubber Co. Pvt., Ltd., M/s. B.C. Kataria and M/s. Hawkins Cookers Ltd., the instructions for withdrawal of the power of Commissioner (Appeal) to remand the matter back to the Adjudicating Authority for fresh consideration, should be followed. Accordingly, now the Commissioner (Appeal) does not have power to remand the cases to the Adjudicating Authority. In view of this, it has become all together more important to pass proper and reasoned Order-in-Original with proper evidence.

5. Reference is made to Standing Order No. 61/2009 dated 16.12.2009 issued by JNCH on this subject. In continuation of the same, the Group Officers are directed as follows:

- (i) In cases, where the transaction value declared by the importer is found to be low and not acceptable and a query is issued by the group officer, the proposed value of similar/identical goods relied upon should be indicated in the query memo issued to the importer/his representative.
- (ii) In cases, where such value evidences as provided by the Group in the query memo is acceptable to the importer, either the importer/his representative should incorporate suitable remarks regarding acceptance of proposed value in the EDI system or a letter confirming the acceptance of the value proposed by the Group should be taken from the importer/ his representative before assessment. A proper record of such letters should be kept in the Group and proper reference of the acceptance letter should be incorporated in the EDI system. The same should be made available to the Appellate Authority in case the importer files an appeal at a later date.
- (iii) In cases, where the importer does not accept the suggested value of the group, and assessment is done after enhancing the transaction value on the basis of data available with the Group, an Order-in-Original should be issued in compliance of Section 17(5) of the Customs Act, 1962.
- (iv) In all such cases, where Order-in-Original is issued or otherwise and the importer has filed an appeal against the Assessment Order/Order-in-Original with Commissioner (Appeal), the copies of relied upon documents should be submitted to Commissioner (Appeal) at the time of filing cross-

objection.◆ The Group should also provide reasons for rejecting the transaction value and consideration of the available evidence for the purpose of enhancement of value to Commissioner (Appeal) so that enhancement of value can be defended.

6.◆◆◆◆◆◆◆ Any difficulty faced in implementation of this Standing Order may be brought to the notice of the undersigned.

(MALA SRIVASTAVA)
COMMISSIONER OF CUSTOMS
(IMPORT)
JNCH, SHEVA.

Copy to:

1. The Chief Commissioner of Customs, Mumbai-II, JNCH, Sheva.
2. The Commissioners of Customs (Import/Export/Appeal), JNCH, Sheva.
3. All Addl./Jt. Commissioners of Customs (Import/Export), JNCH, Sheva.
4. All Dy./Asstt. Commissioner of Customs (Import/Export), JNCH, Sheva.
5. EDI Section◆ for uploading in the JNCH/Intranet website.
6. Notice Board.
7. File Copy.