OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT), JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA-SHEVA,

TAL: URAN, DIST: RAIGAD, NAVI MUMBAI � 400 707

F.No. S/26-Misc-50/07

��������� Date�: 03/10/2007

STANDING ORDER NO. 37/2007

Subject ? Payment of Refunds ? m/r.

Attention of officers and staff of JNCH is drawn to Board Circular No. 24/2007-Cus. dated 02.07.2007 regarding delay in sanction of refunds. The said Board circular has been notified vide Public Notice No-39/ 2007 dated 03.10.2007 and is appended below. The officers posted in Central Refund Cell should ensure due compliance to this circular. Assessing groups who have to examine / process refund claims prior to 24.02.2004 as per S.O. No. 04/2007 dated 27.02.2007, shall also ensure the compliance to the above Board Circular. Any problems noticed in implementation of this circular should be brought to the notice of supervisory officers immediately.



- 4.1 �����System for receipt and acknowledgement of all Customs duty refund applications • All refund applications made by any person under section 27 of the Customs Act, whether by post or courier or personal delivery, shall be received by the department and a simple receipt, for having received the application that is said to have been filed as �refund application shall be issued immediately. At this stage the receipt should make it clear that the application has not been scrutinized for its completeness.

These applications are required to be scrutinized for the completeness within ten working days of their receipt, for giving acknowledgement by the proper officer as per the Customs Refund Application (Form) Regulation, 1985. Hence, if any deficiency is found in the application or any document is required by the department, the same shall be informed at this stage of initial scrutiny itself within ten working days of the initial receipt. This will avoid any chance for raising repeated queries to the applicant, in a piece-meal manner and bring certainty in dealing with refund applications.

- 4.2 �����Processing of refund applications and their disposal�:� Application of refund found to be complete in all respect by Customs, after scrutiny as above, shall be processed on �first come first served� basis so as to decide whether the whole or any part of the duty and interest paid by the applicant is refundable. If refund is due in such case, an order for refund is required to be passed in terms of sub-section (2) to section 27 or where the claim for refund is found liable to be rejected, as the case may be, a speaking order shall be passed giving complete reasons for the order. Further, in respect of the provisions of unjust enrichment, the order should indicate that this aspect has been examined based on the guidelines, if any, applicable, the order should also contain the findings of adjudicating authority on the documents produced in support of the claim and the basis for determining the amount as either refundable to the claimant or payable to the Consumer Welfare Fund or the claim not being admissible.
- 4.3 �����Issue of Cheque� :� Where the refund application has been admitted, whether in part or in full, and claimant is eligible for refund, the Deputy / Asstt. Commissioner of Customs may ensure that payment is made to the party within 3 days of the order passed after due audit, if any. In all such cases refund of amount shall be paid to the applicant by a cheque on the authorised bank with which the sanctioning authority maintains account. After the cheque has been signed, it shall either be delivered to the claimant or his authorised representative personally when he next calls for it or sent to him by Registered Post 'Acknowledgement Due' at Government cost, on the basis of pre-receipt already obtained from the claimant.
- shall continue. Accordingly, all applications involving a refund of duty and/or interest of Rs. 5 lakhs or more shall be subjected to pre-audit as per the existing practice. The applications of refund of amount below Rs. 50,000/- may be post audited on the basis of the random selection by Deputy / Asstt. Commissioner (Audit). The selection can be made in such a way that 25 per cent of the refund applications are post audited. The applications of refund for amount between Rs. 50,000/- and Rs. 5 lakhs should be compulsorily post audited. This audit system has been prescribed with a view to check improper sanction and payment of refunds. However, this does not dispense with the verification of the refund vouchers and the re-conciliation of refunds, which shall continue to be done by the Chief Account Officers. However, it may be ensured that

where pre-audit is involved the action is completed at the earliest so that the disposal of refund applications is not unduly delayed.

- 5. Your attention is also invited to the instructions issued by the Central Vigilance Commission (CVC) under section 8(1)(h) of the CVC Act, 2003 to bring about greater transparency and accountability in the discharge of regulatory, enforcement and other public dealings of the Government organisations vide their Circular No. 40/11/06 dated 22.11.2006 (refer CVC website http://www.cvc.nic.in/ under 'improving Vigilance administration by leveraging technology). These instructions, *interalia*, require that status of individual applications / matters should be made available on the organisation's website and should be updated from time to time so that the applicants remain duly informed about the status of their applications. It is further stated that the manual records maintained presently for various purposes may continue.
- 6.1 �����System of maintaining online database on Customs duty refunds: In pursuance of the instructions of CVC, all Commissionerates of Customs shall establish a mechanism for maintenance of a comprehensive database in their respective website, indicating the receipt, acknowledgement, action taken for disposal (either payment or rejection) of refund applications and those pending at the end of the month. This shall be implemented with in a period of three months time and a report of the same may be sent to the Board and DG (Inspection).

The details of refund application such as name of the claimant, file number, date of application, amount of refund claimed, date of its acknowledgement shall be indicated in chronological order by the date of its receipt. The applications may be serially numbered for each year and shall be shown in a single list indicating their respective status distinctly. The illustrative status that could be mentioned for easy understanding of any applicant may include the following: (i) refund application received but pending for scrutiny and acknowledgement (ii) (a) refund application acknowledged for its completeness (ii) (b) refund application found incomplete and returned for rectification of deficiency (iii) (a) refund application rejected by passing a speaking order (iii) (b) refund application sanctioned, pending verification by audit (iv) cheques issued for refunds sanctioned and paid to applicant / credited to

consumer welfare fund. This is not exhaustive and if any other stage of processing of refund application is involved the same may be indicated. An abstract at the end of the month about the total number of refund application received, acknowledgement, disposal and pending may also be indicated.

applied for refund with Customs, to check the status of his refund application by reference to the date of his refund application have been received by Customs. This data will be accessible to the trade and public as well as by all custom officers to enhance transparency. Further, the status of individual applications for refund of customs duty shall be updated from time to time, at least daily, so that the applicants remain duly informed about the status of their applications. The data may be allowed for displayed in the website for three months period from the date of its final disposal and there after it can be moved to the history data base.

- **7.1** �����Monitoring Mechanism:���.If any refund application is� pending for long period, the reasons for the same should be identified by the CRC cell and concerned Chief Commissioner and action initiated for their disposal by reference to the concerned Commissionerate. DGI may also access the database of such refund application and maintain the data in respect of those refund applications pending long period and action taken thereon, for reporting to the Board.

(SANJEEV BEHARI)

COMMISSIONER OF CUSTOMS (IMPORT)