OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)

JAWAHAR CUSTOMS HOUSE NHAVA SHEVA RAIGAD MUMBAI

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1.In view of amendment of Section 142(1) of the Customs Act,1962, empowering the Asst. Commissioner of Customs to attach and sell the movable and /or immovable property of defaulter as per the Customs (Attachment of property of Defaulter for Recovery of Government dues) Rule,1995 a Revenue Recovery Cell in the Office of the Commissioner of Customs (Import) has been formed in the Jawahar Custom House to effectively monitor the progress & finally recover the arrears of Custom House duty, fine and penalty from the defaulters who have failed to pay it so far for cases pertaining to Commissionerate of Import . The following procedure is prescribed for the recovery of arrears of Customs Revenue comprising of Customs duty, fine and penalty etc. by the Jawahar Customs House, Commissionerate of Import.

2. After the issue of order confirming less charge demands under Section 28(1) of the Customs Act, 1962, and/or issue of Order-in-Original the concerned Group shall wait for the appeal period to be over. After the expiry of appeal period, AC/DC Group shall take steps including issue of Detention Orders to recover the amount payable by the Importer and others in terms of Section 142(1) (a) to r (b) of Customs Act, 1962, In

case the Group AC/D.C. fails to recover the arrears in this manner, certificate u/s 142 (1) (c)(i) of the Customs Act,1962, should be sent to the District Collector in cases, where the amount due is Rs. 1,00,000/- and less in all other cases, where the the amount due, whether by way of , duty or penalty or interest exceeds Rs.1,00,000/- a certificate shall be prepared in the Proforma as given in enclosed Appendix I and sent to the Asstt. / Dy. Commissioner of Customs I/C Revenue Recovery Cell. While sending Appendix I to AC/RRC, the following documents should invariably be enclosed.

(a) Copy of Order-In-Original / Order confirming Less Charge Demands.

(b) Copy of the Order of Commissioner (Appeal) CESTAT/High Court/Supreme Court.

(c) Copy of the stay application if any, pending before Commissioner

(Appeal) /CESTAT /High Court /Supreme Court

(d) A Certificate to the effect that no stay application is pending before any Appellate Authority/Court as far as amount sought to be recovered through Revenue Recovery Cell is concerned.

3. In case, the Certificate is sent without enclosing the above mentioned documents, the case shall not be taken up for initiating recovery proceeding by the Revenue Recovery Cell but shall be returned for making good the deficiencies. Further, in case the defaulter owns property out side the city limits of Mumbai, Thane or Raigad ODist:, the Certificate in Appendix I shall be sent directly by concerned AC/ DC to the jurisdictional Commissioner of Customs and Central Excise, for recovery of arrears. Such cases need not be referred to Revenue Recovery Cell.

4. If after sending the certificate to Revenue Recovery Cell, the amounts due are paid by the concerned parties/persons either in full or in part, then intimation about receipt of such payments shall be immediately sent by the Groups/Units to the Revenue Recovery Cell and in any case not latter than 3 days of the receipt of such payments .In addition, copies of all further correspondence pertaining to the recovery of the sums due as mentioned in the Certificate sent to Revenue Recovery Cell should also be made available to the Revenue Recovery Cell on regular basis.

5. In cases where the certificate is issued to District Collectors for recovery of arrears and the amount due is not recovered by the District Authorities within three months of the issuance of Certificate in Appendix I, the District Authorities should be informed by the AC/DC Group through a registered AD letter to discontinue recovery and a Certificate in Appendix I should be sent to Revenue Recovery Cell for initiating recovery action under sub clause (ii) of Section 142(1) (c) in case the defaulter s property is located within Mumbai, Thane and Raigad Dist. In all other cases, the certificate in Appendix I, should be forwarded to the respective Jurisdictional Commissioner of Customs and C. Excise.

6. After the receipt of certificate in Appendix I from the concerned Groups along with copies of Order-In-Original and other documents mentioned in preceding paragraphs a file no. shall be allocated by the Revenue Recovery Cell to each such case.

7. The Revenue Recovery Cell shall be headed by an Asstt./ Dy. Commissioner **(**) of Customs, who will be the proper officer for the purpose of attachment of the defaulter **(**) s property and for realizing the amount mentioned in the Certificate. Upon receipt of the certificate from the Appraising Group/Section the Revenue Recovery Cell shall issue a letter to the defaulter bringing to his/her notice the

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provision of the Section 142 of the Customs Act, 1962 and the amount of arrears due, with direction to pay the said amount within 10 days of the receipt of the notice. In the meantime, the officers of Revenue Recovery Cell shall make discreet inquiries about the moveable & immoveable property of the defaulters and to report to AD/DC Revenue Recovery Cell within a period of seven days the particulars of the property. While making the inquiries about the movable property by the Revenue Recovery Cell Officers shall also seek information about the business, bank accounts and information regarding assets from D.G.F.T so office (where application for grant of Import Export Code No. is filed). Inquiries should also be made from Income Tax Deptt. and Sales Tax

Deptt., regarding assets of the defaulters. In cases investigated by SIIB the property detail of the concerned persons should be recorded while examining them Under Section 108 of the Customs Act, 1962 which should be communicated to the Revenue Recovery Cell while sending the Certificate in Appendix I.

8. After expiry of 10days notice period if Govt. dues are not paid by the defaulter, the Asstt./ Dy. Commissioner, I/C Revenue Recovery Cell shall issue a Notice of Demand to the defaulter as per enclosed Appendix II. If said dues are not paid within 7 days of the Demand Notice the Asstt./ Dy. Commissioner /Revenue Recovery Cell will proceed with the recovery of dues as stipulated in Customs (Attachment of Property of Defaulters for Recovery of Govt. dues) Rules 1995.

9. In cases the Certificate under Section 142(1) (c) (ii) of the Customs Act ,1962 is received from the other Commissioner I for the recovery of Govt. Revenue the Revenue Recovery Cell shall enter the said Certificate in a separate Register maintained for that purpose and thereafter AC / DC Revenue Recovery Cell shall issue a Demand Notice to the defaulter in Appendix II and further action to recover the Govt. Revenue shall be initiated by the said Asstt./ Dy. Commissioner as prescribed user Customs (Attachment of property of Defaulters for Recovery of Govt. dues) Rules 1995.

10. In cases, the arrears of revenue consisting of Customs duty, fine and penalty and or interest are not paid by the defaulters, the property of the defaulter, both moveable and immovable, shall be attached by following procedure prescribed in Chapter II and III of the Customs (Attachment of Property of Defaulters for

Recovery of Govt. dues) Rules 1995. For this purpose notice of demand, or of attachment of immovable property and notice of attachment of other assets etc. shall be issued in the relevant formats prescribed in the Hand Book of Recovery of Arrears of Customs Revenue published by the Directorate of Publicity and Public Relation Customs & C. Excise, New Delhi.

11. A fit he amount mentioned in the certificate together with the cost of detention of the property is not paid within the period of 30 days from the date of attachment of the property, the Commissioner may authorize the proper officer to proceed to realize the amount by the sale of defaulters property by public auction. For the purpose of sale of attached property, AD/DC shall be the proper officer for selling the property and the procedure prescribed in Chapter III of the Customs (Attachment of Property of Defaulters for Recovery of Govt. dues) Rule, 1995 as well as instructions contained in the Hand Book of Recovery of Arrears of Customs Revenue shall be followed.

12. It is emphasized that the instructions contained in Board s Letter F. No. 495/15/94-Cus.IV dated 30.5.1995 and F. No. 450/72/96-Cus. IV dated 14.11.1996 should be followed strictly and any difficulty experienced should be brought to the notice of the Commissioner of Customs (Import).

13. This Standing Order shall come into force with immediate effect.

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Encl:

- 1. Board s Letter F. No. 495/15/94-Cus. IV dated 30.5.95.
- ♦2.♦ Board♦s Letter F. No. 450/72/96-Cus. IV dated 14.11.96.
- 3. Forms in Annexure I to XII A.

Copy to :-

- 1. P.A. to Chief Commissioner of Customs, JNCH, Sheva.
- 2. P.A. Commissioner of Customs (Import), NCH, Mumbai.
- 3. All Additional Commissioner of Customs (Import), JNCH, Sheva.
- 4. All Deputy Commissioner of Customs, (Import), JNCH, Sheva.

- 5. All Asstt. Commissioner of Customs (Import), JNCH, Sheva.
- 6. AC/ Disposal (General), JNCH, Sheva.