

OFFICE OF THE COMMISSIONER OF CUSTOMS (NS I, III & V)
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA
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F. No.S/22-Gen-189/2015-16 AM (I)

Date: 09.12.2016

MINUTES OF MEETING OF THE PERMANENT TRADE FACILITATION
COMMITTEE HELD ON 24.11.2016.

The PTFC meeting held on 24.11.2016 was chaired by Shri Shrawan Kumar, Commissioner of Customs, NS-III, Shri Vijay Singh Chauhan, Commissioner of Customs, NS-V, Shri Subhash Agrawal, Commissioner of Customs, NS-IV and Shri M R Mohanty, Commissioner of Customs, NS-II. The meeting was attended by the following Members/Participants of trade:-

Sr. No.	Names (Smt./Shri/Ms./Mrs.)	Organization/Association/Designation
1.	Ashish Pednekar	BCHAA
2.	K S Shetty	BCHAA
3.	Dushyant Mulani	BCHAA
4.	Hiren Ruparel	BCHAA
5.	L V Shah	BCHAA
6.	Ganpat Karade	BCHAA
7.	Vinayak B Aparaj	BCHAA
8.	Ashok K Saini	BCHAA
9.	Paresh Shah	WISA
10.	Nimish Desai	WISA
11.	Laksha Tadadikar	CFSAI
12.	Arun Adak	CFSAI
13.	Venket Narayan	CFSAI
14.	Yash Vardhan	CFSAI
15.	S. Srinivas	CFSAI
16.	Ganguly	AIWCBA
17.	Roshan Irani	AIWCBA
18.	Chetna Bhedeka	AIWCBA
19.	Christine Glena	AIWCBA
20.	Neelesh Datir	AILBIBA
21.	Omprakash Agrawal	MSWA
22.	Mark Fernandes	Sylvester & Co.
23.	Narender Singh	AMTOI
24.	Rajasekhar R	Corp Care C/o UPL Ltd.
25.	Mohan Nihalani	AIIEA
26.	Prashant Barawkar	MSWC
27.	Viraf M Tingineer	INDEV

28.	Paresh Vaivade	JMBAH
29.	Subhash Rajkumar	MANSA
30.	Manish Kumar	MANSA
31.	V.M.Thomas	CSLA
32.	Aqueel Inamdar	GDL CFS
33.	Bikramjit Singh	GDL CFS

Following Officers from department attended the meeting:-

Sr. No.	Names (Smt./Shri/Ms.)	Designation
1.	Dhirendra Lal	Addl. Commissioner of Customs, JNCH
2.	Vijay Risi	Addl. Commissioner of Customs, JNCH
3.	Nikhil Meshram	Addl. Commissioner of Customs, JNCH
4.	S C Gangar	Addl. Commissioner of Customs, JNCH
5.	Jagdish Sharan	Addl. Commissioner of Customs, JNCH
6.	B.S. Mangat	Dy. Commissioner of Customs, JNCH
7.	Vivekanand Rai	Dy. Commissioner of Customs, JNCH
8.	D S Rana	Dy. Commissioner of Customs, JNCH
9.	S K Jambotkar	Dy. Commissioner of Customs, JNCH
10.	Tapan kumar	Dy. Commissioner of Customs, JNCH

2) At the outset, the Chairman welcomed all the members.

3) The Addl. Commissioner of Customs, Appraising (Main) (Import), thereafter, announced the following facilitation measures for Ease of Doing Business carried out by the department since the last PTFC meeting held on 28.10.2016.

i) Public Notice No.144/2016 dated 31.10.2016 - Instructions regarding Interest on delayed refunds of deposits.

ii) Public Notice No.147/2016 dated 09.11.2016 regarding - Clearance of import of metal scrap.

iii) Public Notice No.148/2016 dated 10.11.2016 regarding - Working of All Groups and Docks in JNCH on 12.11.2016 in NS-I, III & V.

iv) Standing Order No.64/2016 dated 09.11.2016 - Regarding clearance of import of metal scrap.

v) Standing Order No.65/2016 dated 15.11.2016 regarding Examination & Assessment of RMS facilitated Bill of Entry.

vi) Standing Order No.66/2016 dated 15.11.2016 regarding Pendency position of Bills of Entry for more than 24 hours - Reporting & Monitoring.

vii) Standing Order No.67/2016 dated 15.11.2016 regarding Documents/ Goods registration timings for Customs Examination Work at Import Docks, JNCH - Maintaining of punctualities.

4) Thereafter, the Agenda points were taken up for discussion.

5) **Old Points:**

6) **Point No.1:-** We fully share the sentiments of the difficulties faced by the Customs Officers, having to travel from their place of residence to the various CFS's. However, at most of the CFS's, the import clearances do not commence till 12.30 p.m. Hence, the entire morning is wasted, resulting in huge congestion of trucks at the CFS's Gates from 3.30 p.m. onwards after the 1st Out of Charge is issued.

It is requested, that the 1st round for inspection and issuance of Out of Charge must be no later than 11.30 a.m., so that delivery could commence from 12.00 p.m. onwards.

(Action: ADC/Docks)

Action taken:-

In this regard, it was informed that functioning of Import Docks is in accordance with the procedures and timings prescribed in Standing Order No.52/2007 dated 14.12.2007. However, all Officers have again been instructed to adhere to the timings.

Moreover an analysis of Out of charge given at Docks during the period from 14.11.2016 to 19.11.2016 had revealed the following:

Time Slot	Total no. of documents presented for Registration during the period (in %)	Total No. of OOC given during the period (in %)
10 a.m. to 12.00 p.m.	3.58	0.00
12 p.m. to 2 p.m.	45.79	31.44
2 p.m. to 4 p.m.	24.24	23.18

4 p.m. to 6 p.m.	18.39	11.62
6 p.m. to 8 p.m.	8.00	33.76

Thus, it is seen that minimal no. of documents are being presented and cleared during the early hours inspite of the presence of Docks Officers.

Accordingly, the Trade was requested to plan their programme schedule in such a manner that the work is divided evenly and the morning hours are also optimally utilized, without wasting the manpower and infrastructure available.

Also, in this regard Standing Order No.67/2016 dated 15.11.2016 have already been issued and all the staff working in Docks have been instructed that all the Bill of Entry presented in the morning, the registration of the Bills of Entry, examination of the Imported goods and out of charge will be given by 1:30 PM.

(Point closed)

7) New Points:

Point No.1 and 2 sponsored by M/s. Western India Shippers Association;

Point No. 3 sponsored by M/s. All India Liquid Bulk Importers Exporters Association;

Point Nos.4, 5, 8 and 9 sponsored by BCHAA and

Point Nos.6 and 7 sponsored by - All India Importers' & Exporters' Association

8) Point No.1:- Assessment but no examination, examination order not required

There are three types of facilitation under RMS viz.,

- (i) No assessment no examination prescribed
- (ii) No assessment but examination prescribed; &
- (iii) Assessment required but examination not prescribed.

RMS instructions at

- (i) above is very common and there is no confusion on it;
- (ii) above is not in the vogue hence not noticed in long time; and

- (iii) above has been implemented very recently and RMS examination order in the EDI system clearly shows "Examination has not been prescribed for this BE. So Examination Order is not required". The same message also reflects on officer's screen while assessing a BE.

Despite this, examination orders are being given and hence officers posted in the shed are insisting on physical examination.

Request you to kindly ensure instructions are issued to all concerned that:

- A. Examination order is not to be given in such cases;
- B. Even where examination order is given, it has to be ignored by the shed appraiser and not examine the goods.

Action taken:-

It was informed that officers working in docks have already been instructed vide Standing Order No.65/2016 dated 15.11.2016 that the RMS instructions prevail unless and until there is specific reason to open and examine such consignment. Accordingly, they have been directed to refrain from giving examination order on such Bills of entry.

(Point closed)

9) Point No.2:- Valuation - Benchmark price fixed by SIIB/CIU/DRI etc.

There are several commodities for which benchmark prices have been fixed by various departments from Appraising groups, SIIB / CIU, DRI etc. These prices are not being reviewed for long period of time and have become irrelevant. Still the department is sticking to these prices which lead to delays, demurrage, differences, arguments etc. between trade and Customs officers and thereby delaying clearance.

Also, time and again, several appellate authorities have set aside such arbitrary loading and criticised the department for ignoring rule of the law. It was requested to have a re-look at the entire mechanism in the interest of faster clearance, ease of doing business and reduction in litigations - all stated initiatives of the Govt. of India.

Action taken:-

The Chairman asked the members of the meeting to submit list of items where the valuation benchmarks has not been reviewed for a long period of time.

(Point closed)

10) Point no. 3 - Provisional Assessment on Import of Liquid Bulk

Hardship is being faced by the manufacturers /Importers of Liquid Bulk after the issuance of Board's Circular No. 38/2016 dated 22.08.2016 and Public Notice No. 119/2016 dated 06.09.2016. This Public Notice is in form of review of the original Notification No 81/2011-Customs [NT] dated 25.11.2011.

Earlier the Bills of Entry for Liquid Bulk were being facilitated by the RMS system. Now after issuance of the above mentioned Circular No. 38/2106, all such Bills of are being subject to First Check pending receipt of Test Report from DYCC & FSSAI.

Further, in case of clearance under second check, the department is insisting on Bank Guarantee as per Para 3 of the said circular which prescribe for Bank Guarantee equal to 100 % of difference of duty, clearly ignoring provisions under Para 6 (a) of the said circular which states that cases, "where the importer is not able to make self-assessment and has sought provisional assessment", the question of Bank Guarantee or Cash deposit to be obtained as security of the differential duty does not arise or serial no 6 [b] (ii), which states that "Where despite best efforts by the proper officer, differential duty cannot be computed".

All the importers of Liquid Bulk are mostly Bulk Importers and these are their regular products. These products are procured from the reputed suppliers and are always backed up with the test reports given by the manufacturers. The test certificates are generally issued by the accredited Laboratories and the Importers are also ISO Certified having their own laboratories. Such certificates

are accepted by the Customs for the purpose of proof. Testing by the DYCC or FSSAI is only an endorsement of these certificates. Further, Para No. 3 of the Standing Order No. 17/2009 JNCH is reproduced hereunder:

3. SAMPLING DURING IMPORT: The samples need be drawn in the import/export wherever the revenue implications are high, and in case of doubtful declaration by importer/ exporter, or where verification of item description or specification is needed. Normally wherever there is test report available for the same commodity with reference to the same supplier and the same importer, unless there is a reason for doubt, a previous test report which is less than 6 months old can be relied upon. If the imported goods are accompanied by manufacturer's invoice, and manufacturer's test report or test report of an accredited testing lab in the country of export of the goods, the goods may be released without a test bond. Subject to these conditions, a few situations wherein the samples are required to be sent for test are described below:

3.1 In case of Vegetable oils (Edible grade), testing is done in terms of CBEC circular 40/2001. In case of non-edible grade vegetable oils viz crude palm styrene & Palm fatty acid distillates, wherever customs duty concession is available subject to fulfilment of procedure under Customs (import of goods at concessional rate of duty for manufacture of excisable goods) Rules 1996, the procedure is inbuilt under these rules to ensure enduse of the vegetable oil by the actual user manufacturers; so the testing is not mandatory. In case of doubt, the in-house test results of User manufacturer may be relied upon.

Leave alone the fact that at the time of introduction of the original Notification No. 81/2011, Liquid Bulk were exempt from the purview of the circular which now have been placed under serial No. 6 {a} or 6 {b} ii and not under 6 {b} as interpreted. Due to high impact of the duty and delay practices some wrong and unwanted interpretations are made. While as there are no cases of any sample failure reported so far, which may lead to the recovery of the differential duties?

Apart from the above the valuation aspects are also required to the crude pricing pattern. Further, due to the fact that the imports are in BULK form, there is no question of identifying the description through marks and numbers, as in case of general cargo, and, hence mandatorily needs testing by Lab, to confirm the declared description of the product. It is evident that by default, the B/E is provisionally assessed and this cannot be attributed to fall under 6(b) of the said above circular, wherein it can be construed for the proper officer to deem it necessary to order for final assessment, in fact this is by default.

Also, the volumes are humungous and the values are astronomical wherein the incidence of duty, too, is very high, and under these circumstances any element of Bank Guarantee or any form of security will render the imports unviable and redundant.

In view of the above, we request yourselves to kindly maintain Status quo of Liquid Bulk cargo clearances, as was being done since last so many years, i.e. Regular assessment & Out of charge immediately on receipt of NOC to avoid any unconditional delays due to delays in clearances on account of First Check procedure, and non insistence of any security or Bank Guarantee for provisional assessment.

Action taken:- The Chairman informed the members of the meeting that issue is required to be examined in details and a suitable Public Notice/Standing Order will be issued shortly.

(Action: ADC/Group I)

11) Point No. 4 Difficulty in case of clearance of LCL cargo

Trade is facing delay in clearance of consignment for bonding due to non availability of close body truck due to challenges faced on account of supply of such vehicles for LCL cargo by the local transport unions. Close body truck is not available and affixing of numbered bottle seal (OTL) is not possible.

Further, it is requested that such LCL deliveries should be affected by applying Customs Punch Seal on the packages/cartons as local containers (Cubes) are not available locally.

Action taken:-

The Chairman informed that the issue was already discussed in the PTFC meeting held on 28.10.2016. Wherein, it was informed that cubes of different sizes are available in the market which can be utilized by the Trade for carriage of small packages. Decision of affixing of bottle seal (OTL) has been taken by the Board. The same needs to be implemented.

(Point closed)

12) Point no. 5:- Delay in issuance of speaking order

It was informed that the Association has received several queries from members regarding the delay in issuance of speaking orders incase of dispute.

Action taken:-

The Chairman informed the members of the meeting that in almost all the cases speaking order is invariably being issued within the prescribed time limit. However, delay in any specific case may be brought to the notice of the superior officers.

(Point closed)

13) Point No.6 - Identification by those signing official documents.

It has been clearly stipulated by the Prime Ministers' Office and duly confirmed by the CBEC that any Customs officer sending a communication has to clearly stipulate his/her name, designation, telephone and EMAIL ID to facilitate communication. This is not done in many cases, more specifically in the communication sent to the trade regarding the PTFC meetings. This matter has been brought to the notice of Mr. B. S. Mangat, Deputy Commissioner, but to no avail Mr. Mangat continues to withhold the said information as stated above, maybe

exhibiting a certain disdain for the Trade. This is not in good order and needs to be rectified.

Action taken:-

The Chairman informed the members of the meeting that all the officers have been directed to provide their contact details invariably in all the communication with the Trade.

(Point closed)

14) Point No.7 - Monitoring and Accountability

At the PTFC meeting of 25.08.2016 we had raised certain issues regarding "Monitoring and Accountability". Please let us know what steps have been taken in this matter. This is more so important in the present context as the Prime Minister has taken certain drastic steps to root out corruption and harassment in the government sectors. In this connection the following two points are important:

(a) There is a general feeling in Trade circles that to get any work done in the Customs bribes have to be paid in quite a number of the cases. This is more so at the operational level of Appraising, Examination, etc. At most senior levels, there is good cooperation, probity and integrity. Sad to say, this is absent at the operational level in quite a number of cases. So much so, it has been alleged that certain officers have hired TOUTS who are known as "Collection Boys" (CBs). It has been alleged that these CBs have to be contacted and deals struck in case the clearances have to be facilitated, otherwise artificial delays are created. It is further alleged that these CBs have very powerful Godfathers who give them protection and cover. This aspect needs to be looked into and remedial measures taken. This is more so in view of the strong stand taken by the Prime Minister to root out corruption.

(b) In the circumstances a very strong institutional infrastructure be created for Monitoring and Accountability, in the interest of probity , integrity and to protect the good name of those who are doing so much for the fair name of the Customs Department.

Action taken:-

The Chairman informed that members of the meeting that all Senior Officers including all the Commissioners are available all days of the week and any person can approach them anytime in case of any difficulty.

It was also informed by the Chairman that they have a system in place for monitoring the behavior and activities of the Officer. Performance of the Officers is monitored continuously and the same is appropriately reflected. It was further informed that in case anything adverse is being noticed against any officer, necessary action is being initiated to discipline the concerned officer.

(Point closed)

15) Point No.8 - RMS BILL OF ENTRY & SHIPPING BILLS NEEDS FURTHER FACILITATION FOR OOC/LEO FOR SPEEDY CLEARANCE.

As per existing process, all the RMS B/Es and S/Bills are required to be registered at respective CFS for further verification of CCR, PGA or other requirements if any for giving Out of Charge or Let Export order by Shed Officer at respective CFS. At times it is observed that, registration being manual process at Shed takes time resulting in delay in release and increase in dwell time of clearance for Import & Export.

Suggestion:

In view of Government's endeavor to reduce the dwell time and transaction cost, it is suggested that, Central Cell in addition to existing process at CFS, can be created at Custom House to give OOC and LEO for all the RMS B/Es & S/Bills having no requirements of CCR, PGA or other Allied agencies in time bound manner. If required small group can be formed to study on this before implementation.

Action taken:-

The Chairman informed the members of the meeting that this issue is already under active consideration and establishment of RMS facilitation Center is being contemplated. The same will be functional soon and suitable Public Notice/Standing Order will be issued shortly in this regard.

(ADC/General)

16) Point No.9- DIFFICULTY IN CLEARANCE OF CONSIGNMENTS DUE TO TESTING REQUIREMENTS AS PER PN 119/2016.

In view of Board circular No. 38/96 and JNCH PN No. 119/2016, recently at group level many assessing officers are now insisting for testing of samples before release for many items, some them in past were never insisted for testing. (Two copy of B/Es attached.) On request for release of consignments on Test Bond, Importers are asked to submit Test Bond backed by Bank Guarantee. As submission of BG with Test Bond is time consuming with Bank charges incurred, Importers have no choice but to opt for 1st check for sample to be tested. This is resulting in delay in clearance and increasing dwell time and transaction cost.

Request:

Testing of Samples to be insisted only in cases where it is necessarily required.

As per PN 119/2016 para 6(b)(2), simple Test Bond to be accepted as per past practice and Bank Guarantee be insisted only in specific cases with approval of higher authority. Many Test Bonds are pending at group level for which Test Report is already received and available on record, are to be cancelled in time bound manner. If required Test Bond cancellation Drive may be initiated.

Action taken:-

The Chairman informed the members of the meeting that issue is required to be examined in details and a suitable Public Notice/Standing Order will be issued shortly.

(ADC/Group I)

17) The members of the meeting were informed that the next PTFC meeting shall be held on **29.12.2016 at 11.30 hrs at Conference Hall, 7th Floor, JNCH**. The Chairman requested all the Association Members to forward their agenda points, if any, at least **07 working days in advance** on Fax No. 022-27243245 or by e-mail to Appraising Main (Imp) Section on appraisingmain.jnchimp@gmail.com for taking up the issue in the upcoming PTFC meeting.

18) The meeting ended with thanks to the Chair.

19) This issues with the approval of the Commissioner of Customs, NS-III.

(B.S. MANGAT)
DEPUTY COMMISSIONER OF CUSTOMS
CENTRALISED APPRAISING MAIN,
NS-I, III & V JNCH
022-27244838

To,

All the Members of PTFC.

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone-II, JNCH, Sheva.
2. The Principal Addl. Director General, Directorate General of Tax Payers Services, Mumbai Zonal Unit, Room No.138/139, New Custom House, Ballard Estate, Mumbai - 400 001 (mzu-dgtps@gov.in).
3. The Ombudsman, Indirect Taxes, Mumbai.
4. The Pr. Commissioner/All Commissioners of Customs, Zone-II, JNCH, Sheva.
5. All ADC/JC, DC/AC of Customs (I, III, V), JNCH, Sheva.
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