

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: 15.11.2016

MINUTES OF MEETING OF THE PERMANENT TRADE FACILITATION
COMMITTEE FOR NS-I, III & V HELD ON 28.10.2016.

The PTFC meeting held on 28.10.2016 was chaired by Shri Shrawan Kumar, Commissioner of Customs, NS-III, 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.)	Organization/Association/Designation
1.	R K Rubin	AMTOI
2.	R Rajasekhar	UPL Ltd.
3.	Vinayak B Aparaj	BCHAA
4.	L V Shah	BCHAA
5.	Ashish Pednekar	BCHAA
6.	Mark Fernandes	Sylvester & Co.
7.	K S Shetty	BCHAA
8.	Dushyant Mulani	BCHAA
9.	M J Roi	BCHAA
10.	Raghav Uchil	AMTOI
11.	Norman Fernandez	CSLA
12.	V K Agarwal	ONIDA
13.	Christine Glenn	WCBFF
14.	Roshan Irani	WCBFF
15.	Santosh D Koteker	WCBFF
16.	Hemant Parekh	BME Ltd.
17.	Rajiv Khandelwal	BME Ltd.
18.	Neelesh Datir	AILBIEA
19.	Chetna M Bhadeka	WCBFF
20.	Sapna Poddar	WCBFF
21.	Nimish Desai	WISA
22.	Omprakash Agrawal	MSWA
23.	Hiren Ruparel	BCHAA
24.	Ganpat Karade	BCHAA
25.	Shankar Shinde	RCCI
26.	S Srinivas	CFSAI
27.	Arun Adak	CFSAI
28.	Umesh Grover	CFSAI
29.	Mohan Nihalani	AIIEA
30.	Subhash Rajkumar	MANSA

Following Officers from department attended the meeting:-

Sr. No.	Names (Smt./Shri/Ms.)	Designation
1.	Dhirendra Lal	Addl. Commissioner of Customs, JNCH
2.	Rahul R. Nangare	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.	Pritee Choudhary	Joint Commissioner of Customs, JNCH
7.	B.S. Mangat	Dy. Commissioner of Customs, JNCH
8.	Amit Kumar	Dy. Commissioner of Customs, JNCH
9.	R P Singh	Dy. Commissioner of Customs, JNCH
10.	Rajesh V Shelke	Dy. Commissioner of Customs, JNCH
11.	Sandeep Yadav	Dy. Commissioner of Customs, JNCH
12.	Vivekanand Rai	Dy. Commissioner of Customs, JNCH
13.	Sachin D Sankhpal	Dy. Commissioner of Customs, JNCH
14.	Kamleshwar Singh	Asstt. Commissioner of Customs, JNCH
15.	Babulal Meena	Asstt. Commissioner of Customs, JNCH

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

3) The Addl. Commissioner of Customs, Appg. (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 23.09.2016.

i) Public Notice No.128/2016 dated 26.09.2016- Instructions regarding implementation of Rules of Origin under Free/Preferential Trade Agreements and the verification of referential Certificates of Origin.

ii) Public Notice No.129/2016 dated 27.09.2016 regarding Single Window Project-Implementation of Risk based criteria for clearance of consignments related to Participating Government Agencies (PGAs).

iii) Public Notice No.135/2016 dated 29.09.2016 regarding Classification of Solar Panels.

iv) Public Notice No.139/2016 dated 21.10.2016 regarding- Refund of 4% Additional Duty of Customs (4% CVD) in pursuance of Notification No.102/2007- Customs dated 14.09.2007 - Refund claims of ACP/AEO importers.

v) Standing Order No.52/2016 dated 26.09.2016- Instructions regarding implementation of Rules of Origin under Free/Preferential Trade Agreements and the verification of referential Certificates of Origin.

- vi) Standing Order No.58/2016 dated 13.10.2016 regarding Issue of Less charge notices and need to issue proper Demand cum Show Cause Notices consequent to detection of any case of short payment / non payment of duty.
- vii) Standing Order No.60/2016 dated 14.10.2016 regarding Guidelines for launching of prosecution in relation to offences punishable under the Customs Act, 1962.
- viii) Standing Order No.61/2016 dated 17.10.2016 regarding Testing of Sample at DYCC Lab.
- ix) Standing Order No.62/2016 dated 20.10.2016 regarding Giving Out of Charge of goods under import without Delivery Order.

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

Old Points:

Point No.5:- Non pasting of DMS Coupons.

In several cases, DMS coupons are not pasted on documents by CHA. M/s BCHAA have requested that they should be provided with the list of the dockets with the name of the Customs Brokers wherein DMS coupons were not pasted. The MCD section informed that the list of Shipping Bills and Bills of Entry alongwith details of CFS code which have not been pasted with requisite DMS Coupons has been obtained from M/s. Newgen Software Technologies Ltd. It was further stated that there are more than 15 lakh such Shipping Bills and more than 1.5 lakh such Bills of Entry.

For the redressal of the said infirmity in the dockets, the list mentioned above needs to be shared with concerned CHA's, M/s BCHAA, etc., so that corrective measures can be taken at the end of concerned entities.

The Chairman directed M/s BCHAA and other CHA Associations to collect the soft copy of the abovementioned list from the MCD section and distribute it amongst their members with instructions to identify their Bills of Entry/ Shipping Bills and take corrective action in this regard.

(Action: ADC/MCD)

Action taken:-

It was informed that the said data being voluminous, the CHA Associations were requested to collect the soft copy for initiating necessary action in that

regard. However, the CHA Association's representatives have yet not approached the section to collect the requisite information.

Accordingly, all the members were again requested to collect the soft copy of the list and initiate necessary action. It was further informed that the contract conditions with M/s. Newgen Software Technologies Ltd. would also be re-visited to ascertain whether they are capable of delivering the desired results or otherwise. In case, the vendor's performance was not found to be satisfactory, corrective measures will be taken in this regard. It was also informed that at the Board level, it is being planned to develop necessary software through which requisite documents can be uploaded at the time of filing of documents which will eventually obviate the need of the present practice of DMS scheme.

(Point closed)

Point No.6:- Contract Registration within 7 days.

We request to accept registration of Sales/Purchase contract within 7 working days by the Customs and the same price shall stand valid till the time of customs clearance of goods, irrespective of whatever price prevailing on the Bill of Lading/Shipment date. Please note that the practice of accepting contract registration within 7 days was prevalent earlier.

In this regard, Group-IIIG stated that any contract not backed by Letter of Credit is registered within seven days as per Standing Order No.7493/99 dated 03.12.1999 and the value of plastic items for assessment of custom duty is taken on the basis of PLATT price on the date of contract subject to the condition that the first shipment is made within 21 days of the date of the contract.

The Chairman raised the issue of validity of any contract not backed by Letter of Credit (LoC). The Chairman also informed that the matter regarding the registration of contract not backed by LoC will be re-examined.

Action: ADC/Group-IIIG & ADC/Group-IV

Action taken:-

In this regard, it was informed that presently there are no provisions for registration of contracts in Group-IV as the contracts submitted by Importers are only on consignment basis and there are no long term contracts. Moreover, the Group primarily deals in Raw/Primary forms or basic articles and valuation of such goods fluctuates on daily basis and is, therefore, based on the LME prices. It was

further stated that date of Importation is the date of acceptance of transaction value.

In this regard, the Addl. Commissioner of Customs also informed that contracts backed by LoC are being considered by the Group. However, in case there is any specific issue, the trade is requested to approach his office for resolving the same.

(Point closed)

Point No.7:- Public Notice No.70/2016 Amendment to Ch IX of the Customs Act 1962-Removal of Goods from the Customs Station; Instructions regarding affixation of one time lock.

Issue No.1:- We have been asked to pay Overtime as the Public Notice is not clear.

Issue No.2 (New point raised by M/s BCHAA):- For clearance of consignments under Bond, the requirement of one time lock to be provided by the Warehouse owner is still not being fulfilled. Hence, we request that till the time one time lock as prescribed under CBEC Circular No.17/2016 dated 14.05.2016 are made available, the existing procedure of applying the Custom Punch seal should be continued.

Further, even for small import consignments, sealing of individual packages should be continued as it is not viable to seal the entire delivery vehicle.

(As the issues were similar, both have been clubbed together)

The Bond Section informed that Board's Circular No.17/2016 dated 14.05.2016 and Public Notice No.70/2016 dated 17.05.2016 has been issued in this regard. As per Board's Circular No.17/2016, the regulations requires that the goods arriving at the warehouse from a Customs Station shall be affixed with a one-time-lock (bottle seal) with its serial number endorsed upon the Bill of Entry for warehousing and the transport document. The Warehouse keeper or Bond officer, as the case may be, is required to inspect the seal and when it is found intact, permit the goods to be unloaded at the warehouse.

Accordingly, all the warehouse owners have been informed to purchase Customs Bottle Seal. As per Public Notice No.70/2016 dated 17.05.2016, all the existing warehouse owners were instructed to get the warehouse regularized.

Prior to the new Warehousing Regulations, the Public Bonded Warehouses were working under Preventive supervision and were supposed to pay Overtime charges/Cost Recovery basis for the Officer working in Bond. As most of the existing Public Bonded Warehouse has not yet been regularized, and physical monitoring is still in practice, they are required to pay the Cost Recovery and Overtime charges for the Officers working in the respective warehouses. It was also informed that once the warehouses will be regularized in terms of the new Regulations, they will not be required to pay on Cost Recovery basis for the Officer. However, they will have to pay the charges for the Officers whenever the Officer is expected to visit the warehouse for Bond to Bond transfer or for transfer from Warehouse to CFS for re-export of the goods, for affixing the one-time-lock as per the guidelines provided in the Board's Circular No.17/2016 dated 14.05.2016 and Public Notice No.70/2016 dated 17.05.2016.

Accordingly, the Chairman directed that all Warehouses should necessarily complete the formalities of submission of all the documents as per the new Warehousing Regulations and all the Warehouses are to comply with new procedures latest by 05.11.2016.

Action: ADC/Bond

Action taken:-

It was informed that all the Public Bonded warehouses have been instructed to purchase the Customs Bottle Seal (OTL) from the department. Further all the Public Bonded Warehouses have been given unique warehouse codes. The process of regularization of the warehouses is in progress and nearly 60 warehouses have been regularised till date and regularization process will be completed shortly. Further all the warehouses are required to pay cost recovery and overtime charges for Officers till regularization.

Further the Chairman informed that cubes of different sizes are also available in the market which can be utilised by the Trade for carriage of small packages.

(Point Closed)

New Points:(Point No.8 sponsored by M/s Bombay Metal Exchange Ltd.;

Point Nos.9, 10 and 11 sponsored by M/s BCHAA;

Point Nos.12 and 13 sponsored by M/s Sylvester & Co. and

Point Nos.14 and 15 sponsored by M/s MIRC Electronics Ltd.)

Point No.8:- Problems faced in Customs for Price Valuation in Base Metals.

The Nhava Sheva Customs generally accepts Metal Bulletin reference prices which are only indicative and primarily for European & American Markets. We would request the Customs to also accept authenticated and reliable Chinese and other Products, Publications/Websites like www.asianmetals.com, www.ferroalloys.com, www.metalpages.com etc., which are very old and reputed websites for price reference worldwide, mainly for Chinese & European products. These websites are also a source of deep knowledge and insight for all kinds of Ferro Alloys, Base metals, Non-ferrous Metals & Minor Metals.

Request: We would request your kind intervention to clarify this issue and widen the scope for price acceptance and also accept other authenticated website and publications as well. We would further like to submit few supporting documents in this regard along with a comparative statement of publication and prices for your kind perusal and request for a discussion on the same in the forthcoming PTFC Meeting.

Action: ADC/Group-IV

Action taken:-

The issue was discussed in the PTFC meeting dated 25.08.2016 and it was requested to substantiate their claim with supporting documents. Accordingly, they have submitted supporting documents.

It was informed that valuation of base metal in their Primary and Secondary forms are done following the LME prices which reflect the base metal price for international market and the Assessing Group periodically reviews the prices to incorporate any change in international price of such commodities.

Moreover, the minimum reference price is based on the guidelines of DGOV vis-à-vis international prices of various metals as published in the LME.

Further it was also informed that the department in consultation with DGOV will examine the submissions made by the Party and the same will be intimated in due course.

(Point Closed)

Point No.9:- Restructuring of CCR with introduction of Single Window Clearance.

With introduction of Single Window scheme, on number of occasions, a situation is faced by trade wherein the Bill of Entry is not marked to any PGA in the EDI, however, the CCR still contains the instructions to send the Bill of Entry to PGA for release.

We request that instructions under CCR should not insist on sending the Bill of Entry to PGAs when it is not marked under Single Window scheme in terms of CBEC Instructions F.No.450/146/2015-Cus-IV dated 31.8.2016(Para 3).

Action: ADC/EDI

Action taken:-

It was informed that CCR can be removed by RMD and not by this Office. It was also informed by the Commissioner of Customs, NS-II that the department is seized of the matter and is in consultation with RMD for resolving the issue. Further M/s BCHAA was also requested to provide the list of cases wherein the Compulsory Compliance Requirements (CCR's) provides for production of 'NOC' from the concerned PGA's inspite of the fact that there was no such requirement for the same in the Single Window.

(Point Closed)

Point No.10:- Implementation of P.N. No.69/2011 should be done without any pre-condition or additional charges by Shipping Lines.

At present, the implementation of above P.N. has been jeopardised due to irrational documents/charges being levied by Shipping Lines/NVOCCs and Forwarders for shifting of containers to the Importer's choice of CFS.

This is clear violation of the above P.N. and the endeavour of Ease of Doing Business at JNCH.

We request you to ensure that the Steamer Agents follow this Public Notice.

Action taken:-

It was stated that the issues relates to the Shipping Lines and Port Authorities. Accordingly, the issue may be taken in CCFC as PTFC is not the correct forum to address the concerned issue.

In view of the same, the above mentioned Point had been transferred for inclusion in the Agenda for forthcoming CCFC meeting.

(Point transferred to CCFC)

Point No.11:- Promotion of Direct Port Delivery - Terminals to issue Entry passes to all Custom Brokers.

With thrust on reducing the dwell time for clearance, DPD is one the important facet for timely clearance of goods.

We suggest that entry passes for all 3 terminals should be given to all the Custom Brokers in order to increase the volume of DPD.

Action taken:-

It was stated that the issues relates to the Port Authorities. Accordingly, the issue may be taken in CCFC as PTFC is not the correct forum to address the concerned issue.

In view of the same, the above mentioned Point had been transferred for inclusion in the Agenda for forthcoming CCFC meeting.

(Point transferred to CCFC)

Point No.12:- 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 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.

It was also stated that similar issue was discussed in the PTFC meetings held on 29.01.2016 and 25.02.2016.

It was informed in that meetings that during the surprise visit made to the CFS's, it was found that though the Officers were available in Docks in the early office hours, only few clearances/out of charges are granted before 2 p.m.

Further during a study made in the said period, it was also found that only 7 registrations were made till 10.00 a.m., 15 more at 10.30 a.m. and another 18 at 11.00 a.m. during a surprise visit of one CFS. Similarly during surprise visit to another CFS on the next day, it was found that there were only 4 registrations by 10.00 a.m., 13 more at 10.30 a.m. and another 11 at 11.00 a.m.

Moreover an analysis of Out of charge given at Docks during a period of 20 days at that time had revealed the following:

From 10 a.m. to 12.00 p.m.	-	2%
From 12 p.m. to 2.00 p.m.	-	20%
From 2 p.m. to 4 p.m.	-	24%
From 4 p.m. to 6 p.m.	-	23%
From 6 p.m. to 8 p.m.	-	25%

Thus it was seen that minimal clearances were effected during the early hours inspite of the presence of Docks Officers.

Further the CFS Association of India has also raised the issue of late commencement of work by CHA's in the PTFC meeting held on 21.07.2016.

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.

It was also informed by the Commissioner of Customs, NS-IV that similar exercise will again be undertaken and it will be ensured that Officers adhere to the Office timings.

(Action: ADC/Docks)

Point No.13:- RMS queries, objections and documents are being demanded by the various Appraising Officers, which unfortunately are also being supported by the Deputy Commissioners at some of the CFS's.

The Trade had been specifically assured, that for RMS assessed documents, other than verification that the Container and Seal Numbers are in conjunction with the import documents, no other queries or documents requirement would be demanded by the Customs Officers.

It is requested, that the above guidance be kindly re-circulated to the Customs Officers and Deputy Commissioners at the various CFS's, who appear to be newly appointed and raise such objections, thereby delaying clearances.

Action: ADC/Docks

Action taken:-

In this regard, the DC/Docks have informed that normally the documents which are demanded in case of RMS B/E's are those which are essential and without which clearance cannot be effected such as COO Certificate, NOC's by other government agencies i.e. FSSAI, ADC, etc.

It is pertinent to mention that similar issue was discussed recently in the PTFC meeting held on 25.08.2016.

It was informed during the meeting that department is progressively increasing the facilitation level in the clearance of the Bills of Entry and aims to achieve 90% facilitation in this regard. Accordingly, with such increased facilitation, the Out-of-Charge Officer is not required to routinely raise queries on RMS facilitated documents.

Further, it was also informed by the Chairman that Docks Officers have been directed to refrain from taking frivolous objections. It was also informed that Trade can always meet the concerned Additional Commissioner of Customs and can also approach the concerned Commissioners of Customs in case they feel that unreasonable queries or unnecessary documents are being demanded by the Officers giving Out of Charge.

(Point Closed)

Point No.14:- It is endeavor of the departement as well as Importers to close PD clearances on priority.

But fact is that departement is not acting on closure of PD cases and files are pending for more than 2 months, inspite of reminders in person as well as in writing.

Action: JC/Group VA

Action taken:-

The Group-VA informed that the issue relates to the finalization of Provisional Assessment wherein exemption benefit under Notification No.12/2012 CE Sl.No 263A on Import of Mobile Phones under CTH 8517 had been availed.

The Notification No.12/2012-CE, Sr.No.263A grants concessional rate of CVD @ 1% to the goods falling under CTH 8517 subject to the condition that no credit under Rule 3 or Rule 13 of the CENVAT Credit Rules, 2004 has been taken in respect of the inputs or capital goods used in the manufacture of these goods.

M/s Mirc Electronics Ltd. had imported Mobile phones claiming aforesaid exemption benefit under 8517 and paid CVD @12.5% whereas as per aforesaid exemption benefit, the CVD would have been @ 1% only. Further the Commissioner of Customs (Appeals) vide Order dated 16.08.2016, ordered for recall and reassessment of the Bills of Entry to extend the duty exemption benefit of Notification No.12/2012-CE, Sr.No.263A.

Accordingly, the re-assessment of the Provisional Bills of Entry has been allowed and PD Bond/BG has been cancelled.

(Point Closed)

Point No.15:- For settlement of refund claim, Refund deptt. is asking for re-appraisal of BE's even for the cases where BE's have been filed after 8th April'2011. Although files are lying in respective appraising group for more than one month but no action is being taken for assessment.

Action: ADC/Refund

Action taken:-

It was informed that the subject Bills of Entry have been finalised and the refunds will be effected shortly.

(Point Closed)

16) The members of the meeting were informed that the next PTFC meeting shall be held on **24.11.2016 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.

17) The meeting ended with thanks to the Chair.

18) 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

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.
6. DC/EDI for uploading on JNCH website.
7. Office Copy.