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October 22, 2021

Shri Rajiv Talwar  
Member – Customs  
Ministry of Finance

**Subject: Seeking resolution on key issues faced by members / industry with respect to Customs**

Respected Sir,

***Greetings from MAIT, the apex body representing the IT, Electronics & Telecom Hardware manufacturing Sector in India!***

MAIT plays a significant role in fostering a robust and dynamic relationship between the members of the industry and Government through policy advocacy efforts.

By means of this representation letter, we wish to highlight the key issues currently being faced by members / industry in relation to customs:

No.	Issue	Recommendation / Our ask
1.	<p>With regard to faceless assessment, piecemeal / repetitive queries for same product, etc. are consuming enormous time engaged in filling of responses, seeking feedback, participating in virtual hearings.</p> <p>Further, it is seen that queries are being raised even in those cases where requisite documents have already been uploaded on the portal and also it is seen very detailed information is being sought the collation of which may take substantial time.</p>	<p>Clause 3.2 (iv) of Circular 14/2021 has provided:</p> <ul style="list-style-type: none"><li>- <i>total number of queries which can be raised by an Appraising Officer in respect of a Bill of Entry would now be restricted to 3</i></li><li>- <i>AO to raise query in a clear and holistic manner giving reference to supporting details/documents with respect to Valuation/Classification etc., so that the importer does not have any doubt and is in a position to reply categorically for early completion of verification.</i></li></ul> <p>The Circular limits the number of queries that can be raised by the appraising officer. Further, the queries to be raised should be clear and holistic.</p> <p>This is a welcome move which would reduce the time of clearance of the goods.</p> <p>Given the aforesaid clarification, field formation should be sensitized to abide by the intent and content of the said circular. Further scope for improvement in terms of expeditious assessments, anonymity in assessments and uniformity in assessments which would potentially lead to a substantial increase in the pace of assessments with a view to reducing interface with the trade.</p>

2.	Demurrage, detention waiver for delays	In view of initial delays in assessment and clearances, importers should be given relief from undue demurrage, detention, additional storage / retainer charges etc. in case of delays due to faceless assessment as trade / industry has severely suffered due to lack of enforceability of waiver of demurrage during initial COVID-19 clearances.
3.	PAG 'Out of charge' order is still issued manually, which delays shipment clearance	<p>The PAG 'Out of Charge' order is issued manually adding to the delay in the clearance of the shipments.</p> <p>It is our humble request to take up the matter at the earliest and automate such last leg certification of the shipment.</p> <p>Such measures would reduce the time taken for clearance of the shipments, considerably.</p>
4.	Import and clearance of FOC goods for R&D, repairs, warranty or replacement still channelled through non – RMS channel	<p>The clearance of the FOC goods for R&amp;D, repairs, warranty or replacement are still channelled through the non – RMS channel which adds to the delay in the clearance of such goods.</p> <p>It is humbly requested to bring such imports (including but not limited to such imports by AEO certified entities) within the RMS channel, to expedite faster clearance of such goods.</p>
5.	Port Commissioners trained in one area are being asked to look after other areas which is leading to blockade and delays in the clearance of shipments	<p>Clause 3.2 (iii) of Circular No. 14/2021 provides that Jurisdictional Pr. Chief/ Chief Commissioners of Customs is to ensure 'as far as possible' that one Appraising Officer is given responsibility of not more than 2 (two) FAGs.</p> <p>Re-organisation within the zones has also been prescribed to ensure that assessing officers at the ports with the expertise items under a FAG are allotted to that FAG itself.</p> <p>It is humbly requested to have controls in place so that the method prescribed under the aforesaid circular is strictly followed by the field formations.</p>
6.	Time required to dispose off assessment and clearance has slowed down as compared to pre- Faceless Assessment era.	<p>The recent measures announced vide CBIC Circular 45/2020 dated 12 October 2020, such as 6 day working of FAGs, monitoring the queries raised, alert by DG Systems to the FAG Officer if the consignment is pending for more than 4 hour, etc. are likely to smoothen the clearance.</p> <p>It may be recommended to ensure strict implementation by appropriate monitoring at the Port level and disposal of BOEs within specified time frames.</p>
7.	AEO certified companies not experiencing expedited clearances. Several global companies are AEO/AEO T2 status holders and in case of such AEO certified companies, most of the BE should be facilitated by the RMS process.	It may be recommended that all AEO and in-Bond Manufacturing entities to be allowed to import/export through a "green channel" for self-assessment and automatic clearing for both import and export shipments to promote faster capacity addition and greatly improve ease of doing business.

	<p>However, it has been seen that AEO status holders are not being experiencing expedited clearance.</p> <p>Flags in the system based on different algorithms send consignments through to non-RMS channel, even if the same is for AEO certified entities. Limited knowledge amongst authorities relating to such flags or algorithms.</p>	<p>Further, the faceless system may be used for other segments but AEOs in the electronics sector and Bonded Manufacturers may be exempted.</p> <p>There should be a priority officer to resolve the issues faced by AEO certified companies.</p>
8.	<p>Faceless assessment has resulted in lack of uniformity in assessments, with different appraising officers taking different views on classification and applicability of exemption notifications for the same goods.</p> <p>Upon import / assessment, classification is being challenged owing to assumptions that classification is incorrect.</p> <p>Additional documents required to be submitted in this regard which leads to increased delay in certification and release of shipments from a port. In certain instances, increased clarification on HS code / classification required by authorities owing to inherent lack of knowledge of classification</p>	<p>It is humbly requested that training and education of officers are the necessity of the hour, to ensure faster assessment of goods.</p> <p>Accordingly, measures should be taken appropriate authority to impart relevant training to improve the efficiency of the designated field officers.</p> <p>There is a need for special emphasis on uniformity of assessment and officers having expertise in a particular category of goods sharing their knowledge with others to avoid unnecessary queries and offering uniformity and predictability in assessment for the importer.</p>
9.	<p>IGCR rules for re-export of unutilized RM above six months without payment of duty. (Reference: - Notification F.No. 450/28/2016-Cus-IV dated June 17, 2021, amending IGCR Rules 2017)</p> <p><b>UTILISATION OF GOODS IN SIX MONTHS</b>– The manner in which clarification given in para 4.11 in respect of utilization or re-export of imported goods may raise the interpretational issue because of drafting issue in conjuncting two different provisions contained in sub-rule (1) and (2) of rule 7. As</p>	<p>Withdraw the Notification F.No. 450/28/2016-Cus-IV dated June 17, 2021, which is amendment to IGCR Rules 68/2017 or modify to bring it in consistent with the rules which do not have timeline of 6 months for the utilization in the intended purpose and do not require to collect the differential duty.</p>

	per one possible interpretation, the importers are required to utilize imported goods for intended purpose within six months.	
10	<p>During Covid times especially with Travel restrictions, there are instances wherein devices namely laptops and tablets hand carried abroad are being returned as courier / cargo shipments.</p> <p>Customs are viewing such shipments as import of used devices and restricting the re-import of the same.</p>	<p>The devices should not be treated as import of used electronics especially if importer is able to substantiate that the devices were procured / imported earlier in India.</p> <p>They should be treated as re-import of goods and allowed benefit of Customs Notification No. 94/96-Cus., dated 16-12-1996.</p>
<b>SVB</b>		
11	Challenges with import clearance owing to valuation queries (despite AEO status / valid SVB orders on same shipments)	<p>Entities already having a valid SVB in place for products are still being asked queries pertaining to the valuation of such goods being imported from same related party.</p> <p>Assessing officer not in agreement with import valuation as mentioned on invoice (which may vary for the same product depending upon the transaction, nature of customer, quantity of products etc.). Clear lack of co-ordination between SVB and customs.</p> <p>Importers, as a consequence, forced to accept re-assessed value assessed by AO for the purpose of clearance of shipment, or contest / litigate on the same.</p> <p>Difference in consignment values as reflected in invoice vis-à-vis BOE assessed at higher value may also lead to other (FEMA) non-compliances.</p> <p>Also impacts cases where there is no revenue exposure per se to customs (NIL BCD, creditable GST).</p> <p>It is observed that such cases (lack of co-ordination between SVB and customs) are being increasingly encountered post implementation of faceless assessment.</p> <p>It is our humble request that a circular / clarification should be issued clarifying that no further additional queries in relation to such shipments should be raised, since the same is already SVB verified.</p> <p>This would lead to reduction in time of clearance of goods and enhancement in the ease of business.</p>
12.	Requirement for SVB orders on Import of ITA Goods - to be done away with	<p>ITA (Information Technology Agreement) bound goods enjoy exemption from Basic Customs Duty ('BCD') vide exemption notification 25/2005 and 24/2005 - customs dated 01 March 1, 2005</p> <p>In light of IGST leviable on import transaction being creditable, a SVB order issued under the customs</p>

		<p>valuation provisions would see no impact on the duty / tax payable by an importer to the exchequer as there would be no BCD payable and entire amount of IGST paid shall be available as credit to the importer.</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>No SVB</th> <th>SVB (assuming 20% load)</th> </tr> </thead> <tbody> <tr> <td>TV</td> <td>10,000</td> <td>12,000</td> </tr> <tr> <td>BCD (exempt)</td> <td>Nil</td> <td>Nil</td> </tr> <tr> <td>IGST @ 12%</td> <td>1200</td> <td>1440</td> </tr> <tr> <td>Total duties paid</td> <td>1200</td> <td>1440</td> </tr> <tr> <td>Credit available</td> <td>1200</td> <td>1440</td> </tr> <tr> <td><b>Net revenue to Dept.</b></td> <td>0</td> <td>0</td> </tr> </tbody> </table> <p>Given that there would be no revenue impact (BCD being 0) on ITA goods irrespective of the value adopted (as credit shall be available to the importer), it is recommended that the requirement for obtaining SVB order in case of ITA goods should be done away with.</p> <p>This would also have the effect of reducing the burden on the customs authorities and focus of authorities would justifiably be on cases where import duties are involved.</p>	Particulars	No SVB	SVB (assuming 20% load)	TV	10,000	12,000	BCD (exempt)	Nil	Nil	IGST @ 12%	1200	1440	Total duties paid	1200	1440	Credit available	1200	1440	<b>Net revenue to Dept.</b>	0	0
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13	<p>Entire SVB process (filing for SVB ruling) should be translated online / automated instead of inordinate amount of manual data / paperwork that currently needs to be facilitated by importers / assesses., along with physical visits required to be conducted</p>	<p>Procedural simplification is recommended to reduce paperwork / manual efforts and move in line with digitization and ease of doing business.</p> <p>It is humbly requested to issue necessary circular to ease the closure process by accepting a declaration from the importers wherever there is no duty liability and finalize the assessment and close the provisional duty bonds without insisting for the original documents which are old and not traceable.</p>																					

MAIT would be happy to engage with the authorities working on this, to address any concerns that they may have.

We hope that our request will be considered at the earliest and that suitable action would be taken soon.

With regards,



George Paul  
Chief Executive Officer