

I/51371/2022

Circular No. 12/2022-Customs

F.No. CBIC-21/209/2022-INV-CUSTOMS-CBEC

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs
(Investigation-Customs)

10th floor, Tower-2, Jeevan Bharti Building,
Parliament Street, New Delhi- 110001.
Email ID: inv-customs@gov.in
Tel. 011- 21400625
New Delhi, dated 16.08.2022

To

1. All Pr. Chief Commissioners/ Chief Commissioner of Customs/Customs (Preventive)/Central Taxes,
2. All Principal Director Generals/ Director Generals of CBIC,
3. All Chief Commissioners (Authorised Representatives- CESTAT)
4. All Principal Commissioners/ Commissioners of Directorates under CBIC,
5. Settlement Commission,
6. Webmaster, CBIC website.

Madam/Sir,

Subject: Guidelines for launching of Prosecution in relation to offences punishable under the Customs Act, 1962-reg.

I am directed to refer to the Prosecution Guidelines issued vide Board's Circular No. 27/2015-Customs dated 23.10.2015 on the above mentioned subject and the subsequent amendments vide Circular No. 46/2016 dated 04.10.2016, Circular No. 07/2017 dated 06.03.2017 and Circular No. 12/2019 dated 24.05.2019.

2. The present nominal monetary thresholds with respect to launching prosecutions and related matters were provided in Circular No. 27/2015-Customs dated 23.10.2015 and taking relevant aspects into account, with the approval of the competent authority, it has been decided to revise the threshold limits for various categories of cases for launching prosecution given under Para 4.2.1.1 and Para 4.2.1.2 (including all sub paras) of the aforesaid Circular.

3. The revised threshold limits are given as under:

3.1. Baggage and Outright smuggling cases:

(i) Cases involving unauthorized importation in baggage/cases under Transfer of Residence Rules, where the market value of the goods involved is Rs. 50,00,000/-(Rupees Fifty Lakh) or more;

(ii) Outright smuggling of high value goods such as precious metal, restricted items or prohibited items notified under section 11 of the Customs Act, 1962 or goods notified under section 123 of the Customs Act, 1962 or foreign currency where the market value of offending goods is

Rs. 50,00,000/- (Rupees Fifty Lakh) or more;

3.2. **Appraising Cases/ Commercial Frauds:**

(i) In cases related to importation of trade goods (i.e. appraising cases) involving-

(a) wilful mis-declaration in value/description;

(b) concealment of restricted goods or goods notified under section 11 of the Customs Act, 1962,

where market value of the offending goods is Rs. 2,00,00,000/- (Rupees Two Crores) or more;

(ii) In cases related to fraudulent evasion or attempt at evasion of duty under the Customs Act 1962, if the amount of duty evasion is Rs. 2,00,00,000/- (Rupees Two Crore) or more;

(iii) In cases related to fraudulent availment of drawback or attempt to avail of drawback or any exemption from duty provided under the Customs Act 1962, in connection with export of goods, if the amount of drawback or exemption from duty is Rs. 2,00,00,000/- (Rupees Two Crore) or more;

(iv) In cases related to exportation of trade goods (i.e. appraising cases) involving,-

(a) wilful mis-declaration in value/description;

(b) concealment of restricted goods or goods notified under section 11 of the Customs Act, 1962,

where market value of the offending goods is Rs. 2,00,00,000/- (Rupees Two Crore) or more.

(v) Obtaining an instrument from any authority by fraud, collusion, wilful misstatement or suppression of facts and utilisation of such instrument where the duty relatable to utilisation of the instrument is Rs. 2,00,00,000/- (Rupees Two Crore) or more.

4. Further, in respect of cases involving non-declaration of foreign currency by foreign nationals and NRIs (normally visiting India for travel/business trips etc.) detected at the time of departure from India, exceeding the threshold limits of Rs 50 lakh as prescribed above, if it is claimed that the currency has been legally acquired and brought into India but not declared inadvertently, prosecution need not be considered as a routine.

5. Board's Circular No. 27/2015-Customs dated 23.10.2015 stands modified to the extent above. Insofar as threshold limits are concerned, all cases where sanction for prosecution is accorded after the issuance of this Circular, shall be dealt in accordance with provisions of this Circular irrespective of the date of offense; cases where prosecution has been sanctioned but no complaint has been filed before the magistrate shall also be reviewed by the prosecution sanctioning authority in light of the provisions of this Circular.

6. The Principal Chief Commissioners/Chief Commissioners, Principal Director Generals/Director Generals and the Principal Commissioners/Commissioners are hereby, requested to circulate these guidelines to all the formations under their

I/51371/2022

charge.

7. Difficulties, if any, in implementation of the aforesaid Guidelines may be brought to notice of the Board.

Yours sincerely,

**Signed by Suraj Kumar
Gupta**

Date: 16-08-2022 21:14:12

Reason: Approved
(Suraj Kumar Gupta)
Joint Commissioner
(Investigation-Customs),
CBIC, New Delhi