

Circular No. 13/2022-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 – Revised Guidelines for Arrest and Bail in relation to offences punishable under Customs Act, 1962- reg.

Attention is invited to the guidelines for arrest and bail in relation to offences punishable under Customs Act, 1962 issued vide F. No. 394/71/97-Cus (AS) dated 22.06.1999 and F. No. 394/68/2013-Cus (AS) dated 17.09.2013 and Circular No. 28/2015-Customs dated 23.10.2015. The threshold limit (s) specified in the guidelines therein has been further streamlined in accordance revision of threshold limits for launching of prosecution in relation to offences punishable under Customs Act, 1962 vide Circular No.12/2022-Customs [CBIC-21/209/2022-INV-Customs-CBEC] dated 16.08.2022.

2. Accordingly, the para 2.3 of the existing guideline issued vide F. No. 394/68/2013-Cus (AS) dated 17.09.2013 as amended by Circular No. 28/2015 dated 23.10.2015 shall read as under:-

“ 2.3 While the Act does not specify any value limits for exercising the powers of arrest, it is clarified that arrest in respect of an offence, should be effected only in exceptional situations which may include:

(a) Cases involving unauthorised 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;

(b) Cases of outright smuggling of high value goods such as precious metal,

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restricted items or prohibited items or goods notified under section 123 of the Customs Act, 1962 or offence involving foreign currency where the value of offending goods is Rs. 50,00,000/- (Rupees Fifty Lakh) or more;

(c) Cases related to importation of trade goods (i.e. appraising cases) involving wilful mis-declaration in description of goods/concealment of goods/goods covered under section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the market value of the offending goods is Rs. 2,00,00,000/- (Rupees Two Crore) or more;

(d) Cases involving fraudulent evasion or attempt at evasion of duty involving Rs 2,00,00,000/- (Rupees Two Crore) or more;

(e) cases involving 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. In cases related to exportation of trade goods (i.e. appraising cases) involving (i) wilful mis-declaration in value / description ; (ii) 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.

(f) Cases involving 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 such utilisation of the instrument is Rs 2,00,00,000/- (Rupees Two Crore) or more.

(g) The above criteria of value mentioned in sub para 2.3 (a) to 2.3 (f) would not apply in cases involving offences relating to items i.e. FICN, arms, ammunitions and explosives, antiques, art treasures, wild life items and endangered species of flora and fauna. In such cases, arrest, if required, on the basis of facts and circumstances of the case, may be considered irrespective of value of offending goods involved."

3. The Principal Chief Commissioners/Chief Commissioners/Pr. Director Generals/Director Generals are hereby directed to circulate the present guidelines to all the formations under their charge.

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

Enclosures: As above

Yours faithfully,

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