

Circular No. 01/2023-Customs

**F.No. 466/32/2022-Cus.V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs**

Room No. 227A, North Block, New Delhi
Dated the 11th January, 2023

To,

Pr. Chief Commissioners/Chief Commissioners (Customs or Central Tax & Customs)
Pr. Directors General/Directors General, all under CBIC
Pr. Commissioners/Commissioners of Customs
Pr. Additional Directors General/ Additional Directors General, all under CBIC

Madam/Sir,

Subject: Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) – reg.

The undersigned is directed to say that the second proviso to sub-section (1) of section 14 of the Customs Act lists out certain matters which may be provided for in the rules. The said sub-section was amended *vide* the Finance Act, 2022 to insert the following text under its second proviso – “(iv) *the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria.*”

2. It may also be recalled that, as described in the explanatory memorandum with the Finance Bill 2022, the said amendment is a measure to address the issue of undervaluation in imports and it provides for rules to be framed by the Central Government whereby the Board can be enabled to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods.

3. After information to and feedback from public and stakeholders, including Directorates involved in implementation, the Notification No. 03/2023 dated 11th January 2023 has been issued notifying the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (hereafter referred as CAVR, 2023).

4. The provisions of CAVR, 2023 are self-contained, and may be read. The aspects in these rules include –

(a) the processes to be followed before the Board may specify a class of imported goods, for which there is a reason to believe that the value may not be declared truthfully or accurately but below it, as identified goods.

(b) the procedures for an importer of identified goods, once the relevant class of goods have been specified as identified goods by the Board. These include declaring certain aspects while filing the bill of entry. Further, if required by the Customs Automated System, such importer shall also fulfil the specified additional obligations, and specified checks shall be performed so as to enable and assist the importer to demonstrate the truthfulness and accuracy of the declared value.

(c) the specification that where the proper officer still has reasonable doubt about the truth or accuracy of the value declared in relation to the identified goods, the further proceedings shall be taken in accordance with rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007) only.

4.1 The CAVR, 2023 can be applied only by following the processes referred in the rules. The written reference must have been made to the Board which, if found suitable by Screening Committee for detailed examination, must have been comprehensively examined by Evaluation Committee which should have concluded the likelihood that the value of the relevant class of goods may not be declared truthfully, having regard to the trend of the declared value or other relevant criteria. Thereafter, the Screening Committee's recommendation confirming the completeness of such report must have been made to the Board. If satisfied that the recommended report should be accepted, the Board may specify the identified goods.

4.2 The rules provide guidance to both, the person making the reference to the Board, as well as in the undertaking of detailed examination. For example, the rule 6 not only specifies the sources from which a reference maybe received by the Board, but also the accompanying information or data, for purposes of examining the case for specifying identified goods. Similarly, rule 8 also refers to nature of information that may be considered by the Evaluation Committee.

4.3 The rules 3 and 4 specify the constitution of the Screening Committee and Evaluation Committee in a manner that brings specialisation. The Screening Committee is the higher-level Committee. It recommends a report to the Board, which has been confirmed to be complete in terms of the rules. The nature & content of report/recommendations to be made by the Committees has been specified in the rules 8 and 9.

4.4 It is the expectation that report of the Evaluation Committee under rule 8 must be clear, distinct, unambiguous and free of deficiencies. A report, if it concludes the need to proceed further, should be amenable to implementation, *inter alia*, using the Customs Automated System, as brought out in the rules. Also, where the report recommends, for example, the declaration of both make and model of the relevant class of goods by the importer, the report must also elaborate the discernible features that constitute the make, and what denotes the model.

4.5 Another aspect of focused implementation is the exceptions to which the rules shall not be applied. While these are described in rule 13, the clause 13(j) allows imports specified by the Board to be also excluded from application of the rules. Therefore, the reasoned and detailed report of the Evaluation Committee must also deal adequately with the additional exceptions, if any, to be considered in terms of clause 13(j) as well as the amenability of the same to be implemented using the Customs Automated System.

4.6 The confirmation by the Screening Committee is also of the utmost importance as rules provide for the Screening Committee to itself rectify deficiencies, if any, in the report before recommending a report to the Board. Amongst other aspects, the report recommended must not be deficient in any of parameters including those specified in rule 8(4), 8(5) or 8(6).

4.7 For discharge of the purpose and responsibilities assigned in the rules to the Committees, the consequential action to have the designated members, etc. in place should be immediately taken by the Directorates and NACs. As binding time-lines are specified in the rules themselves, the Committees are encouraged to complete their work sooner than the outer time limit. The Committees should hold meetings in a professional manner, as often as necessary including in virtual or hybrid mode with the required record keeping.

4.8 The rule 10 provides that the Board is to consider the recommendation and if satisfied that the recommended report should be accepted, it may issue suitable Order specifying the identified goods as well as the additional exceptions thereto.

4.9 The circumstances, and manner, in which an Order may be withdrawn, or its parameters altered, as also the manner of review of Order, are described in the rules. The sub-rule (1) of rule 12 requires the Screening Committee to conduct review of an Order issued by Board under rule 5 on expiry of half of its validity period. However, under sub-rule (2), the Screening Committee may conduct a review even before the mid-term or as and when needed. This flexibility to conduct review allows the Committee to consider *inter alia* changes in material facts, circumstances or other relevant aspects, as appropriate.

4.10 As provided in rule 15, with effect from a date as may be specified by Board, the processes specified in rules 6, 7, 8, 9 and rule 12 shall be enabled and processed on an electronic application, set up and maintained by the Directorate General of Valuation. This date shall be specified once the said electronic application is developed and made live. The electronic application is already under development by the Directorate General of Valuation. In the interim, any written reference in terms of sub-rule (1) of rule 6 may be made to the Board on the following dedicated email id: cbic-valuation@gov.in.

4.11 The abovesaid electronic application shall cover processes beginning from receiving the written reference (as the sources for examining the case for identified goods) and onward. The Directorate General of Valuation shall issue suitable advisory and user manual for use of the electronic application. This Directorate is also the Secretariat for the implementation of these rules.

4.12 As mentioned hereinabove, the procedure for an importer of identified goods has been specified in rule 11. The sub-rule (1) requires an importer of identified goods to declare certain aspects described therein while filing the bill of entry. Moreover, where required by the Customs Automated System, such importer shall, in terms of sub-rule (2), also have to

fulfil the specified additional obligations, and the assessment of goods or the goods themselves shall be subjected to specified checks so as to enable and assist the importer to demonstrate the truthfulness and accuracy of the declared value. It is essential that for the above purposes the Customs Automated System is in readiness to mandate declaration of quantity in the specified UQC, additional specifications etc. in the bill of entry on an immediate basis, post issuance of the Order by the Board in terms of rule 5. This responsibility shall be discharged by the Director General of Systems and Data Management.

4.13 It is emphasized that the said specified additional obligations, in most cases, should be adequate for the purposes of these rules. Sparingly, for reasons to be recorded in writing, and with the concurrence of Joint or Additional Commissioner of Customs, the further information and documents may be called from the importer for the purposes of these rules.

4.14 As mentioned hereinabove, the rule provides that where the proper officer still has reasonable doubt about the truth or accuracy of the value declared in relation to the identified goods, the further proceedings shall be in accordance with rule 12 of CVR, 2007 only. Accordingly, the provisions of CAVR, 2023 seek to assist the importer in demonstrating the truthfulness or accuracy of the declared value of identified goods, and the proper officer in the assessment function, however, these rules do not, in themselves, provide a method for determination of value. This essence of the rules, laying emphasis on following the CVR, 2007 must be noted and complied. It includes, when required, the passing of a proper speaking order for rejection and re-determination of value.

5. The operation of the CAVR, 2023 dated 11th January 2023 shall come into effect on 11th February 2023

6. The appropriate Public Notice and Standing Orders may be issued.

Hindi version follows.

Yours faithfully,



(Harish Kumar)

Under Secretary to the Government of India

Email: uscus5-cbec@gov.in

Copy, for implementation and necessary action, to:

1. DG, Directorate General of Valuation
2. DG, Directorate General of Revenue Intelligence
3. DG, Directorate General of Analytics and Risk Management
4. Pr. Chief Commissioner/ Chief Commissioner as Convenors/Co-Convenors of National Assessment Centers constituted by Board
5. ADG, Directorate General of Valuation
6. ADG Hqr, Directorate General of Revenue Intelligence
7. ADG (NCTC – Cargo), Directorate General of Analytics and Risk Management
8. Members of the Working Group on Valuation and related issues in the National Assessment Centre constituted by Board
9. Pr. DG, Directorate General of Systems and Data Management