

Circular 39 / 2017-Customs

F. No: 466 / 32 / 2015 – Cus V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi
Dated, the 26th September 2017

To,

All Principal Chief Commissioners of Customs
All Chief Commissioners of Customs
All Principal Commissioners of Customs
All Commissioner of Customs

Sub:- Amendment to Customs Valuation Rules – Notification No. 91/2017 (NT) dated 26.9.17

The valuation of imported and export goods is governed by the provisions of Section 14 of the Customs Act, 1962 and the rules made thereunder. The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR) contain the detailed provisions for arriving at the transaction value of the imported goods, on which the customs duty is levied.

2. A need had arisen to examine certain provisions of the CVR in light of Supreme Court's ruling in the case of M/s Wipro Ltd. Vs. Assistant Collector of Customs - 2015 (319) ELT 177 - S.C dated 16/04/2015

2.1 After examination and public consultations, the Government has amended the CVR vide Notification 91/2017 Customs (N.T) dated 26th September, 2017, as explained below:

Definition of the term 'place of importation'

3. The term "place of importation" has been used in the CVR; however, the term was not defined. To bring in clarity, the "place of importation" has been defined as:

“Place of Importation” means the customs station where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse”

3.1 In view of the above definition, the transaction value of the imported goods in terms of section 14 of the Customs Act, 1962 would include the costs incurred up to the place of importation, as defined above.

Treatment of the loading, unloading and handling charges

4. The Hon'ble Supreme Court had ruled in the case of M/s Wipro Ltd. Vs Assistant Collector of Customs-2015 (319) ELT 177 (S.C.) dated 16/04/2015 that the landing charges to be added to the value of goods, should be based on actual charges incurred, and not a notional charge of 1% as has been provided in the Rules.

4.1 By virtue of the amendment now carried out to the CVR, 2007, the loading, unloading and handling charges associated with the delivery of the imported goods **at** the place of importation, shall no longer be added to the CIF value of the goods.

4.2 The phrase “loading, unloading and handling charges” appearing in the amended Rule 10 (2) (a) is to be understood in context of Article 8(2) of the WTO Agreement which reads as *“the cost of transport of the imported goods **to** the port or **place of importation**”*. Thus, only charges incurred for delivery of goods “to” the place of importation (such as the loading and handling charges incurred at the load port) shall now be includible in the transaction value.

Computation of freight and insurance

5. Now, the 2nd and 4th provisos to Rule 10 (2) impart more clarity in computation of transport and insurance charges, when actuals of each individual element are not known, but the cumulative value of FOB and freight, or, FOB and insurance charges are known.

Treatment of transshipment costs

6. In the erstwhile 4th proviso to Rule 10(2), while the transshipment charges with respect to a container being moved from port to an ICD and CFS were excluded from the transaction value of the goods, there was no mention of a similar treatment to transshipment of goods by sea or air. Now, by virtue of the 6th proviso to Rule 10 (2), costs related to transshipment of goods (from ports to ICDs;

port to port, port to CFS, Airport to Airport etc.) within India will be excluded, providing uniform treatment to different modes of transshipment.

7. Difficulties, if any, faced in the implementation of this circular may be brought to the notice of the Board.

8. Hindi version follows.

Yours faithfully,

(S.Kumar)
Commissioner (Cus & EP)