

केन्द्रीय लोक सूचना अधिकारी का कार्यालय
OFFICE OF THE CENTRAL PUBLIC INFORMATION OFFICER

भारत सरकार
 वित्त मंत्रालय / राजस्व विभाग
 (केन्द्रीय अप्रत्यक्ष कर एवं सीमाशुल्क बोर्ड)
 मूल्यांकन महानिदेशालय
 ५ वां ताल, एन्नेक्स भवन, नवीन सीमाशुल्क भवन,
 बैलार्ड एस्टेट, मुंबई - ४०० ००१, महाराष्ट्र, भारत
 दूरभाष: (०२२) २२७५ ७२०७, (०२२) २२७५ ७२१२
 फैक्स: (०२२) २२६३ ३०८३, (०२२) २२७० ००७५
 ई मेल: dg.valuation@dov.gov.in



GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 DEPARTMENT OF REVENUE
 Central Board of Indirect Taxes & Customs
 DIRECTORATE GENERAL OF VALUATION
 7th Floor, Annexe Building, New Custom House,
 Ballard Estate, Mumbai-400 001, Maharashtra, INDIA
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F.No. DGVAL/CONF/RTI/APP/19/2024-POLICY-O/o DG-VAL-MUMBAI

आदेश की तिथि / Date of order: Sept. 2024

जारी करने की तिथि/Date of issue: Sept. 2024

Addressee: सेवा में / To,

प्रस्तावना / PREAMBLE

1. इस आदेश की एक प्रति उस व्यक्ति को निःशुल्क प्रदान की जाती है जिसे यह जारी किया गया है।
1. A copy of this order is provided free of cost to the person to whom it is issued.
2. इस आदेश के विरुद्ध श्रीमती एम. एस. धुरत, अपर आयुक्त, प्रथम अपीलीय प्राधिकारी, मूल्यांकन महानिदेशालय, 7 वीं मंजिल, एनेक्सी, न्यू कस्टम हाउस, बैलार्ड एस्टेट, मुंबई-01 के पास अपील की जा सकती है। (टेलीफोन नंबर 022-22634521)
2. An appeal against this order shall lie with Smt. M.S. Dhurat, Additional Commissioner, the First Appellate Authority, Directorate General of Valuation, 7th Floor, Annexe, New Custom House, Ballard Estate, Mumbai-400001 (Tel. No.022-22634521).
3. सूचना का अधिकार अधिनियम, 2005 के प्रावधान के अनुसार इस पत्र की प्राप्ति की तारीख से 30 दिनों के भीतर अपील दायर की जानी चाहिए।
1. The Appeal must be filed within 30 days from the date of receipt of this letter as provided in Right to Information Act, 2005.
2. अपील अपीलीय प्राधिकारी को व्यक्तिगत रूप से या इस उद्देश्य के लिए नामित अधिकारियों के माध्यम से या पंजीकृत डाक या ऑनलाइन आर.टी.आई पोर्टल द्वारा प्रस्तुत की जा सकती है।
2. अपील अपीलीय प्राधिकारी को व्यक्तिगत रूप से या इस उद्देश्य के लिए नामित अधिकारियों के माध्यम से या पंजीकृत डाक या ऑनलाइन आर.टी.आई पोर्टल द्वारा प्रस्तुत की जा सकती है।
4. Appeal may be submitted to the Appellate Authority in person or through the officers nominated for this purpose or by registered post or through online RTI portal.

Sub: RTI Request on Hurdles being faced by Indian Shipowners in respect of First Entry process at various Custom Houses -wrongful collection of duty without show cause notice and detention of vessels, filed by - Reg.

An online RTI request application bearing Registration No. No.DGVAL/R/T/24/00007 dated 02.09.2024 filed by

seeking information under the Right to Information Act 2005, was received on RTI portal on 02.09.2024.

2. The applicant is seeking information on the above subject which details are re-produced below:

*"Ref File no. DGVAL/POL/TECH/BR/1/2022-POL-O/o DG Val Mumbai
Subject - Hurdles being faced by Indian Shipowners in respect of First Entry process at various Custom Houses -wrongful collection of duty without show cause notice and detention of vessels.*

Kindly provide the file noting, appendices to file notes, minutes and record of the discussions in respect of the meeting chaired by the DG Valuation held on 27th May 2022 with the Indian National Shipowners Association at its office including all related information including documents, memos, emails, advices, whether in physical or electronic form."

3. In this regard, please find attached herewith copies of Minutes of the Meeting dated 27.05.2022 and letter F.No. DGVAL/POL/TECH/BR/1/2022-POL dated 25.07.2022 addressed to Central Board of Indirect Taxes & Customs. Further, it is observed that the remaining information/documents sought by Ms. Thelma Beniz are internal correspondences made by this Directorate General. Therefore, the remaining information/documents relating to letter bearing File No. DGVAL/POL/TECH/BR/1/2022-POL-O/o DG Val Mumbai are held by this Directorate General in its fiduciary relationship, and as such, providing copies of the same has no relationship to any public activity or interest. Hence, the documents/information cannot be provided/disclosed as it attracted exemption under Section 8(1)(e) of the Right to Information Act 2005.

The RTI application dated 02.09.2024, accordingly, stands disposed of.

Yours faithfully,

Signed by Yogesh Kumar
Date: 23-09-2024 17:26:14

(Yogesh Kumar)
Assistant Commissioner & CPIO

Encl: As above.

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वित्त मंत्रालय / राजस्व विभाग
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मूल्यांकन महानिदेशालय

५ वां तल, उपभवन इमारत, नवीन सीमाशुल्क भवन,
बॉलार्ड एस्टेट, मुंबई - ४०० ००१, महाराष्ट्र, भारत
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F.No. DGVAL/POL/TECH/BR/1/2022-POL-O/o DG Val Mumbai

Date: .06.2022

**MINUTES OF MEETING WITH THE REPRESENTATIVES OF INDIAN SHIP OWNERS ASSOCIATION
(INSA) HELD IN OFFICE OF PR. DG VALUATION, CUSTOMS, MUMBAI ON 27.05.2022**

Sub: Minutes of meeting held with the representatives of the Indian National Shipowners Association held on 27.05.2022 in the office of Pr. DG Valuation, Customs Mumbai.

As per Board's letter bearing F.No. 466/22/2022-Cus V dated 04.04.2022 enclosing representation dated 13.01.2022, a meeting was convened with the Indian National Shipowners Association (INSA) on 27.05.2022 in the office of Pr. DG Valuation, New Custom House, Ballard Estate, Mumbai. The meeting was chaired by Shri P. K. Agrawal, Principal Director General, Directorate General of Valuation, (DGoV), Mumbai and was attended by the following officers and representatives of INSA:

1. Shri Radheshyam Sharma, Additional Commissioner, DGoV, Mumbai.
2. Shri M. Nagarajan, Assistant Commissioner, DGoV, Mumbai.
3. Shri Keshav Narvekar, Additional Assistant Director, DGoV, Mumbai.
4. Shri Ganesh Moholkar, Superintendent, DGoV, Mumbai.
5. Shri Anil Devli, CEO, Indian National Shipowners Association.
6. Shri Jayesh Trivedi, President (Legal) & Co. Secy, Great Eastern Shipping Company.
7. Ms. Sushma Singh, Dy. General Manager, Great Eastern Shipping Company.
8. Ms. Amita Chitnis, General Manager (Legal), Seven Islands Shipping Ltd.
9. Ms. Priyanka Sarda, Sr. Manager (Legal), Seven Islands Shipping Ltd.
10. Shri Neel Kumar, Manager, Great Eastern Shipping Company.

To begin with the Chairman welcomed all the participants and invited their attention to the agenda of the meeting w.r.t. representation dated 13.01.2022 submitted to the Board by INSA wherein this office was requested to examine issue no. 2 & 3 raised specifically pertaining to Valuation norms.

POINTS DISCUSSED:

(a) **ISSUE NO. 2:** When the vessel is handed over to an Indian shipowner abroad, residual bunkers and consumables are usually lying on board for allowing the vessel to sail, cost of which is reimbursed by the shipowner to the seller of the vessel - called 'takeover bunkers'. In most cases, the takeover bunkers are consumed way before the vessel calls the Indian port for the first time. Usually, there are separate invoices for the vessel as well as for takeover bunkers but the value of the takeover bunkers is remitted along with the purchase value of the vessel. Despite this fact that usually the takeover bunkers are consumed well before "First Entry" into the Indian port, customs authorities at few custom houses such as Mundra insist that value of takeover bunkers be added to the assessable value of the vessel. This is illogical given that these are two separate transactions with two separate invoices even though they appear to be happening simultaneously. Furthermore, the value of the 'takeover bunkers' is added to the value of the vessel when computing IGST payable on import.

Comments:

As regards the issue about addition of value of takeover bunkers to the assessable value of vessels making first entry into an Indian Port, the Chairman enquired about the procedure being adopted by the trade in this regard.

To this Shri Anil Devli, CEO, INSA informed that when an Indian flag vessel (which is on a coastal voyage) make their first entry into an Indian Port, they have no objection for adding the value of the ROB (Residual on Board) Bunker to the assessable value of the vessel, however, when an Indian flag foreign-going vessel (which is on a foreign voyage) make its first entry into an Indian Port, then the value of the takeover bunkers should not be added to the assessable value of the vessel. Further, he also informed that as the vessel is on a foreign voyage, then the question of adding the takeover bunker to the assessable value of the vessel does not arise. He informed that sometimes the vessel after being bought by an Indian Shipowner make its first entry into an Indian Port after a period of 3 to 4 years after purchase. In such a situation the takeover bunker lying on the vessel while purchasing the same has already been exhausted and the value of the same at the time of entry in an Indian Port for the first time should not be insisted upon.

Decision:

The Chairman after discussion informed that as INSA did not have any issue regarding addition of ROB Bunker value to the assessable value of the vessel (which is on a coastal voyage), the same can be added to the assessable value. Further, as per provisions of Section 2(25) of the Customs Act, 1962, imported goods means any goods brought into India from a place outside India, but does not include goods which have been cleared for home consumption. As the ROB Bunker falls under the definition of imported goods, their value is required to be added to the assessable value of the vessel, hence, this issue is settled.

However, regarding Indian Flag vessel (which is on a foreign voyage), as per the provisions of Section 87, *"Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign going vessel or aircraft."*

As the above provisions exempts imported stores on board of a vessel, therefore, no duty is applicable on the ROB Bunker also and the value of the ROB Bunker is not required to be added to the assessable value of the vessel.

Hence, agree with the proposal of INSA.

(b) ISSUE NO. 3: When a vessel enters an Indian port during its "First Call", it does so, on its own steam. It is not brought by some other agency unlike goods which are brought onboard the sailing vessel to the Indian ports. Thus, the concept of freight, as applicable in case of assessment of customs duty on other brought-in goods, is not applicable while assessing duty of the Indian flag vessel entering Indian port for the first time. Further, the concept of insurance as applicable to imported goods and that applicable to the vessel is different. A trading vessel must at all times carry valid insurance (irrespective of the number of voyages it makes to a port unlike other imported goods) without which it is unable to trade.

Despite this fact, the Customs authorities at some Custom houses such as Mundra insist that Freight and Insurance be added to the assessable value of the vessel. Just because the vessel is declared as a 'good' in IGM during its first call, does not imply that freight and insurance should necessarily be applicable. Thus, this insistence of applying freight on the vessel is devoid of any merit.

Comments:

As regards the issue about addition of freight and insurance to the assessable value of vessel making first entry into an Indian Port, the Chairman enquired about the procedure being adopted by the trade in this regard.

To this Shri Anil Devli, CEO, INSA in continuation to the submission mentioned in Issue No. 2 informed that the vessel on its first call to an Indian port does so on its own steam and it is not being loaded on another conveyance to be brought into India. Further, there is no freight being charged by the seller on the said vessel while making its first entry into an Indian Port. Though the said vessel after being brought into India would be used a conveyance for transportation of goods on which freight would be charged but adding freight to the assessable value of the vessel while making its first entry into an Indian Port is not practical. He further emphasized that the concept of freight as applicable on the imported goods cannot be made as applicable to the vessel.

Regarding Insurance, it was informed that they have no issue regarding adding the same to the assessable value of the vessel making its first entry.

Decision:

The Chairman after discussion informed that as INSA did not have any issue regarding addition of Insurance to the assessable value of the vessel, this issue is settled.

However, as regards adding freight component in the assessable value, it is an accepted fact and as argued by INSA that the vessel while making its first entry into an Indian Port does so on its own steam and is not loaded on another conveyance while entering into India.

The definition of freight as per Cambridge dictionary is that "*Freight is the money paid for movement of goods from one place to another either by ship, aircraft, train or truck.*"

Since, there is no payment by the vessel owner to any third party as freight charges as the vessel sails across the ocean on its own, the question of adding any freight to the assessable value of the vessel does not arise. The concept of freight in Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 has been included in the context of goods being

transported by a carrier which is not the case here. Hence, adding freight to the assessable value of the vessel is not correct.

Hence, agree with the proposal of INSA.

1/689388/2022

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मूल्यांकन महानिदेशालय
ए. के. जे. अग्रवाल भवन, नवीन सीमाशुल्क भवन
बंगला गल्लह, मुम्बई - ४०० ६०१, महाराष्ट्र, भारत
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F.No. DGVAL/POL/TECH/BR/1/2022-POL-O/o DG Val Mumbai
To,
The OSD (Customs-V),
227A, North Block,
Central Board of Indirect Taxes and Customs,
Department of Revenue,
New Delhi 110001.

Date: .07.2022

Sir,

Sub : Hurdles being faced by Indian Shipowners in respect of "First Entry" processes at various Custom Houses – reg.

Please refer to your office letter bearing F.No. 466/22/2022-Cus V dated 04.04.2022 on the above subject enclosing therein a representation dated 13.01.2022 received from Indian National Shipowners Association (INSA).

In this regard, report was called for from all zonal Chief Commissioner of Customs. Further, a meeting was held with the representatives of INSA on 27.05.2022 which was presided by the Pr. DG Valuation, Customs Mumbai. On the basis of the above and as desired the report in respect of issue no. 2 & 3 is as follows:

(a) ISSUE NO. 2:

As regards to issue no. 2, INSA during the discussion have agreed that they have no objection for adding the value of the ROB (Residual on Board) Bunker to the assessable value of the vessel. Most of the Customs Zone in their report has also informed that the value of Arrival/Takeover/Surplus Bunker are required to be added to the assessable value of the vessel. Further, as per provisions of Section 2(25) of the Customs Act, 1962, imported goods means any goods brought into India from a place outside India, but does not include goods which have been cleared for home consumption. As the ROB/Arrival/Takeover/Surplus Bunker falls under the definition of imported goods, their value is required to be added to the assessable value of the vessel.

INSA during the discussion also requested that when an Indian flag foreign-going vessel (which is on a foreign voyage) makes its first entry into an Indian Port, then the value of the takeover bunkers should not be added to the assessable value of the vessel.

089388/2022

In this regard, as per the provisions of Section 87, *"Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign going vessel or aircraft."*

As the above provisions exempts imported stores on board of a vessel, therefore, no duty is applicable on the takeover Bunker lying on the vessel which is on a foreign voyage and hence the value of the Takeover/ROB Bunker is not required to be added to the assessable value of the vessel.

(b) ISSUE NO. 3:

Regarding Insurance, it was informed by INSA during the discussion that they have no issue regarding adding the same to the assessable value of the vessel while making its first entry. INSA in continuation to their submission mentioned at Issue No. 2 above informed that the vessel on its first call to an Indian port does so, on its own steam and it is not being loaded on another conveyance to be brought into India. Further, there is no freight being charged by the seller on the said vessel while making its first entry into an Indian Port. But adding freight to the assessable value of the vessel while making its first entry into an Indian Port is not practical.

As INSA did not have any issue regarding addition of Insurance to the assessable value of the vessel, this issue rests.

However, as regards adding freight component in the assessable value, it is an accepted fact and as argued by INSA that the vessel while making its first entry into an Indian Port does so on its own steam and is not loaded on another conveyance while entering into India.

The definition of freight as per Cambridge dictionary is that *"Freight is the money paid for movement of goods from one place to another either by ship, aircraft, train or truck."*

Since, there is no payment by the vessel owner to any third party as freight charges as the vessel sails across the ocean on its own, the question of adding any freight to the assessable value of the vessel does not arise. The concept of freight in Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 has been included in the context of goods being transported by a carrier which is not the case here. Hence, adding freight to the assessable value of the vessel is not correct.

This issue with the approval of the Director General (Valuation).

Yours faithfully,

Signed by M. Nagarajan

Date: 25-07-2022 13:45:47

(M. Nagarajan)

Assistant Commissioner

Dt. General of Valuation

Customs Mumbai.