

**F. No. 467/35/2007-Cus-V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi**

Circular No. 37/2007-Customs

Dated 9th October, 2007

Customs valuation (Determination of Value of Export Goods) Rules, 2007- Instructions - reg.

Your attention is invited to Section 95 of the Finance Act, 2007 which substitutes the existing Section 14 of the Customs Act, 1962. The new Section 14 of the Customs Act, 1962 shall come into force with effect from 10-10-2007 in terms of Notification No. 93/2007-Customs (NT) dated 13th September, 2007. The Export Valuation Rules, i.e., Customs Valuation (Determination of Value of Export Goods) Rules, 2007 made under the provisions of Section 14 of the Customs Act, 1962, have been notified vide Notification No. 95/2007-Customs (NT) dated 13-9-2007 and the same shall also come into force with effect from 10-10-2007.

2. The Customs Valuation (Determination of Value of Export Goods) Rules 2007 have been framed in a format similar to the Valuation Rules for the imported goods. Conceptually also, acceptance of Transaction Value for export goods has been emphasized in the said rules, in as much as Rule 3 specifically provides for it.

3. Rule 3 of the said rules also stipulates that the Transaction Value for export goods shall be accepted even where buyer and seller are related, provided that the relationship did not influence the price of the goods. Where the relationship is found to influence the price, as determined by the proper officer on receipt of further information from the exporter, the value of the export goods shall be determined by proceeding sequentially through rules 4 to 6 of the said Valuation Rules. The persons who shall be deemed to be 'related' have been specified in Rule 2(2) of the said Valuation Rules, and this provision has been adopted from the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

4. Thus transaction value is the primary basis for valuation of export goods and the method specified under Rule 3 will be applicable in the vast majority of cases of export by acceptance of declared value. In cases where the transaction value is not accepted, the valuation of the export goods shall be done by application of Rules 4 to 6 sequentially.

5. Acceptance of transaction value is, however, subject to the provision of Rule 8 which provides for rejection of declared value for the export goods in certain exceptional cases. These are situations where the assessing officer has reasons to doubt the truth or accuracy of the declared value and further enquiry or investigation is needed to determine the appropriate value. It is hereby instructed that when an investigation/enquiry is undertaken to determine whether or not the Declared Value should be accepted as Transaction Value, the export consignment shall not be ordinarily detained. Wherever there are doubts about the declared value of the export goods, the proper officer shall retain representative sealed samples, wherever considered necessary and feasible, and allow the goods to be exported after due processing. However, it is clarified that in a situation of serious violation such as outright misdeclaration of goods, attempt to export the goods unauthorisedly, i.e., smuggle the goods out of the country, or where there is forgery or fraudulent documentation, the goods may be detained or seized as required. No export consignment shall be detained for reasons of doubts regarding valuation without the approval of the jurisdictional Commissioner of Customs.

6. An 'Explanation' relating to rejection of declared value of export goods has been added to Rule 8 to bring clarity and objectivity in exercising the authority for rejection of declared value. The Explanation clarifies that this rule as such does not provide a method for determination of value, and that it merely provides a mechanism and procedure for rejection of declared value of export goods in certain cases. It also clarifies that where the proper officer is satisfied after consultation with the exporter, the declared value shall be accepted. This Explanation also gives certain illustrative reasons which could form the basis for having doubt about the truth or accuracy of the declared value.

7. While raising doubt about truth or accuracy of the declared value in terms of Rule 8, the proper officer shall issue a query memo specifying reasons for such doubt. Meanwhile, the goods will be released for export against a simple undertaking after drawal of representative sample as indicated in para 5. The decision to initiate the process of investigation into valuation aspects, if any, shall be taken at the earliest at the level of Joint /Additional Commissioner.

8. In a case where transaction value cannot be determined or the declared value is rejected under Rule 8, and export value has to be determined by comparison in terms of Rule 4, the proper officer shall take utmost care in selecting an export product for an in-depth inquiry. The proper officer will make the adjustments objectively on the basis of the relevant factors, some of which have been illustrated at sub rule (2) of Rule 4.

9. Where the value has to be determined by Computed value method under Rule 5, the proper officer shall give due consideration to the cost-certificate issued by a Cost Accountant or Chartered Accountant or Government approved valuer, as produced by the exporter.

10. It is clarified that the main purpose of introducing the Export Valuation Rules is to provide for a sound legal basis for the valuation of export goods. It is also expected to check deliberate overvaluation of export goods and mis-utilization of value based export incentive schemes. At the same time due care has to be taken to facilitate the movement of bonafide export goods which is vital for the country's economic growth. The assessing officers shall, therefore, exercise due caution to avoid unnecessary queries regarding truth or accuracy of the declared export value. The Export Valuation Rules are not intended to bring about any significant change in the existing pattern of valuation of export goods. It is the responsibility of the supervisory officers to monitor regularly the export valuation practices, so as to ensure proper implementation of the said Valuation Rules without hindering the flow of bona fide export goods.

11. Rule 7 of the Export Valuation Rules calls for a declaration relating to the value to be filed by the exporter. A declaration format for this purpose has been designed and the same is enclosed as Annexure-A. Since it may be sometime before the format is notified to the trade by the respective Commissionerates, care should be taken to ensure that no export consignments are held up for want of such declaration which may for the time being be obtained subsequent to exports. The filing of the declaration along with the shipping bill should however be enforced with effect from 12th November, 2007.

12. The contents of this Circular may be brought to the notice of the field formations and the Trade under your jurisdictions.

13. Difficulties faced, if any, in implementation of the Circular may please be brought to the notice of the Board at an early date.

Sd/-
(M. K. SINGH)
Director (ICD)

Export Value Declaration

[See Rule 7 of Customs Valuation (Determination of Value of Export Goods) Rules, 2007.]

1. Shipping Bill No. & Date :
2. Invoice No. & Date :
3. Nature of Transaction : Sale Sale on consignment basis
Gift Sample Other
4. Method of Valuation (See Export Valuation Rules) : Rule 3 Rule 4 Rule 5
Rule 6
5. Whether seller and buyer are related : Yes No
6. If yes, whether relationship has influenced the price : Yes No
7. Terms of Payment :
8. Terms of Delivery :
9. Previous exports of identical/
similar goods, if any :
Shipping Bill No. and Date :
10. Any other relevant information
(Attach separate sheet, if necessary)

Declaration

1. I/We hereby declare that the information furnished above is true, complete and correct in every respect.
2. I/We also undertake to bring to the notice of proper officer any particulars which subsequently come to my/our knowledge which will have bearing on a valuation.

Place :

Date :

Signature of the Exporter
Name of the Signatory