

COURIER IMPORTS (CLEARANCE) REGULATIONS, 1995

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COURIER IMPORTS (CLEARANCE) REGULATIONS, 1995

M.F. (D.R.) Notification No. 35/95-Cus. (N.T.), dated 26-5-1995 In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely :-

1. Short title and commencement. :-

- (1) These regulations may be called the Courier Imports (Clearance) Regulations, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Application. :-

- (1) These regulations shall apply for assessment and clearance of goods carried by the representatives of authorised couriers on incoming scheduled passenger flights on behalf of a consignee for a commercial consideration.
- (2) These regulations shall not apply to-

(a) the goods imported at airports other than the customs airports at Bom- bay, Delhi, Madras and Calcutta;

1 (b) The goods where the weight of the individual package exceeds 70 kilograms; and

(c) the following goods requiring testing of samples thereof or reference to the relevant statutory authorities or experts before their clearance, namely :- animals and parts thereof, plants and parts thereof, perish- ables, publications containing maps depicting incorrect boundaries of India, precious and semi-precious stones, gold or silver in any form, and goods falling within Chapters 28,29 and 38 of the First Schedule to the Customs Tariff Act, 1975 .

1. Substituted for " 1 [(b) the goods where the weight of the individual package exceeds 32 kilograms; and] ", vide " COURIER IMPORTS (CLEARANCE) REGULATIONS, 1995" Dt.24th November, 1997 Published in Ministry of Finance (DeptL of Revenue) Central Board of Excise and Customs, Nati. No. S.O. 664(E), No. (61/I97.Cnstoms (N.T.), dated November 24, 1997, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 24th November, 1997, pp. 2-3, No. 459 [F. No. 450/48/95- CUS. IV]

3. Definitions. :-

In these regulations, unless the context otherwise requires -

(a) "authorised courier" in relation to any imported goods means a person engaged in the international transportation of time sensitive goods on express door to door delivery basis utilising the services of an on-board courier and registered in this behalf by a Commissioner of Customs.

(b) "documents" include any message, information or data recorded on paper, cards or photographs and of no commercial value which is for the time being not liable to any duty or be subject to any prohibition or restriction on their import into India.

(c) "on-board courier" means a person whose services are employed by an authorised courier either directly or through a third party to accom- pany a consignment carried by a scheduled passenger flight.

(d) "samples" means any bona fide commercial samples and prototypes of goods supplied free of charge of a value not exceeding two thousand rupees which are for the time being not subject to any prohibition or restriction on their import into India;

(e) "free gifts" means any bona fide gifts of articles for personal use of a value not exceeding two thousand rupees and which are for the time being not subject to any prohibition or restriction on their import into India.

(f) the words used and not defined in these regulations but defined in the Customs Act, 1962 (52 of 1962) shall have the meanings respectively assigned to them in that Act.

4. Packaging of goods imported by couriers. :-

(1) For the purposes of these regulations, the imported goods shall be packed separately in identifiable courier company bags, with appropriate labels, in the following categories, namely :-

(a) documents

(b) samples and free gifts

(c) dutiable goods

(2) Each package of imported goods shall bear a declaration from the sender regarding the contents of the package and the value thereof.

5. On-board couriers and authorised couriers to file statements. :-

(1) The on-board courier shall file a statement immediately on his arrival at the airport with the proper officer of customs in Form I [See Customs Series Form No. 103 in Part 5] appended to these regulations.

(2) The authorised courier shall file a statement with the proper officer of customs in respect of goods carried by an on-board courier in Form II [See Customs Series Form No. 104 in Part 5] appended to these regulations.

6. Permission to be obtained for dealing with imported goods. :-

(1) The courier bags containing the imported goods shall not be dealt with in any manner except as may be directed by the Commissioner of Customs.

(2) No person shall, except with the permission of proper officer, open any packages of imported goods brought by an on-board courier.

7. Entry of goods on importation. :-

The authorised courier shall make entry of goods imported by him by presenting to the proper officer a bill of entry in Form III, Form IV or as the case may be in Form V appended to these regulations: Provided that the authorised courier, or with the concurrence of the authorised courier, the consignee or a Customs House Agent on behalf of the consignee, may file a bill of entry in the form prescribed in the Bill of Entry (Forms) Regulations, 1976 for clearance of any of the imported goods: Provided further that for the following goods, the entry shall be made in the form prescribed in the Bill of Entry (Forms) Regulations, 1976, namely :-

(a) goods in respect of which an exemption from the levy of duty applicable to hundred per cent Export Oriented Units or to units in a Free Trade Zone, or Export Processing Zones, Software Technology Parks, Hardware Technology Parks is claimed;

(b) goods imported under the Export Promotion Capital Goods Scheme or Duty Entitlement Pass Book Scheme or any other Duty Exemption Scheme;

(c) goods imported under any Customs or Central Excise notifications containing end use conditions;

(d) goods imported against any other licence issued under the Foreign Trade (Development and Regulation) Act, 1992;

(e) goods imported by or on behalf of a person who is related to the consignor within the meaning of Rule 2 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988;

(f) goods where the CIF value of the consignment is One Lakh Rupees or more; and

(g) goods in respect of which the Assistant Commissioner directs filling of a bill of entry in such form: Provided also that the goods falling under clauses (a), (b) and (c) of the preceding proviso may be cleared by presenting a bill of entry in the said Form III, Form IV or as the case may be, in Form V, on payment of duty.]

8. Imported goods to be presented for assessment. :-

The authorised courier shall present all the imported goods brought by an on-board courier to the proper officer for examination and assessment thereof.

9. Detention and disposal of uncleared cargo. :-

Any imported goods which are not taken clearance of, shall be detained by the customs and shall be disposed of after the expiry of a period of thirty days of the arrival of the said goods.

10. Registration of authorised couriers. :-

Every person intending to operate as an authorised courier shall apply in writing to the Commissioner of Customs at the customs airport of Bombay, Delhi, Madras or Calcutta, where the goods are to be imported, for registration in this behalf.

11. Condition to be fulfilled by the applicant. :-

The person applying for registration as an authorised courier shall disclose to the satisfaction of the Commissioner of Customs that he is financially viable and in support thereof he shall produce to the said Commissioner a certificate issued by a scheduled bank or such other proof acceptable to the Commissioner evidencing possession of assets of a value not less than five lakhs rupees.

12. Scrutiny of application. :-

On receipt of application under regulation 10, the Commissioner of Customs may make enquiries for verification of the particulars set out in the application and also such other enquiries as the Commissioner may deem necessary including enquiries about the identity, bona fides and reputation of the applicant.

13. Registration. :-

(1) If on scrutiny of the application filed by a person under regulation 10, the Commissioner of Customs is satisfied that the applicant fulfils the requirements of the registration, the said applicant may be so registered as an authorised courier.

(2) The registration granted under sub-regulation (1) shall be valid for a period of one year, but may be renewed from time to time in accordance with the procedure provided in sub-regulation (3).

(3) The Commissioner of Customs, may, on application made before the expiry of the validity of the registration under sub-regulation (2) renew the registration for a period of one year from the date of expiration of the original registration or of the last renewal of such registration, as the case may be, if the performance of the authorised courier is found to be satisfactory with reference to the absence of any complaints of mis-conduct including non-compliance of any of the obligations specified in regulation 15.

14. Execution of bond and furnishing of security. :-

The Commissioner of Customs shall require the applicant to enter into a bond in such form with a security of one lakhs rupees in cash or in the form of postal security or National Savings Certificates in the name of the Commissioner of Customs for complying with the provisions of the Customs Act, 1962 and the rules and regulations made thereunder. The condition of the said bond shall also be that the applicant shall agree to pay the duty, if any, not levied or short levied, with interest if applicable on any goods taken clearance of by the authorised courier if in the opinion of the Assistant Commissioner of Customs the same cannot be recovered from the consignee.

15. Obligations of authorised courier. :-

An authorised courier shall -

(a) obtain an authorisation from each of the consignees for whom he has imported the goods to the effect that he may act as his agent for clearance of the said goods through the customs;

(b) advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Asstt. Commissioner of Customs;

(c) exercise due diligence to ascertain the correctness and completeness of any information which he commits to customs with reference to any work related to the clearance of imported goods;

(d) not withhold information relating to assessment and clearance of im- ported goods communicated by any officer of Customs from a client who is entitled to such information.

(e) not withhold any information relating to assessment and clearance of imported goods from the assessing officer.

(f) not attempt to influence the conduct of any official of the custom station in any matter pending before such official or his subordinates by the use of threat, false execution, duress or offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value.

(g) maintain records and accounts in such forms and manner as may be directed from time to time by an Asstt. Commissioner of Customs and submit them for inspection to the said Asstt. Commissioner of Customs or an officer authorised by him,

whenever required.

17. Deregistration. :-

The Commissioner of Customs may revoke the registration of an authorised courier and also order forfeiture of security on any of the following grounds :-

(a) failure of the authorised courier to comply with any of the conditions of the bond executed by him under regulation 14;

(b) failure of the authorised courier to comply with any of the provisions of these regulations;

(c) a misconduct on the part of the authorised courier; Provided that no such revocation shall be made unless a notice has been issued to the authorised courier informing him the grounds on which it is proposed to revoke the registration and he is given an opportunity of making a representation in writing and a further opportunity of being heard in the matter, if so desired.