

F. No. 450/146/2018-CusIV
Government of India
Ministry of Finance
(Department of Revenue)
(Central Board of Indirect Taxes & Customs)

New Delhi, dated the 26th February 2019

To,

All Principal Chief Commissioners/Chief Commissioners of Customs/Customs (Preventive)
All Principal Chief Commissioners/Chief Commissioners of Customs & Central Taxes
All Principal Commissioners/Commissioners of Customs/Customs (Preventive)

Subject: Issues related to carriage of coastal cargo from one Indian port to another port in foreign going vessels/coastal vessels through foreign territory-regarding.

Central Board of Indirect Taxes and Customs (CBIC) has received references in relation to different issues concerning coastal movement such as movement of coastal goods through foreign territory, use of EXIM containers for carrying coastal goods, use of local or domesticated containers for transportation of EXIM cargo.

2. The issues have been examined by the Board and after careful consideration, it has been decided as follows:

2.1. Movement of Coastal Goods through foreign territory of Sri Lanka & Bangladesh:

- (a) Kind attention is invited to Sea Cargo Manifest and Transshipment Regulations, 2018. The said regulations, inter-alia, provide for the procedures for transit of coastal goods through the foreign territory of Sri Lanka and Bangladesh. These regulations envisage a completely automated platform for the movement of coastal goods through the designated foreign territory or otherwise. Ministry of Shipping (MoS) and Indian National Shipowners' Association (INSA) have requested to permit the movement of coastal goods transiting through Sri Lanka or Bangladesh prior to coming into the force of the said Regulations. CBIC has decided to consider the request of MoS & INSA.
- (b) The procedure for transit of imported as well as indigenous goods through foreign territory has already been laid down in Transportation of Goods (Through Foreign Territory) Regulations, 1965. However, unlike the Sea Cargo Manifest and Transshipment Regulations, 2018, the country names i.e. Sri Lanka and Bangladesh are not specifically mentioned. While the procedure for movement of imported goods/export goods is streamlined, certain difficulties have been expressed in the case of movement of coastal goods through foreign territory, more so where the coastal cargo is non-containerised. These difficulties mainly relate to documentation as such goods would be required to follow the procedures prescribed for coastal

goods as well as the procedures in Transportation of Goods (Through Foreign Territory) Regulations, 1965.

- (c) Therefore, with a view to promote the movement of coastal goods **through foreign territory**, CBIC has decided to harmonise the procedure for movement of Containerized Coastal Goods, or vehicles and other class of non-containerised Coastal Goods to be specified from time to time (herein after referred as coastal goods), whether or not calling at any port in these countries, subject to the following conditions:

Procedure:

- (i) The consignor of the coastal goods intended for movement from one port in India to another Indian port through the foreign territories of Sri Lanka or Bangladesh, as well as person-in-charge of the vessel **shall follow** the procedure stipulated in Transportation of Goods (Through Foreign Territory) Regulations, 1965. The consignor of the said goods shall not be required to file the Bill of Coastal Goods (Refer Notification. No. 424/76-Cus., dated 23-10-1976 as amended) for the said goods. Bill of Coastal Goods shall, however continue to be filed where the vessel is carrying both coastal goods and EXIM cargo from one port in India to another Indian port without transiting through any foreign territory.
- (ii) In the Appendix A and Appendix B of the Transportation of Goods (Through Foreign Territory) Regulations, 1965, wherever the consignor and consignee name are figuring, GSTIN No. of the consignor and consignee shall also be mentioned. If the goods are exempted from the purview of GST laws or either the consignor or the consignee is exempted from taking registration then, VAT Registration No. and PAN No. shall be mentioned. Further, in the column for the value of goods, GST invoice No./ commercial invoice No./Challan No., as applicable, shall be provided. Further, the consignor shall also submit a copy of GST invoice to the proper officer. In case where goods are exempted from GST, copy of commercial invoice shall be submitted.
- (iii) The proper officer may, if satisfied with the declaration pass the Bill [in the form specified in Appendix A to Transportation of Goods (Through Foreign Territory) Regulations, 1965], and order such examination as may be considered necessary.
- (iv) The container containing such coastal goods shall be clearly marked with the words “For Coastal Carriage through foreign territory” on the longer sides of the containers. Further, the containers shall be sealed with tamper proof one-time bottle seal or e-seal before being loaded on to the vessel.
- (v) Non-containerised cargo shall also be allowed to be loaded on to the vessel provided it is clearly marked on the goods or the packing thereof ‘For Coastal Carriage through foreign territory’ to make it easily identifiable.

- (vi) The Master of the vessel shall not permit the loading of such coastal cargo unless the Bill [in the form specified in Appendix A to Transportation of Goods (Through Foreign Territory) Regulations, 1965] duly passed along with the permission of the proper officer to load the coastal goods is received by him. On receipt of the documents, the master shall prepare the manifest in triplicate.
- (vii) The master of vessel shall also furnish e-Way Bill details (if applicable), Container no. & Seal No. (for containerised cargo) in the Transit Manifest (Appendix B).
- (viii) The Transit manifest shall be prepared for the goods loading port and discharge port combination wise. The proper officer may, after making necessary checks, make an endorsement on the manifest, retaining one copy of the manifest and return the other two copies to the master of the vessel. The master shall retain one copy as carrier's record and submit the other copy to the proper officer at the destination port.
- (ix) The Customs officer at the destination port may verify that only such of the coastal goods (containers/ non-containerised) are unloaded as are intended for that particular port and that the seals of the containers are intact, and make a remark to this effect in the manifest.
- (x) The master of the vessel may not be given permission for the departure of the vessel unless it is established that the entire coastal cargo intended for that port has been discharged.
- (xi) For the containerised coastal cargo, in case the seals are not found to be intact, the Customs officer may cause the container (s) to be opened and permit the vessel to leave only if there is no discrepancy between the contents of the container(s) and the information contained in the manifests prepared at the port of loading. The proper officer may, however, permit the vessel to leave if the Master or his Agent submits such surety or security as he may consider necessary in respect of the containers for which the seals are found to be tampered with.
- (xii) In case of any tampering of seals or any discrepancy, the matter shall be reported to the Deputy/Assistant Commissioner, who may adjudicate the matter after issue of show cause notice. The procedures as applicable for non-coastal cargo will apply mutatis mutandis to deal with such situation.
- (xiii) Notwithstanding anything mentioned above, no goods, export of which is prohibited under the Customs Act, 1962 or any other law in force, shall be allowed to be transited through foreign territory under this procedure.

- (xiv) The vessels carrying coastal goods may also carry EXIM/empty containers subject to the observance of the procedure as applicable;
 - (xv) This procedure is applicable to only those vessels which are authorised to carry coastal goods under Merchant Shipping Act, 1958.
- (d) The movement of coastal cargo which is not transiting through foreign territory would be governed by the procedure referred to in Circular No. 15/2002-Cus., dated 25-2-2002 and Circular No. 14/2016-Cus., dated 27-4-2016.

2.2. Use of Imported Containers for carrying Domestic cargo:

2.2.1 Board has received the representations requesting to allow the use of imported containers for carrying domestic cargo. It has been brought to the notice to the Board that due to limited availability of return cargo on most of the coastal shipping routes, the cost of repositioning of empty containers is high which increases the total logistic cost of coastal shipping. Therefore, to reduce the logistic cost it has been requested to allow the EXIM containers imported under notification No. 104/94 dated 16.03.1994 for carrying domestic goods.

2.2.2 The issue has been examined. Vide Letter F. No. 450/69/2000-Cus. IV, dated 30-10-2001, Board had permitted that the containers imported under the notification No. 104/94-Cus., dated 16.03.1994 shall be allowed for the purpose of carrying domestic cargo during the stipulated period of 6 months or the extended period as may be allowed, pending re-export of the same. However, the facility was allowed as a temporary measure.

2.2.3 As the Central government's impetus is to promote the coastal shipping, Board hereby permits the use of containers availing benefit of notification No. 104/94 dated 16.03.1994 for the purpose of carrying domestic cargo during the stipulated period of 6 months or the extended period as may be allowed pending re-export of the same.

2.2.4 Further, as a consequence to the permission given in foregoing para, there should not be such condition in the bond submitted for availing the benefit under notification No. 104/94 dated 16.03.1994, which restricts the use of the containers for carrying domestic cargo after importation.

2.3. Use of local or domesticated containers for transportation of EXIM cargo:

2.3.1 Board has received representation from INSA pointing out absence of level playing field between the tax treatment on EXIM containers owned by foreign shipping lines etc. and domesticated containers. INSA have stated that Government has allowed customs duty exemption vide notification No. 104/94-customs to

imported containers on the condition that the same would be re-exported within 6 months. However, local or domesticated containers if used for EXIM business are not fully able to avail this exemption on re-import as these containers are not able to meet the condition of re-export.

INSA has, therefore, requested to allow a similar exemption to locally manufactured or domesticated containers (i.e. imported containers cleared for home consumption) to be used for carrying EXIM cargo from India or bringing import cargo into India at the time of their re-import into India. Further, they also asked for waiver from provisions of section 46 & 50 of the Customs Act, which deals with filing of bill of Entry & Shipping bill, as available to international containers.

2.3.2. The issue has been examined by the Board and in this regard, it is clarified that:

(i) Locally manufactured or domesticated ISO containers [confirming to the specifications from the International Organization for Standardization (ISO)] can be used for transportation of EXIM cargo.

(ii) The difficulty expressed by INSA in availing the customs duty exemption on re-import of domesticated containers is essentially procedural. The customs clearance procedure for the import or export of the containers whether empty or laden would remain same for imported containers or locally manufactured or domesticated ISO containers. In other words, there would not be any requirement of filing Bill of Entry (under section 46) or Shipping Bill (section 50) for locally manufactured or domesticated ISO containers similar to international containers imported temporarily (circular No. 31/2005-Cus., dated 25-7-2005 refers).

(iii) However, the shipping lines should intimate to the Customs the number and identification particulars of the locally manufactured/domesticated containers to be moved outside the country or to be re-entered into the country;

(iv) The entry of the container no. in the shipping bill for which 'allowed for shipment' has been granted, may be considered as permission of export for the containers for purposes of section 51. In case of export of empty containers, entry thereof in Export General Manifest would be treated as permission of export for the containers under section 51. In view of this relaxation, there should not be any difficulty in availing the duty exemption upon re-importation of these containers under notification No. 45/2017-Customs dated 30.06.2017.

3. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice/Standing Orders.
4. Difficulties, if any in implementation of these instructions, may be brought to the notice of the Board.

Yours faithfully,

(Piyush Bhardwaj)
STO (TU)