प्रधान आयुक्त सीमाशुल्क का कार्यालय (सामान्य)

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)

नवीन सीमाशुल्क भवन बल्लार्ड इस्टेटमुंबई ४००००१,

NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI – 400001

F.No. S/23-26/Tech/2016 Dated: 09.03.2017

STANDING ORDER NO.04/2017

Subject: Passing of order under Section 110 of the Customs Act- 1962 - reg.

Attention of all officers and concerned staff of Commissionerate of Customs, New Customs House, Mumbai is invited to the instructions issued by Central Board of Excise & Customs (Anti-Smuggling Unit), New Delhi vide Instruction No. 01/2017-Customs dated 08.02.2017 issued from F.No.591/04/2016-Cus (AS) in respect of passing of order under Section 110 of the Customs Act, 1962.

2. It has been brought to the notice of the Board that in several cases, goods are being held-up/seized by the field formations only under *panchnama* and separate orders for seizure of goods are not being passed. The Hon'ble Delhi High Court, in a recent order, has held that a *panchnama* is a statement by *panchas* (witnesses) and cannot be taken to be an order passed by the proper officer under Section 110 of the Customs Act, 1962.

3. Though Section 110 of the Act *ibid* does not specify passing an order for seizure of goods, it says that *where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.*

4. In view of the above, in all future cases, the following may be adhered to:

- *Whenever goods are being seized, in addition to panchnama, the proper officer must also pass an appropriate order (seizure memo/order/etc.) clearly mentioning the reasons to believe that the goods are liable for confiscation.*

- *Where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. In such cases, investigations should be fast-tracked to expeditiously decide whether to place the goods under seizure or to release the same to their owner.*

5. Further, it has been brought to the notice of the Board that in cases where provisional release of seized goods is allowed under Section 110A of the Act *ibid*, show cause notices are not being issued within the stipulated time period on the ground that the goods have been released to the owner of the goods. The provisions of the Customs Act, 1962 are clear that irrespective of the fact whether goods remain seized or are provisionally released, once goods are seized, the time period (including extended time period) stipulated under Section 110(2) of the Act shall remain applicable and has to be strictly adhered to.

6. Difficulties, if any, may be brought to the notice of the undersigned.

Bhattacharya 9/3/17

(B. Bhattacharya)
Pr. Commissioner of Customs (General)
Mumbai Zone-I

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