



आयुक्तसीमाशुल्क (आयात-I) कार्यालय

OFFICE OF THE COMMISSIONER OF CUSTOMS (Import-I)

दूसरीमंजिल, 2rd FLOOR

नवीनसीमाशुल्कभवन, बलार्डइस्टेट, मुंबई -४००००१

NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI 400001

F. No. S/26-Misc-32/2018-19 A(G)

Date:-01.01.2020

STANDING ORDER NO. 15/2020

RECOVERY OF ARREARS

1. Arrears in Customs are classified into two main categories viz. recoverable and irrecoverable arrears. All stayed arrears are irrecoverable. The recoverable arrears are further classified as restrained and unrestrained. Restrained Arrears can be of following types-

- i. Board for Industrial and Financial Reconstruction (BIFR) /Debt Recovery Tribunal (DRT)/ Official Liquidator (OL) cases.
- ii. Cases pending with Settlement Commission and Revision Application (RA).

Rest of the cases where appeal period is over and no appeal is filed are recoverable unrestrained arrears.

2. Registers for all the categories of arrears is to be maintained in the format prescribed as per Standing Order no. 11/2019 dated 14.11.2019 issued by the Commissioner of Customs(Import-I), NCH, Mumbai by each section and combined list of all cases of arrear of revenue should be maintained and updated by TRC on monthly basis for monitoring purpose.

3. Boards has issued instructions and guidelines with regards to Recovery of Arrears from time to time and compiled in Handbook on Recovery of Arrears of Revenue incorporating all legal provisions and same should be scrupulously followed by the Group and TRC section for effecting recoveries.

4. In order to bring about uniformity and to strengthen the efforts in recovery of due government arrears, the following instructions should to be followed for the recovery of arrears of Customs Revenue comprising of Customs duty, fine and penalty etc. by all groups/sections of Import-I, II and Export Commissionerate.

- a. Issuance of written and verbal communication to the defaulter to pay the dues immediately.
- b. A letter to all the refund/rebate, drawback or PAO authorities of Customs and GST/Central Excise to deduct the amount, so payable from any money owing to such person which may be under the control of the proper officer or such other officer of Customs.

c. Insertion of alert in ICES EDI system based on the IEC of the importer after taking due approval of the competent authority i.e the Commissioner of Customs.

d. Issue communication to officers of Customs to encash/deduct any BG/bond executed by the defaulter and credit the same to the government dues.

e. Group AC/DC to ensure that enquiry with respect to each case is done with Directorate General of Foreign Trade (DGFT), Registrar of Companies (ROC), Income Tax, Bank, SHO Police Station, Registrar Municipal Authorities, RTO, Post Office, Passport Office, Trade Associations and Trade Rivals to ensure that all addresses, PAN, bank, movable and immovable properties details are ascertained.

f. In case the Group AC/DC fails to recover the arrears in the manner above, a certificate u/s 142(1)(c)(i) of the Customs Act, 1962, Appendix I should be issued by the Group AC/DC.

g. After issuance of Appendix I, a copy of the file invariably containing the following documents be sent to the Asstt./Dy. Commissioner of Customs i/c Tax Recovery Cell (TRC) for further recovery of arrears.

(a) Copy of Order-In-Original / Order confirming Less Charge Demands.

(b) Copy of the Order of Commissioner (Appeal) CESTAT/High Court/Supreme Court.

(c) A Certificate to the effect that no stay application is pending before any Appellate Authority/Court as far as amount sought to be recovered through TRC is concerned.

(d) All the known addresses of the defaulter. If the defaulter is not available at the address given in the import or export document or panchnama prepared at the time of seizure of contraband or statement recorded under section 108 of Customs Act, 1962 or arrest memo, then the present address at which he is available.

(e) Details of property and bank- accounts

(f) Steps that were taken to recover the government dues including copy of Detention Notice.

(g) In addition, copies of all further correspondence pertaining to the recovery of the sums due as mentioned in the Certificate received by the Group.

Original file should be retained with the parent Group/Section and the MPR should be updated with the transferred case by group/section and TRC.

5. If after sending the certificate to TRC, the amounts due are paid by the concerned parties/persons either in full or in part, then intimation about receipt of such payments shall be immediately sent by the Groups/Units to the TRC and in any case not later than 3 days of the receipt of such payments.

6. After the receipt of certificate in Appendix-I from the concerned Groups along with copies of Order-In-Original and other documents mentioned in preceding paragraphs a file number shall be allocated by the TRC to each such case.

7. The Tax Recovery Cell headed by an Asstt./Dy. Commissioner of Customs, who will be the proper officer for the purpose of attachment of the defaulter's property and for realizing the amount mentioned in the Certificate. Upon receipt of the certificate from the Appraising Group/Section, the Tax Recovery Cell shall issue a letter to the defaulter bringing to his/her notice the provision of the Section 142 of the Customs Act, 1962 and the amount of arrears due, with direction to pay the said amount within 10 days of the receipt of the notice. In the meantime, the officers of TRC shall make discreet inquiries about the moveable & immoveable property of the defaulters and to report to AC/DC TRC within a period of seven days about the particulars of the property.

8. While making the inquiries about the movable property, TRC Officers shall also seek information about the business, bank accounts and information regarding assets from D.G.F.T's office (where application for grant of Import Export Code No. is filed). Inquiries should also be made from Banks, DGRI, DGGI, Income Tax Department, State GST, Registrar of Companies, DGFT and other departments/agencies, regarding assets of the defaulters.

9. After expiry of 10 days' notice period, if Govt. dues are not paid by the defaulter, the Asstt./Dy. Commissioner, i/c Tax Recovery Cell shall issue a Notice of Demand to the defaulter as per enclosed Appendix-II. If said dues are not paid within 7 days of the Demand Notice the Asstt./Dy. Commissioner (TRC) will proceed with the recovery of dues as stipulated in Customs (Attachment of Property of Defaulters for Recovery of Govt. dues) Rules 1995 as amended from time to time. For this purpose notice of demand, or of attachment of immovable property and notice of attachment of other assets etc. shall be issued in the relevant formats prescribed in the Hand Book of Recovery of Arrears of Customs Revenue published by the Directorate of Publicity and Public Relation Customs & C. Excise, New Delhi.

10. In cases the Certificate under Section 142(1) (c) (ii) of the Customs Act, 1962 is received from the other Commissionerates for the recovery of Govt. dues, the TRC shall enter the said Certificate in a separate Register maintained for that purpose and there after AC/DC TRC shall issue a Demand Notice to the defaulter in Appendix-II and further action to recover the Govt. Revenue shall be initiated by the said Asstt./Dy. Commissioner as prescribed under Customs (Attachment of property of Defaulters for Recovery of Govt. dues) Rules 1995 as amended from time to time.

11. If the amount mentioned in the certificate together with the cost of detention of the

property is not paid within the period of 30 days from the date of attachment of the property, the Commissioner may authorize the proper officer to proceed to realize the amount by the sale of defaulters property by public auction.

12. For the purpose of sale of attached property, AC/DC Disposal(G) shall be the proper officer for selling the property and the procedure prescribed in Chapter III of the Customs (Attachment of Property of Defaulters for Recovery of Govt. dues) Rule, 1995 as well as instructions contained in the Hand Book of Recovery of Arrears of Customs Revenue shall be followed.

13. In cases of Restrained arrears, following actions should be taken by the Group AC/DC-

- a) In cases which are pending with BIFR/DRT/OL and the like, it should be ensured that claims with regards to Customs Arrears is registered with the concerned authorities in a timely manner.
- b) Status of the cases to be monitored time to time for effecting recoveries.

14. If the unit is defunct, as per the guidelines mentioned in the Hand Book on Recovery of Arrears of Revenue, AC/DC TRC will issue letters to the government agencies such as-

- a. Sub-Registrar, Municipal authorities to ascertain the title/ownership of the land/building where the unit is located, details of immovable properties held.
- b. Physically ascertain if any plant and machinery, excisable goods are available.
- c. Ascertain PAN from available records and write to Income Tax Department for copies of I.T. Returns, Banker's details.
- d. Ascertain from available records Banker's details and write to the Bank.
- e. RTO to provide details of vehicle/car owned, transaction in cars/vehicles etc and the person with whom transaction is effected
- f. Registrar of Companies to intimate status of the defaulter company, assets and liabilities of the defaulter, details of Directors and their assets.
- g. Post office for the changed address and whereabouts.
- h. Police for the changed address and whereabouts.
- i. Trade Association for whereabouts, present address and the activities.
- j. Make discreet enquiries with trade rivals, market
- k. Get clues from social media.

15. If even after the above action the defaulters remain untraceable and no property/assets could be identified, a list of such case-wise particulars shall be prepared and put up to the Commissioner so that the matter can be taken up with DGRI, DGCEI and the Nodal Officer FIU-IND.

16. If the above actions do not yield desired results/recovery, write off proposals can be examined as governed by CBEC Circular No. 946/07/2011 dated 01.06.2011 and after due

compliance, the proposal for WRITE OFF may be sent to the competent authority as per the prescribed format by respective groups/section/TRC. After due approval and acceptance, the matter/case may be removed from MPR.

17. Any difficulties faced may be brought to the notice of the undersigned

This Standing Order shall come into force with immediate effect.

Sd/

(MANOJ KUMAR KEDIA)

Commissioner of Customs (Import-I,II and Export)

New Custom House, Mumbai

Copy to :

1. The Pr. Chief Commissioner of Customs, Mumbai zone –I
2. The Pr. Commissioner of Customs (General), Mumbai Zone-I
3. Additional/Joint Commissioners of Customs (Import-I, II and export)
4. All AC/DC of Groups and sections of Import- I ,II and export
5. AC (EDI)- with a request to upload on the zone website
6. Office copy