

आयुक्त सीमाशुल्क (आयात- II) का कार्यालय ,  
OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT-II),  
नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई-1  
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 1

फा.सं. आरटीआई/आयात-II-94/2018-19

आदेश की तिथि : 11/02/2019

जारी करने की तिथि : 11/02/2019

द्वारा पारित आदेश : श्री. अशोक एम. नाईक  
केन्द्रीय जन सूचना अधिकारी, (सी. पी. आई. ओ.)  
सहायक आयुक्त सीमाशुल्क (आयात-II)  
नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई-1

आदेश सं. 77/2018-19

प्रस्तावना

1. यह प्रति जिसे यह जारी की गई है के उपयोग के लिए निःशुल्क है ।
2. इस निर्णय के विरुद्ध, प्रथम अपीलीय प्राधिकारी, अपर आयुक्त सीमाशुल्क (आयात), प्रथम तल, नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई- 400 001 के समक्ष अपील की जा सकती है ।
3. सूचना का अधिकार अधिनियम, 2005, की धारा 19 के अनुसार इस निर्णय की प्राप्ति के 30 दिनों के अंदर अपील का दाखिला आवश्यक है ।
4. अपील व्यक्तिगत रूप से अपर आयुक्त सीमाशुल्क (आयात), प्रथम तल, नवीन सीमाशुल्क भवन बेलार्ड इस्टेट, मुंबई- 400 001 या उनकी ओर से अधिकृत किसी अधिकारी के समक्ष रखी जाए ।

विषय : सूचना का अधिकार अधिनियम, 2005 के तहत **Shri. Pradeep Kumar Agrwal**, द्वारा दायर आवेदन दिनांक **18.01.2019** रहित - संदर्भित ।

1. An application dated 18.01.2019 filed by Shri. Pradeep Kumar Agarwal, Flat # 207, ACE Atlantis, Khajaguda, Hyderabad - 500 104. (Hereinafter referred to as Applicant) under Right to Information Act, 2005, received in this department on 25.01.2019.

2. Following information was sought by the Applicant under RTI Act, 2005

1. For making custom duty charges under PAS who decides and approves the duty finally charged? His designation and designation of controlling officer?
2. Who is responsible for calculation and approval of Custom duty to be charged? Their Designation and their current names and designations of officials.
3. Even when proper Invoice is with imported parcel with the cost of items imported and, the packing cum shipping charges indicated clearly and separately ie CIF, who has the power to recalculate the same taking this CIF as FOB and again recalculate CIF at multiple of 1.22% for purpose of charging Custom duty? Which officer has the power to approve such wrong calculations? AND also after calculating wrong CIF as and then over above deciding (FAIR VALUE) even ABOVE such wrong CIF

— Cont- 2 —

calculation? WHAT IS THE BASIS AND NORMS FOR SUCH calculation as (FAIR VALUE) CALCULATION ?, Even when actual Invoice is enclosed/attached by exporter with in Parcel of goods. The name and present designation of such deciding officer?

4. Under what chapter, Volume, Clause Certificate from a Chartered Accounts is required to certify that excess duty amount claimed as refund is/ has not been passed to 3<sup>rd</sup> party? What is the minimum amount refundable which is covered under this rule, if it is there? Does a refund claim of less than say even Rs. 1000/2000 by an individual comes under this provision as above.
5. Which is the provision Under which importer is to be asked for certified copy of invoice in HINDI/ENGLISH from the relevant CONSULATE? Does the department has no facility/internet Google translation facility? When Govt is spending and spending Crores of rupees on paperless workings in Govt Offices on electronic facilities. What is the Budget approved under this head for 2018-2019 for updating Custom PAS Section.
6. Is PAS custom deptt. Staff/officials are aware that the Custom duty charged and Memo sent with the parcel to delivering Post Office, the delivering Post office collects such custom duty in Cash, obtains addressee signatures on Memo as delivery document before handing over the imported parcel, and no separate receipt is issued by relevant delivering Post Office? If so why duty paid document is demanded at the time of duty refund process?
7. Does the delivering Post Offices are instructed by Custom deptt., to issues a separate receipt of such customs collection? If not then how DUTY PAYMENT PROOF IS ASKED?
8. Does Postal deptt/and Custom Section have any coordination on Customs duty payments made at delivering Post Office, If so, any system in place may be detailed and given.
9. When Form 12 with relevant documents is submitted why and who can ask for these various documents again including CA and Consulate certificates for even refund amount of between Rs. 100/- to say 2000/- or above his designation and notings for such demand on file may be produced and sent.
10. Who can ask the individual importer to present himself at Mumbai Office who live from Far off places like Hyderabad, Nagpur etc. etc. for such small refund claim as mentioned in some cases as given below in Para above
11. Who and How one individual can certify that goods imported for self use are in his actual possession? What level of officer is deputed to visit individual premises to verify it? Or how one can certify himself?
12. Is there any rule laid down by which, exporter cannot be paid via banking channels using International system called Paypal? and use Credit/debit card or bank channels?
13. What is the status of Refund claims submitted under Form 12 with various documents like invoice, Delivering Post Office copy of custom duty paid, payments made to seller/exporter via banking channels

Contd - 3

(CRADIT/DEBIT CARD by PAYPAL) for the following Memos of Customs PAS : Memo no 9424, 8084, 8405, and 7330 by Speed Post ad ADDRESSED TO DY. COMMISSIONER CUSTOMS (PAS) MUMBAI vide speed post # EN413998361IN dated 04.09.2018, # EN087261673IN, #EN087261713IN and #EN087261758IN, ALL DATED 08.10.2018. FOR REFUNDABLE AMOUNTS OF Rs. 1708/-, Rs. 4298/- Rs. 21519/- etc.

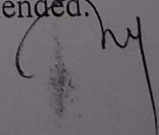
14. In case of memo 7330, the all documents related to ist import/then Return of product/goods back to exporter cum manyufacturer due to defective (alonth their Warranty memo, original Invoice as proof of list purchase) and their Re-exporting the same after repair and replacement with a clear document that no further charges/cost levied by them for such product. They also sent an email confirming that as per policy they had asked for invoice of original ist purchase as proof of buy from them, and same invoice was again sent back with the relevant parcel under memo 7330 and why on the basis of that (old) invoice CUSTOM DUTY WAS LEVIED in Memo 7330? Who is responsible for such gross negligence of not going through various documents in parcel? His name and designation and noting on file for such wrong custom duty charging?
  15. The refund claim in FORM 12, under custom memo 7330 has been submitted with all documents mentioned as above again Speed Post EN413097635IN DATED 28.08.2018, FO REFUND OF WRONGLY CHARGED Custom duty of Rs. 21,519/- (Rupees Twenty one thousands five hundred and nineteen), WHAT IS THE STAUS OF REFUND OF THIS CLAIM.
  16. What is the qualification/learning of relevant Custom Duty Tarrif etc. given to a Supdt. Of Customs, of this section (PAS) before he or she is put on the various job/work of PAS section?
3. RTI application is provided after due examination of the reply received from the concerned section, the reply of the RTI application is as follows :-

The pointwise reply is as follows :

Point No. 1 & 2: Customs duty liability on all imports for personal use in PAS are classified under CTH 9804 under First Schedule to the Customs Tariff Act, 1975. The goods imported by importers having valid Importer Exporter Code are being classified under the appropriate Customs Tariff item depending upon the goods imported and the applicable tariff rates of duty or the concessional rate as per the notifications issued from time to time. The parcels are examined by the Examining Officer/Prev. Officers and assessed by the Superintendent of Customs posted at Post Appraising Section.

Point No. 3 : Value of the consignment is assessed as per the declared value available on consignments. In the absence of the same or where the value is found liable for rejection, fair value is taken as per the Customs Valuation Rule 2007 and duty is charged as follows :

A. Basic Duty 10% = As per sr.no. 608 of notification 5/2017 as amended.

contd - 4 - 

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B. 10% Social Welfare Surcharge on Basic Duty = as per clause 108 of Budget 2018 and

C. 28% IGST = As per entry 227 of Schedule IV of the Notification No. 1/2017 Integrated Tax (Rate) dt.28.06.2017.

The parcels are examined by the Examining Officer/Prev. Officers and assessed by the Superintendent of Customs posted at Post Appraising Section.

As the applicant has not established any public interest involved in seeking the names of the officers, it appears that the same are not required to be disclosed under Sec (8)(1)(j) of the RTI Act, as it relates to disclosure of personal information.

Point No.4 & 5: The provisions and procedure governing the Refund procedures are available in public domain and can also be accessed at <http://www.cbic.gov.in>.

Point No.6 to 8: The postal department follows procedures as per Postal Manual and Postal regulation. Duty is required to be collected against proper receipt/acknowledgement as prescribed.

Point No.9 to 12: Information sought under these points is in nature of clarification and not in the nature covered under Section 2(f) of RTI Act and thus not held.

Point No. 13 to 15: The refund claim against M.No. 7330, M.No. 8405 and M.No. 8084 stand decided vide Order no. 471/2018, 470/2018 and 469/2018 respectively, all dt. 9.01.2019. All three orders stand duly received by applicant on 28.01.2019 against Speed Post Tracking No.EM661122786IN.

Deficiency cum Personal Hearing memo dated 30.11.2018 for M No. 9424 vide F.No. S/22-Gen-87/2018-19 was issued and the same has been delivered to Shri Agrawal on 10.12.2018 against Speed Post Tracking No.EM 661113815IN. No reply to the same has been received till date. Reminder dt. 31.01.2019 also stands issued.

Point No. 16: information sought under these points is not in the nature covered under Section 2(f) of RTI Act and not held.

4. An appeal against this order may be made under section 19(1) of the RTI Act 2005 to the First Appellate Authority (FAA):-

**Name and address of the Appellate Authority:**

Shri. Rajesh Kothari,  
Joint Commissioner of Customs (Import-II)  
New Custom House, Ballard Estate,  
Mumbai-400 001.

Contd - 5 -

**ORDER**

5. The Application is disposed of accordingly.

*[Handwritten Signature]*

(अशोक एम. नाईक) 11/02/2019

012 केन्द्रीय जन सूचना अधिकारी, (सी. पी. आई. ओ.)  
सहायक आयुक्त सीमाशुल्क (आयात-II)

Copy to:-

1. Shri. Pradeep Kumar Agarwal, *order issued by speed post (E-mail)*  
Flat # 207, ACE Atlantis, *V Gawde*  
Khajaguda, Hyderabad - 500 104. *11/02/2019* (EM 149166 799EM)  
*अशोक एम. नाईक*
3. Joint Commissioner of Customs (Import-II)  
New Custom House,  
Ballard Estate, Mumbai - 400 001.

संयुक्त आयुक्त सीमाशुल्क (आयात-II)  
Joint Commr. of Customs (Import-II)  
No. *1A*  
*11 FEB 2019*  
नवीन सीमाशुल्क भवन, मुंबई-01  
New Customs House, Mumbai-01

25/01/2019  
आर. टी. आई. कक्ष (आयात)  
R. T. I. Cell (Import)  
नवीन सीमाशुल्क भवन  
New Custom House  
मुंबई  
Mumbai

Being resub as earlier was never  
delivered and came back

To, CPIO, Import II  
CPIO, office of Dy commissioner Customs, (PAS),  
New Custom House  
Videsh Dak Bhavan, Ballard estate, Mumbai 440001

12<sup>th</sup> December 2018  
18 Jan 2019

Dear sir,

I have the following questions under RTI provisions and relevant fee is also enclosed. I P O no 256 707849 dt 12.12.18

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- 10 Who can Ask the individual importer to present himself at Mumbai office who live from Far off places like Hyderabad, Nagpur etc etc .for such small refund claims as mentioned in some cases as given below in Para above?

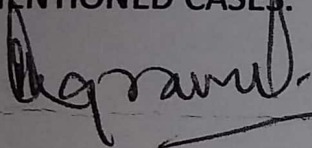
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16. What is the qualification/ learning of relevant Custom Duty Tarrif etc given to a Supdt. of Customs ,of this section (PAS) before he or she is put on the various job/work of PAS section ?

PLEASE REPLY WITH ALL RELEVANT DOCUMENTS/NOTINGS APPROVALS ETC FOR ALL SUCH MENTIONED CASES.



PRADEEP KUMAR AGRAWAL

FLAT # 207 , ACE ATLANTIS, KHAJAGUDA, HYDERABAD 500104

EMAIL [pkcool131@gmail.com](mailto:pkcool131@gmail.com)

Mobile no 09970060853

Total 4 pages of RTI query .