

Instruction No. 07/2018-Customs

F. No. 450/24/2018-Cus.IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes and Customs)

Room 229A, North Block
New Delhi, dated the 5th April, 2018

To

All Principal Chief Commissioner/Chief Commissioner of Customs/Customs (Preventive)
All Principal Commissioner/Commissioner of Customs/ Customs (Preventive)
All Principal Chief Commissioner/Chief Commissioner of GST
All Principal Commissioner/Commissioner of Customs of GST

Madam/Sir,


Subject: Need to issue speaking order-regarding.

Section 17 (5) of the Customs Act provides that '*where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re- assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.*'

2. It has been observed that officers exercising the powers under the above mentioned sub-section are not issuing a speaking order in each and every case particularly where the importer or exporter, as the case may be, does not confirm his acceptance of the re- assessment. It may be appreciated that an importer or an exporter has an inalienable right to know the reasons for loading of value, change of classification, any decision regarding entitlement to an exemption notification etc. Omission to issue speaking orders in matters of re-assessment, may not prejudicially affect the right of the importer or exporter to appeal as such, but nevertheless deprives him of knowing the grounds of such re-assessment. At the same time, any such re-assessment without the support of a speaking order could be perceived as legally questionable. Time and again, courts have frowned upon the instances of non-issuance of speaking orders under the said sub-section.

3. In view of the above, all Chief Commissioners are requested to take stock of the prevailing practice in their zones so as to ensure compliance with the provisions of the Act.

Yours faithfully


(Maninder Kumar)
OSD (Cus. -IV)