

F. No. 467/34/2006-Cus.V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

North Block, New Delhi
Dated the 05th February, 2020

To,

All Principal Chief Commissioners/Chief Commissioners of Customs,
Principal Directors General/Directors General of Customs,
Principal Commissioners/Commissioner of Customs.

Madam/Sir,

Subject: Valuation of second hand machinery -regarding

Representations have been received from the trade regarding Circular No. 25/2015 – Customs dated 15th October, 2015 on valuation of second hand machinery. For this purpose, the circular requires customs to rely upon inspection report either issued at the port of loading by overseas Chartered Engineer or issued upon import by a pre-shipment inspection agency (PSIA) notified by DGFT, or by a chartered engineer empanelled by the Custom House where the DGFT approved PSIA's are not available.

2. It has been represented that the PSIA's empanelled by DGFT are insufficient in number leading to delay in clearances. It has also been informed that PSIA's empanelled by DGFT are not qualified for appraising second hand machinery.

3. In this regard, DGFT vide O.M. No. 01/93/180/51/AM-16/PC II(B)/E-1500/176 dated 3rd September 2019, has clarified that PSIA's are meant only for certifying that consignments of metal scrap are free of radio-active agents and explosives. The PSIA's are not required to be qualified as engineers. Also, ascertaining the age of a second hand machine is an engineering exercise and can be performed only by a qualified engineer. Thus, certifying the age of machines is beyond the jurisdiction of PSIA's.

4. After due consideration of clarification from DGFT and representations made by trade, Board has decided that henceforth for inspection/appraisal of second hand machinery, the following procedure shall be followed:

4.1 Where used second hand machinery is sold for export to India and the sale meets all of the requirements set out in Customs Valuation (Determination of Value of Imported Goods) Rules 2007, the price paid or payable for the goods is to be used as the basis for determining the assessable value.

4.2 However, it is frequently the case that as part of an arrangement, separate from the contract of sale, the second hand machineries are reconditioned, refurbished, modernized, or otherwise improved prior to their importation into India. In such situations, there is a change in the condition of the goods brought about prior to their importation. Similarly, other costs such pre-shipment inspection, dismantling and crating charges may be incurred by the buyer after the sale of the goods. Costs of all such elements need to be determined for the purpose of arriving at the value under section 14 of the Customs Act. Thus, there may be instances where the requirements of Rule 3 of the Valuation Rules are not met, in which case, the value for imposition of duty must be determined under one of the subsequent methods of valuation applied in sequential order.

4.3 In view of the nature of goods, there may be certain difficulties in applying Rule 4 or 5 of the CVR, 2007. These difficulties arise from the fact that the goods being valued are used second hand machinery, and it may be difficult to find data relating to sales of such goods to India, which could be considered identical or similar and meet all the requirements of Rule 4 and 5 of the CVR, 2007.

4.4 Similarly, application of Rule 7 of CVR, 2007 where under goods being appraised are valued on the basis of subsequent sales of identical or similar goods in India, may also not be possible because the goods being appraised are imported for use rather than for resale. The difficulty of finding such sales of goods which could be considered identical or similar to the goods being appraised, may preclude the application of this method.

4.5 Under Rule 8 of the CVR, 2007, goods are valued using the computed value method which is based, among other things on the cost of production of the goods being appraised plus an amount for profit and general expenses. However, since used capital goods are not manufactured as such, viz, as old and used machinery, it is not possible to calculate assessable value based upon the cost of production.

4.6 It follows that in cases where used capital goods cannot be appraised under Rule 3, and where there may be difficulty in applying Rules 4 to 8 of the CVR, 2007, the proper officer may be required to apply the residual method under Rule 9 so as to factor condition, depreciation, refurbishment, charges of disassembly & packing and any expenses incurred by way of pre-shipment inspection agency charges etc.

4.7 Given the nature of challenges in computing the value of second hand machinery under Rule 9, and the need to ensure that the approach applied reflects commercial reality and results in a value which is fair, and is arrived through uniform processes by all Custom Houses, it is felt that it is necessary to obtain inspection/appraisal reports from qualified neutral parties.

4.8 For this purpose, the Board has decided that Inspection/Appraisal Reports issued by Chartered Engineers, or their equivalent, based in the country of sale of the second hand machinery shall be accepted by all Custom Houses. For the purposes of uniformity, the format in which inspection/appraisal reports shall be prepared by the Chartered Engineer is

annexed to this circular. In the event that an importer does not produce an inspection/appraisal report in the prescribed format from the country of sale, he shall be free to engage the services of any Chartered Engineer from those empanelled by the Custom House of the port of import.

4.9 No Custom House shall require any importer to have an inspection/appraisal report of second hand machinery from a particular Chartered Engineer. The importer shall be free to select any chartered engineer, empanelled by the Custom House for the respective class of goods, if so required.

5. All the Custom Houses are also hereby advised to empanel Chartered Engineers as per the requirements provided in this Circular immediately for the purpose of valuation of second hand machinery. The applicants must possess qualification for appraisal/inspection of second hand machinery and certified as such by the Institute of Chartered Engineers.

5.1 It is also clarified that upon the empanelment of Chartered Engineers by the Custom Houses, the practice of accepting certification from PSIAs for valuation of second hand machinery shall be discontinued. Those Customs Houses who already have empanelled Chartered Engineers for the valuation of second hand machinery may continue with those empanelled engineers as per the terms of the empanelment unless requirements dictate otherwise.

5.2 It is also clarified that PSIAs who have the requisite qualifications for being empanelled as a Chartered Engineer for valuation of second hand machinery may make an application to the respective Customs House for consideration of empanelment.

6. To sum up, the following guidelines shall be followed:

- (a) All imports of second hand machinery/used capital goods shall be ordinarily accompanied by an inspection/appraisal report issued by an overseas Chartered Engineer or equivalent, prepared upon examination of the goods at the place of sale.
- (b) The report of the overseas chartered engineer or equivalent should be as per the Form A annexed to this circular.
- (c) In the event of the importer failing to procure an overseas report of inspection/appraisal of the goods, he may have the goods inspected by any one of the Chartered Engineers empanelled locally by the respective Custom Houses.
- (d) In cases where the report is to be prepared by the Chartered Engineers empanelled by Custom Houses, the same shall be in the Form B annexed to this circular.
- (e) The value declared by the importer shall be examined with respect to the report of the Chartered Engineer. Similarly, the declared value shall be examined with respect to the depreciated value of the goods determined in terms of the circular

No. 493/124/86-Cus VI dated 19/11/1987 and dated 4/1/1988. If such comparison does not create any doubt regarding the declared value of the goods, the same may be appraised under rule 3 of the CVR, 2007. If there are significant differences arising from such comparison, Rule 12 of the CVR, 2007 requires that the proper officer shall seek an explanation from the importer justifying the declared value. The proper officer may then evaluate the evidence put forth by the importer and after giving due consideration to factors such as depreciation, refurbishment or reconditioning (if any), and condition of the goods, determine whether the declared transaction value conforms to Rule 3 of CVR, 2007. Otherwise, the proper officer may proceed to determine the value of the goods, sequentially, in terms of rule 4 to 9.

7. Circular No. 25/2015 dated 15th October, 2015 stands superseded with the issue of this circular.
8. Clarification, if any, may be sought from the Board.
9. Hindi version follows.

Yours faithfully,


(Mandeep Singh)

Joint Commissioner (Customs)

Form A

(Refer Para 6 (b) of Circular No.07/2020-Customs dated 05th February 2020)

[On the letter head of the Chartered Engineer/Firm or an equivalent entity in the country of sale]

1. I, _____ (name of chartered engineer) hereby certify that I have carried out an inspection of the used machinery covered under invoice no _____ dated _____ issued by _____ (name of company/firm) as per the details given below.

2. I/We have visually inspected the second hand machinery/capital goods and certify the following:

- a) Country of Inspection _____
Place of Inspection _____
Date of Inspection _____
Duration of inspection (in hours) _____

b) Details of seller:

- (i) Name: _____
(ii) Address: _____
(iii) Telephone No. _____
(iv) E-mail _____
(v) Status: Actual user or dealer

c) Details of Importer:

- (i) Name: _____
(ii) Address: _____
(iii) Importer Exporter Code No. _____

d) Details of the goods

- (i) Name of Manufacturer of the machine _____ (with address/country/tel/website, if available; in case of multiple machines or a plant, details may be provided in a separate sheet)
(ii) Year of the manufacture of machinery:
(iii) Serial no. / ID No. or the manufacturer's plate affixed on the machine: _____ (please also enclose a photograph)
(iv) Description of Machine
(v) Whether original invoice of the machine is available?
(vi) If yes, value _____ currency _____ Date of Invoice _____ (please enclose copy)
(vii) If no, please estimate the original sale price of the machinery.
(viii) Present condition of machinery and expected lifespan:

(In case the goods being inspected are second hand spares of capital goods, it should be certified whether "such spares have at least 80% residual life of original spare") Refer: Para 2.31 of the Foreign Trade Policy 2015-20

(Please attach close up photographs of the machinery: multiple photographs may be taken, if necessary.)

(ix) Has any reconditioning or repairs been carried out immediately preceding this inspection:
YES/No

- (x) If yes, have these been carried out at the expense of the seller or by the purchaser or a third party?
- (xi) Are there invoices to indicate the cost thereof: **YES/NO** (please enclose relevant invoices)
- (xii) If No, then estimated cost thereof _____
- (xiii) Please briefly describe the nature of repairs and/or refurbishment:
- (xiv) Are there any charges incurred / to be incurred by the purchaser, for dismantling, packing and transporting the machinery to the port of export? If yes, pl indicate the charges _____
- (xv) Any catalogues / documentation of the machine are available? If yes, please provide the details and copies.

e) The following means/aids/technical references material have been used for inspecting the goods:

- (i) _____
- (ii) _____
- (iii) _____

3. I/We hereby declare that the particulars and statements made in this certificate are true and correct.

Date _____

Signature _____



Name of the Inspecting Person/Inspector _____

Designation _____

Address (Office) _____

E-mail Address _____

Phone Number _____

Instructions:

1. This certificate shall be presented before Indian Customs by the importer of the second hand machine (s) as a part of the import declaration under Customs Act, 1962, which is a legal declaration.
2. The Chartered Engineer/Chartered Valuer/ Qualified Expert must enclose a copy of the certificate issued by a national body which qualifies him to perform such appraisal/inspection.
3. The photograph of the Chartered Engineer/ Chartered Valuer/ Qualified Expert shall be affixed to this report.

Form B

(Refer Para 6 (d) of Circular No.07/2020-Customs dated 05th February 2020)

[On the letter Head of the Chartered Engineer/firm if inspection report is issued in India]

1. I, _____ (name of chartered engineer) hereby certify that I have carried out an inspection of the used machinery covered under invoice no _____ dated _____ issued by _____ (name of co) as per the details given below.
2. I/We have visually inspected the second hand machinery/capital goods and certify the following:

- a) Place of Inspection _____
Date of Inspection _____
Duration of inspection (in hours) _____
- b) **Details of Importer:**
(i) Name: _____
(ii) Address: _____
(iii) Importer Exporter Code No. _____
- c) **Details of the goods:**
(i) Name of Manufacturer of the machine _____ (with address/country/tel/website, if available; in case of multiple machines or a plant, details may be provided in a separate sheet)
(ii) Year of the manufacture of machinery: _____
(iii) Serial no./ ID No. or the manufacturer's plate affixed on the machine: _____
(please also enclose a photograph)
(iv) Description of Machine _____
(v) Whether original invoice relating to the machine is available?
(vi) If yes, value _____ currency _____ Date of Invoice _____ (please enclose copy)
(vii) If no, please estimate the original sale price of the machinery: _____
(viii) Present condition of machinery and expected lifespan: _____
(In case the goods being inspected are second hand spares of capital goods, it should be certified whether "such spares have at least 80% residual life of original spare") Refer: Para 2.31 of the Foreign Trade Policy 2015-20

(Please attach close up photographs of the machinery; multiple photographs may be taken, if necessary.)

- (ix) Has any reconditioning or repairs been carried out immediately preceding this inspection: YES/No _____
- (x) If yes, have these been carried out at the expense of the seller or by the purchaser or a third party? _____
- (xi) Are there invoices to indicate the cost thereof: YES/NO (please enclose relevant invoices) _____
- (xii) If No, then estimated cost thereof _____
- (xiii) Please briefly describe the nature of repairs and/or refurbishment: _____
- (xiv) Were any charges incurred by the purchaser, for dismantling, packing and transporting the machinery to the port of export? If yes, please indicate the charges _____
- (xv) Is/are any catalogues/documentation of the machine available? If yes, please provide the details and copies. _____

d) The following means/aids/technical reference material have been used for inspecting the goods:

- i. _____
- ii. _____
- iii. _____

3. I/We hereby declare that the particulars and statements made in this certificate are true and correct.

Date _____

Signature _____

Seal of the
Inspecting
Agency

Name of the Inspecting Person/Inspector _____

Designation _____

Address (Office) _____

E-mail Address _____

Phone Number _____

Instructions:

1. This certificate shall be presented before Indian Customs by the importer of the second hand machine (s) as a part of the import declaration under Customs Act, 1962, which is a legal declaration.
2. The Chartered Engineer must enclose a copy of the certificate issued by the institute of Chartered Engineers, which qualifies him to perform such appraisalment/inspection.
3. Please attach copy of Customs House letter authorising you/your firm as an empanelled chartered engineer.