

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

NOTIFICATION

New Delhi, the 5th April, 2021

No. 41/2021-Customs (N.T.)

G.S.R. 249(E).—In exercise of the powers conferred by section 99B read with section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following regulations, namely: -

1. Short title, commencement.— (1) These regulations may be called the Customs (Verification of Identity and Compliance) Regulations, 2021.

(2) They shall come into force with effect from the date to be notified

2. Definitions.— (1) In these regulations, unless the context otherwise requires,-

(a) "Act" means the Customs Act, 1962 (52 of 1962);

(b) "Commissioner of Customs" means.-

(i) In case of an importer or exporter, the Commissioner of Customs who has jurisdiction over the customs station where such person engages in import or export activity;

(ii) In case of a Customs Broker, the Commissioner of Customs who has jurisdiction over such person in accordance with the Customs Brokers Licencing Regulations, 2018;

(c) "principal place of business" means the primary address specified in the Importer Exporter Code issued by Directorate General of Foreign Trade.

(d) "proper officer" means the Deputy Commissioner or Assistant Commissioner sub-ordinate to the Commissioner of Customs

Note: Any reference to the Commissioner of Customs shall also include a reference to the Principal Commissioner of Customs.

(2) The words and expressions used herein and not defined, but defined in the Act, shall have the same meaning respectively assigned to them in the Act.

3. Application.— (1) These regulations shall apply to the following class of persons who are newly engaging in import or export activity after the commencement of these regulations:-

(i) Importer;

(ii) Exporter;

(iii) Customs Broker:

Provided that the Commissioner of Customs may select any person, who may have engaged in import or export activity or availed or claimed the benefits mentioned in sub-clause (a) to (f) of clause (i) of sub-section (3) of section 99B of the Act or engaged as a Customs Broker in such activity or in availing or claiming such benefits prior to the commencement of these regulations and these regulations shall apply to such person.

(2) These regulations shall not apply to the Central Government, State Governments and Public Sector Undertakings.

(3) The person selected shall be informed about such selection immediately through the Common Portal, to the extent available, and in other cases, through such means as deemed appropriate by the Commissioner of Customs.

4. Verification of identity.- (1) The person selected for verification as per regulation 3 shall furnish the following documents or information on the Common Portal within fifteen days of such intimation of selection:-

- (i) document of incorporation, in case of persons other than individuals shall be the following, namely:-
- (a) in case of partnership firm, partnership deed or agreement;
 - (b) in case of Limited Liability Partnership, Certification of Registration issued by Registrar and LLP Agreement;
 - (c) in case of company, Certificate of Registration issued by Registrar and Memorandum of Understanding and Articles of Association;
 - (d) in case of trusts/foundations, Certificate of Registration and Memorandum of Understanding and Articles of Association;
 - (e) in any other case, any document evidencing constitution.
- (ii) document evidencing appointment of authorised signatories, if applicable.
- (iii) Permanent Account Number;
- (iv) GST Identification Number;
- (v) document such as bank statement, Income Tax Return etc. evidencing financial standing of the person:

Provided that a person who is newly engaging in import or export activity after the commencement of these regulations shall furnish the said documents not later than thirty days of engaging in import or export activity.

(2) On furnishing of documents or information stipulated in sub-regulation (1), every individual, karta, managing director, whole time director, partners, member of managing committee of association, board of trustees, authorised representative, authorized signatory, shall, within the prescribed time limit, undergo on the Common Portal-

- (i) authentication of Aadhaar; and
- (ii) verification of Permanent Account Number:

Provided that where the authentication of Aadhaar cannot be completed due to its non-assignment or due to technical reasons, the person to be verified shall furnish a notarised copy of valid passport or electoral photo identity card for verification on Common Portal, within an extended further period of five days from the date of such selection or failure of authentication, as the case may be, or within such extended period, as may be allowed by the Commissioner of Customs.

(3) On submission of documents or information under sub-regulations (1) and (2), as the case may be, the proper officer or an officer authorised by him shall,-

- (i) undertake a physical verification of the address provided in the principal place of business not later than forty five days from the date of submission of the documents;
- (ii) evaluate the financial standing of the person:

Provided that the proper officer may, for reasons to be recorded in writing and with the approval of an officer not below the rank of Joint or Additional Commissioner of Customs, in lieu of the physical verification of the place of business, carry out the verification of such documents as he may deem fit:

Provided further that, where the verification of identity is completed by means other than authentication of Aadhaar, the physical verification shall not be waived.

(4) The verification of identity shall be considered to have succeeded, if the identity is established on the basis of the documents specified under sub-regulations (1) and (2).

(5) The verification of identity shall be considered to have failed when the identity cannot be established on the basis of the documents provided for under sub-regulations (1) and (2) or on the basis of the physical verification conducted under sub-regulation (3).

(6) The outcome of the verification of identity shall be captured in the Customs Automated System and informed to the person verified.

5. Verification of compliance.— (1) Notwithstanding the verification of identity of persons in terms of regulation 4, the Commissioner of Customs, may, with a view to protecting the interest of revenue or preventing smuggling, cause verification of the compliance to the provisions of the Act or any other law for the time being in force, by such person and for this purpose require the person concerned to produce any document or information in the Customs Automated System.

6. Time period for verification of identity and compliance.— (1) The proper officer, shall undertake verification in accordance with regulations 4 and 5, and prepare a verification report on the Customs Automated Systems within thirty days of the submission of the documents and information:

Provided that the verification report may be prepared within sixty days of the submission of the documents and information, in case physical verification is required to be undertaken:

Provided further that, the Commissioner of Customs may, having regard to the circumstances under which the proper officer could not prepare the verification report, extend the periods specified above by a further period of fifteen days.

(2) The Commissioner of Customs shall on the basis of the report of verification submitted by the proper officer, and other evidence as deemed necessary, determine the outcome of the verification within fifteen days and cause its entry on the Customs Automated System.

(3) The outcome of the verification shall be informed to the person concerned on the Common Portal within a period of seven days from the date of determination.

7. Suspension of benefits.— The Commissioner of Customs may, based on reasons to be recorded on the Customs Automated System, order suspension of any or all of the benefits mentioned in clause (i) of sub-section (3) of section 99B of the Act and inform such decision to such person in case he-

- (i) failed to comply with the requirements of the regulation 4; or
- (ii) submitted incorrect documents or information under regulation 4.

(2) Where the benefits are suspended under sub-regulation (1), the Commissioner of Customs, shall within a period of fifteen days from the date of such suspension, give an opportunity of being heard to such person whose benefits are suspended and may pass such order as he deems fit, either revoking the suspension or continuing it, as the case may be, within a period of fifteen days from the date of hearing granted to such person.

8. Restoration of benefits.— The benefits suspended under regulation 7 shall be restored when the person concerned complies with the requirements of regulation 4 or furnishes correct document or information sought thereunder.

9. Denial of benefits. - In case of failure of authentication as required under the sub-section (1) of section 99B, the Commissioner of Customs may, by order, under clause (ii) of sub-section 3 of section 99B of the Act, direct that such person shall not have the benefit of any of the items specified in sub-clause (a) to (f) of clause (i) of sub-section (3) of section 99B of the Act.

Provided that no such order shall be issued without providing an opportunity of being heard to such person by following the procedure prescribed under section 122A of the Act.

10. Appeal.- (1) A person who is aggrieved by any order passed by the Commissioner of Customs under regulations 7 or 9, may prefer an appeal under section 129A of the Act to the Customs, Central Excise and Service Tax Appellate Tribunal, established under sub-section (1) of section 12 of the said Act.

11. Penalty.- (1) The Commissioner of Customs may impose a penalty not exceeding fifty thousand rupees on a person who contravenes any provision of these regulations or who fails to comply with any provision of these regulations.

[F. No. 450/104/2019-Cus IV]

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