



प्रधानमुख्य आयुक्त सीमा शुल्क का कार्यालय,
OFFICE OF THE PR. CHIEF COMMISSIONER OF CUSTOMS,
 मुंबई जोन -I, दूसरी मंजिल, नवीन सीमा शुल्क भवन, बेलार्ड इस्टेट,
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F.NO. CCCO/TECH/376/2023-Tech

10-05-2024

**MINUTES OF THE EIGHTH MEETING OF NATIONAL ASSESSMENT`
 CENTRE - 'AUTOMOBILE AND INSTRUMENTS & MISCELLANEOUS
 PRODUCTS' HELD ON 23.04.2024 AT 11.30 AM**

The eighth monthly review meeting of the re-organized NAC-'Automobile and Instruments & Miscellaneous Products' was conducted via online mode under the Chairmanship of Shri Pramod Kumar Agrawal, Principal Chief Commissioner of Customs, Mumbai Zone-I, being Convenor of NAC (Automobile and Instruments & Miscellaneous Products), with the Nodal Pr. Commissioners/Commissioners of Customs on 23.04.2024 at 11.30 AM.

2. The following members of NAC - 'Automobile and Instruments & Miscellaneous Products' and officers have attended the meeting:

Sr. No.	Name of the Nodal Officers of NAC (Shri/Ms.)	Designation & Zone
1.	Ataur Rehman	Commissioner, Kolkata Customs
2.	Vashishtha Chaudhary	Commissioner, Delhi Customs
3.	Sonal Bajaj	Commissioner, Mumbai Customs Zone-II
4.	Dhirendra Lal	Commissioner, Ahmedabad Customs
5.	K. S. V. V. Prasad	Commissioner, Chennai Customs
6.	Vivek Pandey	Commissioner, Mumbai Customs Zone-I
7.	G. Shiril Saroj	Commissioner, Mumbai Customs Zone-III
8.	Hemlata Rai	Additional Commissioner, PCCO, Mumbai Customs Zone-I
9.	Vamshi Krishna	Additional Commissioner, Bengaluru Customs
10.	Mallinath Jeure	Additional Commissioner, Mumbai Customs Zone-I
11.	P.Senthil Kumar,	Additional Commissioner of Customs Cochin
12.	Vivekananda Reddy	Joint Commissioner, Hyderabad
13.	Ajit U. Nair	Assistant Commissioner, PCCO, Mumbai Customs Zone-I

3. At the outset, Shri Pramod Kumar Agrawal, Convenor and Pr. Chief Commissioner of Customs, Mumbai Zone-I welcomed all the Members of the NAC 'Automobile and Instruments & Miscellaneous Products' present in the web meeting. The Chair then commenced the meeting by examining the Action Taken Report of the last NAC meeting:

3.1 Ms. Hemlata Rai, Additional Commissioner, PCCO informed that the report from the Working Group (Valuation and Related issues) regarding 25 risk prone commodities and valuation trend of top 50 commodities as per the minutes of the Member (Customs) Review Meeting held on 23.11.2023 is still awaited. She requested the Working Groups to create a dedicated email id so that the reports can be shared with the Working Groups directly.

3.2 Ms. Hemlata Rai, Additional Commissioner, PCCO further informed that the audit objections have been received from Audit Commissionerates of Mumbai Zone-I, Delhi and Groups 5B and 6 of Mumbai Zone-II. Shri Sonal Bajaj, Commissioner, Mumbai Zone-II informed that the message has been conveyed to the Audit Commissionerate and in the meantime, they have compiled a list based on the Show Cause Notices received by them.

The Chair directed to write to all the four Audit Commissionerates again for forwarding the audit objections pertaining to Chapters 86 to 98.

3.3 Ms. Hemlata Rai, Additional Commissioner informed that Shri G. Shiril Saroj, Commissioner has submitted the report w.r.t. the Bills of Entry which were directed/pushed to PAG pertaining to weapons (Chapter 93).

3.4 Upholstered composites/fabric used for non-domestic furniture: The Chair informed that the clarification regarding applicability of BIS on upholstered composites/fabric has been received from the Ministry of Textiles. The Chair informed that the Ministry of Textiles vide letter dt. 05.04.2024, citing letters from Chennai-II and Import-I, Mumbai Commissionerates conveyed that BIS standard 15768:2008 covered under Protective Textiles (Quality Control) Order, 2023 is applicable to upholstered composites/fabric traded as raw material as well as on the upholstered fabric used in furniture meant for non-domestic purpose. Considering the clarification from Ministry of Textiles, the Chair, concluded that the BIS Standard 15768:2008 is applicable to upholstered composites/fabric traded as raw material as well as on the upholstered fabric used in furniture meant for non-domestic purposes.

3.5 Foil Balloons / Decorative Balloons : The Chair informed that in the last NAC meeting, the matter regarding the classification of 'Foil Balloons /Decorative Balloons' was referred back to the Working Group to revisit the issue as the matter has already been referred to the Board. Further, there are varying classifications adopted by different field formations, DRI and contradictory judgements of various legal fora w.r.t. classification of foil balloons / decorative balloons.

3.5.1 On being asked about the status of review of order passed by CESTAT, Chennai, K. S. V. V. Prasad Commissioner, Chennai Customs, informed that in the case of M/s Bubbly Balloons, Coimbatore, the Chennai Commissionerate is in the process of filing an appeal in the Hon'ble High Court. He informed that the contention is regarding non-applicability of BIS as CESTAT has accepted classification under CTH 9503. Thereafter, a Power Point presentation in this matter was given by Chennai Customs and the following points were covered:

- i. The Explanatory notes to heading 9503 had provided for toy balloons, without making any distinction on the material used for production. Hence all types of Balloons would be appropriately classified under CTH 9503. The CTH as well as HSN explanatory notes to Heading 9505 covers festive, carnival and other entertainment articles including conjuring tricks and novelty jokes.
- ii. There are a variety of Foil Balloons/latex balloons available in the market and used for dual purpose not only for decoration purposes but also sold as toys. Foil balloons, in different shapes are sold in public places like beaches and parks with the intention to be used as toys. Therefore, the Commissionerate is of the view that the balloons immaterial of its make/usage are required to be classified under CTH 9503 as toy balloons only and once considered as toys, the provisions of Toys (Quality Control Order), 2020 would be applicable.
- iii. Analytics Report 46/2021-22 dated 29.10.2021 of the National Customs Targeting Centre, Mumbai also confirms that the balloons made of latex/ rubber/foil or plastic also commonly known as party or decoration balloons are to be classified under Heading 9503.
- iv. In the case of M/s Bharat Ballons Vs. Commissioner of Customs, Chennai-II, the Hon'ble Customs Authority of Advance Rulings, Mumbai in their ruling No. CAAR/MUM/ARC/61/2023 dated 05.09.2023, ordered that 'Foil Balloons' made of Nylon/HDPE not of Latex/Rubber and imported for the purpose of party decoration or entertainment, merit classification under 9505. However, Chennai Commissionerate has filed an appeal in the Hon'ble High Court of Madras against the order with a prayer to classify the goods 'Foil Balloons' under 9503 and the case has been admitted in the Hon'ble High Court of Madras vide Appeal Number CMA No.3004/2023 (CMP No.28450/2023).
- v. In the case of M/s Bubbly Ballons, order no. 40218/2024 dated 01.03.2024, Hon'ble CESTAT held that goods 'Latex Balloon' though classified under 9503, which were intended for ornamental purpose or decoration purposes, are not included in the scope of Toy (Quality Control) Order 2020. The Chennai Commissionerate has decided to file an appeal in the Hon'ble High Court of Madras against the order. Chennai Commissionerate is of view that balloons, even when used for decoration, are accessible to children under 14 years of age. The usage of items does not take away the legal requirement of the mandatory Toys (Quality) Control order. The classification is decided based on the items imported as such and not based on the end usage

of the items.

- vi. That in the case of Commissioner of Customs Port Vs. Ess Enn Impex and Others, 2022(11)TMI 299 Calcutta, the Hon'ble High Court after receiving clarification from DPIIT vide their letter dated 24.02.2022 had held that the holiday decorations that are primarily intended for ornamental purpose or Christmas decoration are not included in the scope of TQC Order.

3.5.2 On being asked, Shri Ataur Rehman, Commissioner, Kolkata Zone, informed that the classification of the goods was determined based on their end use. He added that the key issue is to first establish whether the item qualifies as a toy; if so, BIS standards would apply. Otherwise, the goods should be classified under CTH 9505. The classification should be made depending on the intended use of the goods.

3.5.3 On being asked by Chair, Shri Vashishtha Chaudhary, Commissioner, Delhi Customs, informed that in the adjudication order passed in respect of 'latex balloons', the goods have been classified under CTH 9503.

3.5.3.1 He further invited the attention of the Chair to Notification 02/2021-Cus dated 01.02.2021 seeking to amend notification No. 50/2017-Customs dated 30th June, 2017 so as to prescribe effective rate of Basic Customs Duty (BCD) and IGST for goods imported into India. The relevant para is quoted as under:

"(29) against S. No. 284, in column (3), after item (iii), the following explanation shall be inserted, namely:

"Explanation. - For the removal of doubts, this entry does not include toy balloons made of natural rubber latex (toy balloons are classified under Customs tariff heading 9503).";

Entry 284 of Notification No. 50/2017-Customs dated 30th June, 2017 is as follows:

S.No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Integrated Goods and Services Tax	Condition No.
284	40169590, 40169990	All goods, other than- (i) Natural rubber latex made balloons; (ii) Microphone Rubber Case for cellular mobile phones; or (iii) Sensor Rubber	10%	-	-

	<p>Case / Sealing Gasket including sealing gaskets / cases from Rubbers like SBR, EPDM, CR, CS, Silicone and all other individual rubbers or combination / combination of rubbers for cellular mobile phones.</p> <p>[Explanation. - For the removal of doubts, this entry does not include toy balloons made of natural rubber latex (toy balloons are classified under Customs tariff heading 9503)]</p>			
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Shri Vashishtha Chaudhary, Commissioner, Delhi Customs informed that from the exclusion clause, it is clear that toy balloons should be classified under CTH 9503.

3.5.4 A few samples of balloons viz. made up of latex of different shapes, sizes were brought for reference purpose. The Chair found that most of the balloons had the description as party balloons or similar. Most of the balloons had the general instruction to keep them away from children for fear of choking/suffocation.

3.5.5 The Chair summarized as:

- i. In the earlier FAG -6, it was unanimously agreed by all the members of NAC (FAG-6) that 'toy balloons' should be correctly classified under CTH 9503.
- ii. A reference was received from Mumbai Zone-II wherein the issue of classification of decorative/festival balloons made of natural latex rubber and decorative foil balloons was sought. Mumbai Zone-II summarized that as an established rule where a product has to be classified which is capable of different treatment for any purpose based on its description, the most specific description shall be preferred over a more general description. Latex or foil balloons essentially in the nature of toys to fall under CTH 9503, and latex or foil balloons essentially be in the nature of decorations to fall under CTH 9505.
- iii. CAAR, New Delhi vide its Advance Ruling Nos. CAAR/Del/Jai Shree/25/2023 dated 17.11.2023 held that the balloons imported for the purpose of being used for filling water and used during Holi celebrations, merit classification under the heading 9503.

- iv. As per the para 11 of the Analytics Report No. 46/2021-22, balloons made of plastic are classifiable under CTI 95030030, and other types of balloons such as latex/rubber balloons, foil balloons, decorative balloons, toy balloons are classifiable under CTI 9503 00 90. Further in para 16 of the said report, it has been stated that as per judgment of the Hon'ble Supreme Court of India in the case of W.P.I.L. Ltd., Ghaziabad vs Commissioner of Central Excise, 22/02/2005, it has been held that balloons other than those used for aeronautics, metrology or medical purposes would merit classification under CTH 9503 and not under CTH 4016 or under any other CTHs.
- v. In the Toys (Quality Control Order), 2020, the application states that the order shall apply to Toys(Product) or Product material designed or clearly intended, whether or not exclusively for use in play by children under 14 years of age or any other product as notified by the Central Government from time to time.

3.5.6 Shri Ataur Rehman, Commissioner, Kolkata Customs added that as per IS 9873 (Part I): 2012, Para 1 (Scope), Clause (k) is exclusion clause for products which are '*holiday decorations that are primarily intended for ornamental purposes*'. And hence, if these foil/latex balloons are for ornamental purposes, they are out of the scope of toys for the purpose of BIS and cannot be classified in 9503 but would be classifiable in 9505. And if these are classified in 9503 as toys, BIS would be consequentially applicable.

3.5.7 Ms. Hemlata Rai informed that as per IS 9873 Safety of Toys (Part II): 2012, Para 1 - beards, moustaches, wigs, masks and other products worn on the head with pile, hair or other attached material are included in its scope. However, as per HSN explanatory notes to 9505, viz. Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes, the items like fancy dress and articles of fancy dress, e.g., masks, false ears and noses, wigs, false beards and moustaches etc. are covered under 9505. Therefore, for Customs purposes, these may get classified under CTH 9505 but as per IS 9873 (Part II): 2012, these items are included in its scope. Thus, classification for the purpose of Customs & inclusion in scope of BIS does not appear to be directly correlated.

3.5.8 The Chair in view of the comments and analysis made during discussion, put forth the following observations:

- i. As per description of CTH 9503 read with Explanatory Notes of CTH 9503, it is evident that toy balloons are classifiable under the CTH 9503, more particularly under CTH 9503 0090, if made of rubber latex or any other material.
- ii. Further, from the description of CTH 4016 and CTH 9505 as provided in Customs Tariff Act, 1975 read with Explanatory Notes of 4016 & 9505, it is noted that, there is no mention of toy Balloons in the said CTHs and the Explanatory Notes of CTH 4016 specifically excludes "Toys, games and sports requisites and thereof of Chapter 95".
- iii. An explanation was inserted in Serial No. 284 of Notification No. 50/2017-Customs dt. 30.06.2017, vide Notification No. 02/2021-

Customs dated 01.02.2021 clarifying that the Sr. No. 284 corresponding to CTH 4016, does not include toy balloons made of natural rubber latex and toy balloons are classified under Customs tariff heading 9503.

- iv. Also, JS TRU, in the letter F.No. 334/02/2020-TRU dated 01.02.2021 while circulating the changes proposed in Finance Bill, 2021 explicitly mentioned

"(1) An explanation is being added to S. No. 284 of notification No. 50/2017-Customs so as to explicitly clarify that the said exemption entry does not include 'toy balloons made of natural rubber latex'. Toy balloons are classified under Customs Tariff heading 9503 and attract a basic customs duty of 60%."

Summarizing it from the Analytics Report No. 46/2021-22, the exclusion clause (k), Para 1, of IS 9873 (Part 1): 2012, respective HSN explanatory notes, distinction made for 'toy balloon' in explanation to Entry 284 of Notification No. 50/2017- Cus. dt. 30.06.2017, general and large scale potential use of these balloons as 'toys' and with the consensus of all the nodal Pr. Commissioners/Commissioners, it was concluded that for uniformity of assessment across the country, Balloons including decorative balloons, other than those used for aeronautics, meteorology or medical purposes, would merit classification under CTH 9503 and not under CTH 4016 or under any other CTHs. The importer is required to establish that the goods fall under the exclusion clause 'k' as mentioned above, for BIS exemption. Further in respect of compliance requirement NCTC Analytics Report No. 46/2021-22 dt. 29.10.2021 may please be referred.

4.0 Ms. Hemlata Rai, Additional Commissioner of Customs, Mumbai Zone-I, then presented a power point presentation regarding the queries raised by various FAGs and dwell time of the FAGs under the NAC. The chair noted that:

4.1 Query Raised

- i. Group 5B: The Chair observed that the overall percentage of 1st query and 2nd query has reduced compared to last month. For ports viz Mumbai Sea and Baroda is showing an increase in first query as compared to last month. Shri Vivek Pandey, Commissioner informed that the same is due to increase in number of re-import bills of entry.
- ii. Group 5F: The Chair observed that though there is an increase in the overall percentage of 1st query, the first query percentage w.r.t. Bengaluru Customs has come down from 22% to 0%.
- iii. Group 5S: The Chair observed that for Mumbai Sea the percentage of first query has increased from 13% to 20%. The DC/Group 5B informed that the goods are generally declared only as 'vessels' and no details regarding bunker, provisions etc. are given. The bill of entry for bunker and other provisions are generally filed at other ports manually and it is not visible in the bill of entry and therefore query is required to be given.

- iv. Group 5I: The Chair observed that though the overall percentage of 1st query has reduced compared to last month, the query percentage has gone higher in case of Bengaluru ACC from 14% to 22% and Mumbai ACC from 12% to 17%. The Chair directed the concerned commissionerates to look into it.
- v. Group 6: The Chair observed that the 1st query raised by Bengaluru Customs has come down from 36% to 20% but there were third queries raised by Delhi ACC, Chennai Sea and Kolkata Sea. The Chair again reiterated that instructions that the no. of third queries raised in the NAC should be zero.

4.2 : Assessment time:

- i. Group 5B: The number of bills assessed in less than 8 hours has reduced in Mumbai Sea and Baroda. DC/VB, Import 1, Mumbai informed that the documents were received late from RMS and there were many re-import bills of entry of vehicles which increased the dwell time. Further, w.r.t. the number of Bills of Entry assessed in more than 72 hours increased to 34% in case of Gari Hasaru ICD. Vashishtha Chaudhary, Commissioner, Delhi Customs informed that he will take necessary action.
- ii. Group 5F: The Chair observed that the number of bills of entry assessed in less than 8 hours have decreased and the number of bills of entry assessed in more than 72 hours has increased. Also, the number of bills of entry assessed in more than 72 hours has increased in case of JNCH. The Chair directed the concerned commissionerates to monitor the same.
- iii. Group 5S: The Chair observed that the overall percentage of bills of entry assessed in less than 8 hours and in more than 72 hours have improved as compared to the last month.
- iv. Group 5I: The Chair observed that though the overall percentage of bills of entry assessed has improved, the number of bills of entry assessed by Bengaluru ACC and Hyderabad ACC have gone down. W.r.t. Hyderabad ACC, only 02 bills of Entry were assessed and that too in more than 72 hours. The Chair directed Shri Vivekananda Reddy, Joint Commissioner to look into the matter.
- v. Group 6: The Chair observed that the no. of bills of entry assessed in less than 72 hours have increased in Mumbai ACC and Cochin Sea. The Chair directed that the assessment time should not go beyond more than 48 hours. Shri P. Senthil Kumar, Additonal Commisioner of Customs, Cochin informed that they had taken stock and found that 17 bills of entry out of the 29 bills of entry assessed in more than 72 hours, the importer took long time to respond to query raised. The Chair directed ADC/CCO to forward letter to all the Pr. Chief/Commissioner falling under jurisdiction of NAC 6 to monitor query reply time by Importer/CHA and discuss the same in the CCFC and other trade meetings conducted by concerned zone.

4.3 It has been decided that the PowerPoint presentation w.r.t. query data

and dwell time would be shared one week in advance with the members of NAC to facilitate effective responses.

As there were no further points for discussion, the meeting ended with a vote of thanks.

This issues with the approval of Convener of NAC (Automobile and Instruments & Miscellaneous Products) and Pr. Chief Commissioner of Customs, Mumbai Zone-I.

HEMLATA RAI
ADDITIONAL COMMISSIONER
ADC/JC-O/o PR. CHIEF COMMISSIONER-
CUSTOMS-ZONE-I-MUMBAI

Copy to:

- 1.The Under Secretary, Customs IV, CBIC, New Delhi.
- 2.All Nodal Pr. Commissioners/Commissioners of NAC (Automobile and Instruments & Miscellaneous Products).
- 3.EDI, NCH, for uploading the minutes on the website of Mumbai Customs Zone-I.

Signed by Hemlata Ashok
Kumar Rai
Date: 13-05-2024 11:07:25