G0VERNMENT OF PAKISTAN
(REVENUE DIVISION)
CENTRAL BOARD OF REVENUE

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C.NO.29(16)L&P/98 Islamabad, the 22nd April, 1999.

CUSTOMS GENERAL ORDER NO. 10/1999

Subject :- S.R.O1374(I)/98 – PROBLEMS REGARDING IMPORT OF BANDED & RESTRICTED GOODS – CLARIFICATION THEREOF -

The Central Board of Revenue is issued notification No. 1374(I0/98 dated 17-12-1998 under section 181 of the Customs Act, 1969 to ensure uniformity and transparency in the adjudication of offenses under Customs Act, 1969 or any other Act relating to Import and Export of goods. According to the Notification redemption fines were prescribed for various categories of goods and offenses. While implementing the provisions of the aforesaid SRO certain problems/difficulties were experienced by the Collectorates as well as the importers. These issues have been examined by the Board and in order to address these problems, the following instructions/guidelines shall be followed.

(a) PROBLEMS BEING FACED BY IMPORTERS OF SECOND HAND CLOTHING

Second hand clothing are imported in sales. However, these may contain certain percentage of industrial wastage or dress makers/tailors snippings or pieces of fabrics of different sizes, length, width, colour and texture and real leather coats & fur coats. The following difficulties are being encountered on this account:-

(i) During the random 5% examination if goods are not found according to the declaration in order to ascertain the extent of offending goods, goods are required to be examined in full. However, 100% bales can not be opened at port because it renders the goods unmarketable.

(ii) As a result of confiscation of offending goods it is difficult to sort out the offending goods from non-offending goods, even storage thereof poses various problems. Being second hand in nature when these are put to auction they don’t fetch any value.

(iii) The quantity of pieces of fabric, toys, leather jackets and for coats usually constitutes a very percentage of the whole consignments.

(iv) Because of time consumed in the adjudication proceedings, heavy demmurage accrues on account of very small portion of offending goods.

2. In order to resolve the above cited problems it is ordered that :-

(i) In case of second hand clothing where 95% of the consignment is undisputedly classifiable as second hand clothing under PCT heading 6309 the whole consignment shall be treated as second hand clothing under PCT 6309. No action

(ii) for violation of section 16 and 32 of the Customs Act, 1969 will be initiated in case the offending goods are upto 5% of the total consignment by weight.

(iii) Where the pieces of fabrics of different sizes and colours if found upto 10% of the weight of the consignment and having sizes of less than 2 meters in length the same shall be assessed as "Rags" to be classified under PCT heading 6310 without initiating action under section 32 of the Customs Act, 1969.

(iv) In case where consignment consists (more than 5% by weight) of fabrics more than 2.0 metre of length, or in the shape of "than" and other items which are on the negative list of the import policy, then proceedings for ITC contravention read with section 16 and 32 of the Customs Act, 1969 shall be initiated.

b. **QESTION OF TAKING COGNIZANCE OF MISDECLARATION OF DESCRIPTION, VALUE AND PCT HEADINGS.**

For invoking provisions of misdeclaration under section 32 of the Customs Act, 1969 prima-facie, an element of "mensrea" should be present i.e. there should be attempt of will full and deliberate false declaration. The importers may not be charged for misdeclaration. The importers may not be charged for misdeclaration under Section 32 of the Customs Act, 1969, in the following situations:-

(i) Where an importer makes a correct declaration on bill of entry or opts for 1st appraisement for determination of correct description, PCT heading or quantity of goods.

(ii) When a consignment is found to contain goods of description other than one declared falling under separate PCT heading but chargeable to same rate of duty.

(iii) Where the description of goods is as per declaration but incorrect PCT heading has been mentioned in the bill of entry, no misdeclaration case under Section 32 of the Customs Act, 1969, be made out provided there is no change in the rate of custom duty as a result of ascertained PCT heading.

(iv) Action or misdeclaration of value will be initiated only in cases where the customs is in possession of valid direct evidence of physical import of similar/identical goods and the difference between the evidence and declared value is more than thirty percent. In cases where value is enhanced on other accounts (like market enquiry, price list, ITP, or value determined in view of physical condition of old/used vehicles/machinery etc), no penal action will be initiated regardless of the extent of difference between the declared and the assessed value.

(MUHAMMAD NASIR KHAN)
SECRETARY (LAW & PROCEDURE)