PUBLIC NOTICE NO. 37/2020

DIN- 20200874NE00004T1318

Subject: 2\textsuperscript{nd} phase of All India roll-out of Faceless Assessment - reg.

Attention of the importers, Custom Brokers, members of the trade and all other stakeholders is invited to Board's Circular No. 34/2020 dated 30.07.2020 and ICES Advisory No. 25/2020 dated 31.07.2020. Attention is also invited to the PN No. 01/2020 dated 31.07.2020 issued by the Chief Commissioner of Customs (Delhi Zone) on the captioned subject.

2. Reference is also invited to CBIC's Circular No. 28/2020-Customs and Instruction No. 09/2020, both dated 05.06.2020 on the 1\textsuperscript{st} phase of All India roll-out of Faceless Assessment under the umbrella of the Turant Customs programme. The 1\textsuperscript{st} phase had begun from 08.06.2020 at Bengaluru and Chennai Customs Zones for import of goods primarily covered by Chapters 84 and 85 of the Customs Tariff Act, 1975. The 1\textsuperscript{st} phase marked the beginning of the pan India roll out of Faceless Assessment, in different phases covering other ports and import of goods, leading upto this mode of Customs assessment becoming the norm across the country from 01.01.2021.

3. Now, Board has decided to begin the 2\textsuperscript{nd} phase of All India roll-out of Faceless Assessment w.e.f. 03.08.2020 by including Delhi and Mumbai Customs Zones and extending the scope of Faceless Assessment at Chennai and Bangalore Customs Zones. Thus, the 2\textsuperscript{nd} phase of Faceless Assessment will cover the following specified Customs Zones including Delhi Customs Zone and the imports primarily under the specified Chapters of the Customs Tariff Act, 1975:-
4. This public notice broadly indicates the workflow in respect of the Bills of Entry marked for faceless assessment by the System.

4.1 Formations covered under Phase II:

Imports of goods falling under Chapter 50 to 71 of Appraising Group 3, Chapter 84 of Appraising Group 5, Chapter 85 of Appraising Group 5A and Chapter 86 to 92 of Appraising Group 5B at ICD- Import Tughlakabad, New Delhi will get assigned by the System for Faceless Assessment to any of the designated officers.

4.2 Faceless Assessment Group (FAG):

A suitable complement of officers posted at ICD- Import, Tughlakabad, New Delhi has been appointed as designated officers for the purpose of Faceless Assessment.

4.3 Port Assessment Group (PAG):

Appraising Groups 3, 5, 5A and 5B will work as Port Assessment Groups (PAGs) for this Commissionerate for Chapter 50 to 71, Chapter 84, Chapter 85 and Chapter 86 to 92 respectively. The PAGs would handle all other functions pertaining to the Bills of Entry which are not marked to the FAG by the Customs Automated System as well as the Bills of Entry that are referred by the FAG to the port of import for any reason. It is clarified that the port of import is the Customs station of import of the goods where the
importer has entered any Bill of Entry under Section 46 or Section 68 of Customs Act, 1962 for home consumption or warehousing.

4.4 Different facets of ICES are detailed below:

a) **Site and Role allocation:** For FAG, new roles have been created in ICES – VAO (for the appraiser of the FAG) and VDC (for the AC/DC of the FAG). Officers from the select sites have been nominated by order for the FAG. As stated above, a suitable complement of officers has already been appointed as designated officers for FAG.

b) **Functionalities in VAO and VDC Roles:** The functionalities are similar to the existing APR and ACL roles. Query can be raised by faceless group and the same can be replied online through ICEGATE and amendments too can be filed online. Amendments filed before the assessment will also come to the FAG officers for approval. Facility of e-Sanchit can be used for submission of all the relevant supporting documents. Functionalities other than assessment like Section 48 approval, Single Window Recall, Leveraging Technology for Serving Taxpayers Bond Management, OOC Cancellation etc. will continue to be with the port of Import only and will not be available in these new roles. These would be handled by PAG.

c) **Administrator Role:** Additionally, a role VDN has been created which can be allotted to the JC/ADC in-charge of FAG. The option to push a Bill of Entry from FAG to Port of Import in exceptional circumstances as given in the Board's Instructions No. 09/2020 dated 05.06.2020 is also available with the VDN role. The option to recall a Bill of Entry from FAG to the Port of Import is available in the ADN role at the Port of Import. Both, the recall as well as push functionalities should be used only in exceptional scenarios and with due approval of the respective JC/ADC or Principal Commissioner / Commissioner as detailed in para 7.2 and 7.3 of this Public Notice. Further, the facility to reallocate BEs from one officer to another officer is available in the VDN role.

d) **Examination:** As elaborated in the said Instructions, the faceless Bills of Entry after first check examination will come back to the FAG only for completion of assessment. However, any recall or reassessment after Second Check assessment will be done only at the port of import. In other words, First Check Bills of Entry of FAG may be marked back only to VAO/VDC after examination with detailed examination report to effectively assist the FAG in assessment. Similarly, if any Bill of Entry is to be sent back to the assessing Group after second check examination, the same may be marked only to the assessing group at the Port of Import, i.e. APR as provided in the said instructions.

e) **Monitoring:** Pendency reports and dashboards have been made available in the COM role for the Principal Commissioner / Commissioner to monitor pendency and processing of Bills of Entry assigned by the System to the FAG under their jurisdiction. A virtual dashboard is also provided where status of Bills of Entry pertaining to their jurisdiction but assigned to FAG at any port can be seen. Status reports are available in VDN and VDC roles also for the FAG officers to take action accordingly.
5. Responsibilities of the Port of Import (ICD Import, Tughlakabad), Delhi:

5.1 ICD- Import Tughlakabad, Delhi would continue to have the PAGs to cater to all other functions pertaining to the Bills of Entry which are not marked to the FAG by the Customs Automated System, including the cases referred by the FAG to the Customs station of import for any reason. In addition, the port of import i.e. ICD- Import Tughlakabad, Delhi would continue to be responsible for handling the examination/ inspection of goods and all other functions other than assessment. The request for waiver of fee for late filing of bill of entry, request in relation to Section 49 of the Customs Act, 1962, request for permission under Section 48 of the Customs Act, 1962 shall also be done by the designated proper officers of PAG of the port of import.

6. Turant Suvidha Kendra (TSK):

Two TSKs have already been set up in ICD Import, Tughlakabad, New Delhi vide PN No. 36/2020 dated 10.07.2020 with effect from 15.07.2020. The details of the TSKs are as under:

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<tr>
<th>S. No.</th>
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<tbody>
<tr>
<td>1.</td>
<td>Turant Suvidha Kendra-1 (TSK-1), Room No. 23, Ground Floor, ICD Tughlakabad, New Delhi</td>
</tr>
<tr>
<td>2.</td>
<td>Turant Suvidha Kendra-2 (TSK-2), Import Shed, ICD Tughlakabad, New Delhi</td>
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6.1 TSK is a dedicated cell manned by Customs officers to cater to the following functions:

a) Accept Bond or Bank Guarantee (BG) in respect of import of goods including import related to Export promotion schemes;

b) Carry out any other verification that may be referred by Assessment Groups;

c) Defacing of documents/ permits licenses, wherever required;

d) Debit of documents/ permits/ licenses, wherever required; and

e) Other functions determined by Commissioner to facilitate trade.

6.2 All types of bonds will be accepted by TSK such as:

a) Provisional Assessment Bond;

b) Warehousing Bond;

c) End User Bond;

d) No use bond;

e) Letter of Undertakings;

f) SVB Bond;

g) Re-export/ Re-import Bond;

h) Test Bond;
7. **Procedure for Verification of Assessment of Bill of Entry by FAGs:**

7.1. Procedure to be adopted in normal course:

7.1.1 The importer shall present Bill of Entry on the Customs Automated System (i.e., ICEGATE portal or ICEGATE) electronically, as per Section 46 or Section 68 of the Customs Act, 1962 and upload supporting documents such as Invoice, Packing List, Bill of Lading, as usual in all the cases, and License/Authorization/permission, BIS or other registrations, Scrips, Equipment Type Approval, Certificate of Origin, Certificate for claiming duty exemption etc., if required for the consignment, on e-Sanchit. As at present, the selection of a bill of entry for verification of self assessment shall primarily be on the basis of risk evaluation through appropriate selection criteria.

7.1.2. In cases, where the importer has prior knowledge that there is a requirement of execution of Bond or Bank guarantee for the assessment of the said Bill of Entry, such as in the case of a Warehouse Bill of Entry or where the importer has sought provisional assessment or where a claim to any concessional rate of duty or exemption under duty remission / exemption schemes, is subject to filing of Bond / Bank Guarantee, they are encouraged to opt for Continuity Bond option, to avoid fresh registration of Bonds every time during filing of bill of entry.

7.1.3. The Bill of Entry would be assigned to an officer of the concerned FAG for verification of assessment purposes by the Customs Automated System.

7.1.4. For verification of assessment of the Bill of Entry, the FAG may decide to:

   a) return the Bill of Entry to the importer for payment of duty after verification on the basis of the declaration made and documents available in e-Sanchit; or

   b) seek additional information or documents for proceeding with the verification; and / or

   c) get examination and / or testing of goods carried out, for the determination of duty liability and / or for ensuring the compliance of restriction and prohibition.

7.1.5. Where the FAG is of the opinion that additional information or documents are required for proceeding with the verification of assessment, the FAG shall raise query electronically for additional information or seek additional documents, preferably in a consolidated manner, through ICEGATE portal. The importer shall respond to the query electronically or provide additional documents through e-Sanchit. After scrutinizing the same, the FAG shall:

   a) return the Bill of Entry to the importer for payment of duty after verification; or
b) not agree with the self-assessment and re-assess the Bill of Entry. In this case, if the importer does not agree with the re-assessment, the FAG shall issue a speaking order, as prescribed in Section 17(5) of the Customs Act, 1962 following the procedure referred to in paragraph 7.4 of this PN.

7.1.6. The FAG may, whether in course of accepting the self-assessment or re-assessing the Bill of Entry, order for second check examination of the goods including the directions to the shed officers at the port of import to verify original documents, deface documents, take custody of the document, NOC from PGAs, verification of Country of Origin Certificate etc. Further, it is clarified that, wherever situation warrants that the authenticity of any document submitted through e-Sanchit has to be verified through any external agency, such communication shall be made by the port of import.

7.1.7. Where the FAG is of the opinion that examination and/or testing of goods is required for proper verification of the assessment, based on own assessment or on the request from importer:

a) The FAG may order for first check examination or testing of the goods with specific directions or testing parameters to the shed officers at the port of import. The responsibility for sending the samples to the appropriate laboratory with the requisite test memo, if ordered by FAG, would lie with the shed officers at the port of import.

b) The shed officers / Centralised Cell, as the case may be at the port of import would feed the examination and/or the test report, when it is received from the laboratory, in the system and refer the Bill of Entry back to FAG, and there upon, FAG shall follow the procedure as laid down in para 7.1.4 to 7.1.6 above, as applicable.

c) If the FAG concludes that the prior testing of goods is going to take considerable time and the Bill of Entry should be assessed provisionally, they may refer the Bill of Entry to the PAG at the port of import, following the procedure stipulated in para 7.2 above clearly specifying the reasons thereof. In such cases, the Bill of Entry would be assessed by PAG at the port of import, after the receipt of the examination/test report.

d) If the imported goods are found to be subject to some restriction or prohibition or mis-declared, on the basis of said test and/or examination report fed by the shed officers at the port of import, the FAG shall refer the bill of entry to PAG at the port of import for action including action under Section 124 of the Customs Act, 1962.

e) It is clarified that, irrespective of pending verification at FAG, if the importer requests for storage of the imported goods in warehouse pending clearance under Section 49 of the Customs Act, 1962, such request shall be processed by officers of the PAG at the port of import promptly.

7.1.8. The shed officers at the port of import would carry out the necessary verification or examination or other tasks, as required by the FAG or required as per Compulsory Compliance Requirements of the Risk Management System.
7.1.9. Any time after the Bill of Entry is returned from FAG to the port of import, if the import of goods is found to be subject to some restriction or prohibition or mis-declared, PAG may carry out re-assessment and initiate action as prescribed under section 124 of the Customs Act, 1962, if required.

7.1.10. As stated in para 4.4 (d) above, the faceless Bills of Entry after first check examination will come back to the FAG only for completion of assessment. However, any recall or reassessment after Second Check assessment will be done only at the Port of Import. In other words, First Check Bills of Entry of FAG may be marked back only to VAO/VDC after examination with detailed examination report to effectively assist the FAG in assessment. Similarly, if any Bill of Entry is to be sent back to the assessing Group after second check examination, the same may be marked only to the assessing group at the Port of Import, i.e. APR.

7.2. Procedure to be adopted by Faceless Assessment Groups in Exceptional Circumstances:

In certain exceptional circumstances (listed below) the proper officer of the FAGs may, with the approval of a senior officer not below the rank of Joint Commissioner/Additional Commissioner, transfer the Bill of Entry using the Customs Automated System to PAG at the port of import for assessment without completion of verification of assessment. The FAGs may also transfer a Bill of Entry to the PAG in any other exceptional circumstances but in this case, this would be done after due approval from the Principal Commissioner/Commissioner supervising the proper officer:-

a) Where the FAG has reasons to believe that the imported goods may be liable for confiscation as per the provisions of Section 111 of the Customs Act, 1962. In such circumstance, the reasons for such a transfer shall be duly recorded in the Customs Automated System. However, such cases may be referred to only in genuinely exceptional circumstances.

b) In respect of ‘related party’ transactions warranting investigation by SVB (other than cases that are already covered by an earlier order of the SVB such as in the case of continuing imports which have earlier been taken up for investigation by the SVB). In this case, the port of import would refer the case to its jurisdictional Special Valuation Branch (SVB) for further investigation.

c) Even after several electronic query-based interactions with importer, the FAG is not able to complete the verification for want of additional documents, test reports etc.

7.3. Procedure to be adopted by Port of Import in Exceptional Circumstances:

Notwithstanding anything mentioned above, the Principal Commissioner/Commissioner of Customs at port of import may, at any stage pending at FAGs, direct the PAG to pull the Bill of Entry from Faceless Assessment to the PAG in the following situations:
a) Where specific alert or intelligence is available pertaining to the said Bill of Entry or class of Bill of Entry; and

b) Where the Principal Commissioner / Commissioner of Customs has ordered to do so for the reasons to be recorded in writing.

7.3.1 **Annexure “A”** and **Annexure “B”** enclosed herewith outline the flow of Bills of Entry covered under faceless assessment.

### 7.4. Speaking Order :-

a) For any re-assessment done by the FAG, which is at variance with the self-assessment done by the importer and in cases other than those where the importer confirms his acceptance of the said re-assessment electronically in reply to the query raised by the assessing officer, the FAG shall pass a speaking order on the reassessment, within fifteen days from the date of re-assessment of the bill of entry, as prescribed in Section 17(5) of the Customs Act, 1962.

b) The FAG shall provide an opportunity to be heard to the importer, in accordance with the principles of natural justice, before proceeding with the re-assessment of the Bill of Entry. In the event a personal hearing is sought by the importer, the same can be conducted through video conferencing or other reliable technological means at the option of the importer. In this regard, the Board’s guidelines vide F. No. 390 / Misc / 3 / 2019-JC dated 27.04.2020 and PN No. 21/2020 dated 28.04.2020 issued by this Commissionerate may also be referred to.

### 7.5. Appellate Proceedings :-

Any appeal against any speaking order on re-assessment passed by FAGs shall lie before the Commissioner (Appeals) as per notification No. 51/2020-Customs (N.T.) dated 05.06.2020. Thus, an appeal against an order passed by the proper officer of the FAG (posted either at Bengaluru or Chennai or Delhi), in respect of Bills of Entry entered at ICD Import, Tughlakabad, Delhi, as per Section 17(5) and/or Section 18, would lie with the Commissioner of Customs (Appeals) having jurisdiction over the port of import.

### 7.6. Review Proceedings :-

The review of any speaking order on re-assessment passed by a proper officer of FAGs, under sub-section (2) of Section 129D of the Customs Act, 1962, shall lie with the reviewing authority having administrative control over that proper officer of the FAG. In other words, the review section of this Commissionerate shall process every order passed by the proper officer of FAG for decision by the competent authority in all such cases where Bill of Entry has been entered at ICD Import, Tughlakabad, Delhi being the port of import.
7.7. **Demands under Section 28 of the Customs Act, 1962 :-**

Issuing of demands under Section 28 of the Customs Act, 1962, adjudication thereof and handling of audit objections shall be done by the officers of the port of import. In matters where clarifications and inputs are required to be given by the FAGs to port of import in such matter, the nodal officer shall co-ordinate with the ports of import.

7.8. **Provisional Assessment :-**

a) If the requisite approval for provisional assessment as per the Customs Act, 1962 and departmental guidelines has already been obtained, the FAG may assess the Bill of Entry provisionally. The bond and bank guarantee for the same would be registered with the Turant Suvidha Kendra at the port of import details of which are given in para 6 above.

b) If the FAG concludes that the prior testing of goods is going to take considerable time and the Bill of Entry should be assessed provisionally, they may refer the Bill of Entry to the PAG at the port of import, following the procedure stipulated in para 7.2 above clearly specifying the reasons thereof. In such cases, the Bill of Entry would be assessed by PAG at the port of import, after the receipt of the examination / test report.

c) After receipt of the required test reports etc. from the shed officers at the port of import, the finalization of provisional assessment shall be done by the officers of PAG of the port of import.

7.9. **Amendment of Bills of Entry :-**

a) Directorate General of Systems has already enabled a facility whereby requests for amendments can be made online via ICEGATE Portal.

b) Once the amendments are filed online, System would queue them before the proper officer of the FAG if the Bill of Entry is pending for verification. In all other cases, the request would be queued to the proper officer of the PAG.

c) The facility of online levy of Amendment fees as per Levy of Fees (Customs Documents) Regulations, 1970 has also been enabled. The applicable fee would be included in the duty challan for payment.

d) Requests for amendments as per Section 149 of the Customs Act, 1962, and requests after the Bill of Entry has been returned for payment by the FAG shall be processed by the PAG at port of import.

7.10. **Exchange of communication exclusively by electronic mode and authentication of electronic records :**

a) For the purposes of Faceless Assessment, all communications between the FAG and the importer shall be exchanged exclusively by ICEGATE; and
b) All internal communications between the FAGs and the officers at the port of import or Turant Suvidha Kendra shall be exchanged exclusively via electronic mode.

8. Further, attention is invited to notification No. 63/2020-Customs (N.T.) dated 30.07.2020 empowering the jurisdictional Commissioners of Customs (Appeals) at Bengaluru, Chennai, Delhi and Mumbai to take up appeals filed in respect of Faceless Assessments pertaining to imports made in their jurisdictions even though the assessing officer may be located at the other Customs station. Commissioner of Customs (Appeals) at Delhi would decide appeals filed in respect of Bill of Entry entered at ICD Import, Tughlakabad, Delhi being the port of import.

9. The procedure prescribed above will come into effect from 03.08.2020 for assessment of goods of Chapter 50 to 71, 84, 85 and 86 to 92 under Appraising Group 3, 5, 5A and 5B respectively.

10. All trade associations / members of Customs Brokers Association are requested to take note and publicize the contents of this Public Notice among their members / constituents.

11. For the departmental officers, this may be treated as Standing Order.

12. Difficulties, if any, may be brought to the notice of Additional Commissioner of Customs, ICD- Import, Tughlakabad, New Delhi through email on hari.shankar65@gov.in.

This issues with the approval of the Principal Commissioner of Customs, ICD Tughlakabad Import, New Delhi.

Encl: Annexure “A” & “B”

(Hari Shankar)
Additional Commissioner of Customs, ICD-Import, TKD, New Delhi.

1. The Chief Commissioner of Customs, Delhi Zone, NCH, New Delhi.
2. The Principal Commissioner of Customs, ICD-Import, TKD, New Delhi.
3. The Principal Commissioner of Customs, ACC (Import), New Customs House, New Delhi.
4. The Commissioner of Customs, ICD, TKD, Export, New Delhi.
5. The Commissioner of Customs, ACC (Export), New Customs House, New Delhi.
6. The Commissioner of Customs, (Airport & General), New Customs House, New Delhi.
7. The Commissioner of Customs, (Preventive), New Customs House, New Delhi.
8. The Commissioner of Customs, PPG, Delhi.
10. The Joint Commissioner of Customs, ICD-Export, TKD, New Delhi.
12. The DC (EDI), ICD-Import, TKD, New Delhi, for uploading said notice on website.
13. All DC/AC, Export, ICD, TKD, New Delhi.
14. The Chief Manager CONCOR, ICD, TKD, New Delhi.
15. The President Delhi Customs Clearing Agents Association, 268-61, Anarkali, Bazar, Jhandewalan Extension, DOA Shopping Complex, New Delhi - 110055.

Deputy Commissioner of Customs(Tech.)
ICD-Import, TKD, New Delhi
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<tr>
<th>S. No.</th>
<th>SCENARIO</th>
<th>WORK-FLOW</th>
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<tbody>
<tr>
<td>1</td>
<td>First Check</td>
<td>Approved for First Check by FAGs, goes to local shed (Port Verification Unit) for examination, comes back to FAG for assessment.</td>
</tr>
<tr>
<td>2</td>
<td>Provisional Assessment</td>
<td>Where prior permission is available, FAG to assess it. Bond and BG to be registered at local port of import. If no prior permission, Bill of Entry to be sent to port of import for assessment.</td>
</tr>
<tr>
<td>3</td>
<td>Reassessment for valuation</td>
<td>Either through query and consent or in case First Check is given for valuation by CE etc., then like case 1.</td>
</tr>
<tr>
<td>4</td>
<td>Reassessment for Classification where testing is required</td>
<td>If ordered by FAG as first check, then test memo to be sent by port of import and send back the Bill of Entry to FAG with test report. Alternately, can be sent to port of import for provisional assessment.</td>
</tr>
<tr>
<td>5</td>
<td>First check but for provisional assessment</td>
<td>Approved for 1(^{st}) Check by FAG but assessment cannot be finalized by FAG for want of further inputs/ test reports. To be sent to port of import for provisional assessment.</td>
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