OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,
ICD, TUGHHLAKABAD, IMPORT, NEW DELHI

C. No.VIII-20(ICD)TKD/Refund(PN)/105/2017

Dated:- 09.2017

Public Notice No.08/2017

Subject: Processing of Refund Claims of 4% Special Additional Duty of Customs (4% SAD), Duty/Interest and Deposit in pursuance of Notification No.102/2007-Customs dated 14.09.2007, Section 27 & 129(E) of Customs Act, 1962 respectively and introduction of Refund SMS Sewa - reg.

Attention of all importers, exporters and trading public etc. is hereby invited to the issue of granting of refund of 4% Special Additional Duty of customs levied under section 3(5) of the Customs Tariff Act, 1975 (hereinafter referred as 4% SAD). Government of India had issued Notifications Nos.102/2007 dated 14.9.2007 & 93/2008-CUS dated 01.08.2008 along with Circular No.06/2008 dated 28.04.2008 (now amended by circular No.12/2015-CUS dated 09.04.2015) stipulating various conditions for granting of refund of said 4% SAD. Besides, there can be refund claims filed under Section 27 and of Pre-deposit under Section 129(E) of the Customs Act. 1962.

2. While processing applications filed for seeking various refunds, it has been observed that in many cases the claimants have not been complying with all procedural requirements prescribed and also have not been submitting requisite documents in time, leading to delay in processing of refund claims.

3. Keeping this in view, the present public notice is being issued for the information and benefit of claimants summarizing important provisions and clarifications issued by the Board from time to time regarding granting of various refunds.

A. Checklist of Documents to be submitted alongwith the refund claim for 4% SAD:

- Duplicate Bills of Entry in original (Importer copy only) & corresponding TR 6 challans / e-receipts in original, copies of Invoice and Bills of Lading.

- Sales invoices in hard copies / CD / DVD. In case of submission of invoices in CD/DVD, necessary paper declaration has to be submitted indicating the invoice numbers contained in the media and subscribing to their truthfulness. (Suggested format of self-declaration enclosed herewith as Annexure-I)

- (i) Documents evidencing payment of VAT/CST in original (VAT/CST payment Challans & VAT/CST Returns / Acknowledgements for e-payment and a certificate from the Statutory Auditor / Chartered Accountant (who certifies the Annual Accounts of the Company under the Companies Act / ST/VAT Act / Income Tax Act) (Suggested format for CA certificate including the Abstract enclosed herewith as Annexure-III)
Certificate along with Working Sheet showing detailed correlation between imports, sales and payment of VAT/CST thereof from Statutory Auditor / Chartered Accountant who certifies the Annual Accounts of the Company under the Companies Act / ST/VAT Act of the State Government / Income Tax Act (Suggested format for CA certificate enclosed herewith as Annexure-II).

A Self-declaration by the claimant to the effect that he has not passed on the incidence of 4% SAD to any other person. (Suggested format of self-declaration enclosed herewith as Annexure-V).

If the sale is through Consignment Agent / Stockist / Dealer, agreement copy between importer & Consignment Agent / Stockist / Dealer has to be produced along with necessary CA certificate (as per para VIII of the Circular 16/2008) (Suggested format for CA certificate enclosed herewith as Annexure-IV).

Authorization for payment of refund amount directly to Bank Account through RTGS (suggested format for Authorization for payment through RTGS as Annexure-VI).

Any other documents relevant for the processing of the claim.

B. Checklist of Documents to be submitted alongwith the refund claim of Duty/interest under Section 27 of the Customs Act, 1962:

- Duplicate (Importer copy) Bill of Entry/Shipping Bill / Baggage receipt/Purchase invoice.
- Duty challan/other documents are evidence of duty claimed.
- Letter from the importer/buyer/Exporter.
- Signed working sheet for the amount of Refund claimed.
- Customs attested invoice and packing list.
- Bill of Lading.
- Contract and purchase order.
- Order in original/in revision/in Appeal/any other order.
- Short delivery certificate from custodian. (where applicable)
- Short shipment certificate from supplier. (where applicable)
- Survey report (Where applicable)
- Insurance claim settlement certificate.
- Catalogue/Technical write-up/literature.
- Bill of freight/Insurance/Other charges.
- Inventory list.
- Refunds filed before getting Bills of entry finalized from the group, wherever assessment are done by the group.

C. Checklist of Documents to be submitted alongwith the refund claim of Deposit under Section 129(E) of the Customs Act, 1962:

- Payment challan in original.
- Importers copy of Bills of entry finalized by the concerned group.
- Copy of SVB Order.
- Final assessment on cancellation of PD Bond.
- Export obligation fulfillment certificate from the DGFT.
- Bond/PG duly cancelled by the concerned group.
- Copy of CESTAT/Commissioner (Appeal)'s order.

4. It is requested that all applicants must mention their mobile phone number and email IDs of the party/authorized representative in their applications. The Department has initiated
a Refund SMS Sewa with effect from 1st September, 2017. An acknowledgment message regarding receipt and progress of the claim shall be sent on mobile no. and the e-mail ID provided by claimant.

5. This Public Notice is not to be regarded as an exhaustive listing of all provisions of the Board Circulars. Only those provisions important from the Trade point of view were summarized for information and easy compliance by the importers with a view to ensure systematic and expeditious disposal of 4% SAD Refund claims. In case of any doubt/clarification, relevant provisions of Board Circulars shall be referred to which are final with regard to the procedure to be followed.

6. It is hoped that the claimants will take note of above and comply with the requirements and assist the department in ensuring speedy disposal of refund claims.

7. Any problem faced in this regard may be brought to the notice of the Additional/Joint Commissioner of Customs (Refund Branch) ICD (Import), Tughlakabad, New Delhi (011-26369370).

Dated: 9.9.2017

Enclosures:
(Suggested / Indicative formats for CA certification / Self-declaration)

1. Annexure-I
2. Annexure-II
3. Annexure-III
4. Annexure-IV
5. Annexure-V
6. Annexure-VI

Copy to:-
1. The Chief Commissioner of Customs, CCCU (DZ), NCH, New Delhi for information.
2. The Commissioner of Customs (Export), ICD, TKD, New Delhi.
3. The Commissioner of Customs (Import), ICD, TKD, New Delhi.
4. PA to Commissioner of Customs (Import), ICD, TKD, New Delhi.
5. All Additional/Joint Commissioner of Customs, Import Commissionerate, ICD, Tughlakabad, New Delhi.
6. All Deputy/Assistant Commissioner of Customs, Import Commissionerate, ICD, Tughlakabad, New Delhi.
7. The Deputy Commissioner of Customs (EDI/Hqrs/Admn.) Import Commissionerate, ICD, Tughlakabad, New Delhi for necessary action.
8. The Delhi Customs Clearing Agents Association, 260-60, Anarkali Bazar, Jhandawalan Extension, DDA Shopping Complex, New Delhi 110055.
10. Guard File.

Assistant Commissioner (Refund)
ICD, TKD (Import), New Delhi.
Annexure- I

Self-declaration where Sale invoices are submitted in Electronic Media

Refund on the Bill/s of Entry No. ___________ dated ___________ / List enclosed

We, M/s ________________ , the importers, declare and certify that the refund of 4% Additional duty (levied under section 3(5) of the Customs Tariff Act, 1975) is being claimed in terms of the Notification No. 102/2007 dated 14-09-2007 as amended by Notification No. 93/2008 dated 01.08.2008 and is required to be considered as the conditions stipulated therein are fulfilled in respect of the Bill/s of Entry No. ___________ dated ___________ / List enclosed

(a) We are registered with VAT/CST authorities of the state of ________________ under TIN No. ________________.

(b) For the purpose of fulfillment of the condition at para 2(e)(ii) of the Notification No. 102/2007-Customs dated 14.9.2007, we are herewith submitting copy of invoices in electronic form (CD/DVD/__________).

We further declare and state that

1. The electronic media (CD/DVD/________ enclosed herewith) is containing the details of sale invoices pertaining to the subject claim and is being submitted along with this paper declaration indicating the invoice numbers (listed below) contained in the media.

2. The copies of invoices contained in the media are true copies of the original sale invoices / carbon copy / office copy (original) of the said invoices and the originals will be submitted, if so required.

Place: ____________________________

Signature: ____________________________

Date: ____________________________

Name: ____________________________

Designation: ____________________________

For M/s ____________________________

Summary of the invoices contained in the media

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Sales Invoice No.</th>
<th>Date</th>
<th>Amount of sale in Rs.</th>
<th>VAT/CST paid thereon</th>
<th>Remarks</th>
</tr>
</thead>
</table>


Annexure-II


(i) Co-relating the payment of VAT/CST on the sale of imported goods (in respect of which refund is being claimed) with the invoices of sale.
(ii) Certifying that the burden of 4% AD has not been passed on by the importer to the buyer or any other person and that the requirement to rule out unjust enrichment is fulfilled
(iii) Explaining how the burden of 4% AD has not been passed on by the importer and how the requirement to rule out unjust enrichment is fulfilled

With regard to the imports made by M/s ________________ under various Bills of Entry No.s & Dates (as detailed in the correlation sheet enclosed herewith) against which the 4% Additional Duty under section 3(5) of the Customs Tariff Act, 1975 has been paid under various TR6 Challans & Dates (as detailed in the correlation sheet enclosed herewith) and refund being claimed under Notification No. 102/2007 dated 14-09-2007, as amended, we hereby certify as follows:

1. It is certified that we, __________________________ are the Statutory Auditors / Chartered Accountants who certify the annual financial records of M/s ________________ under the Companies Act, 1956 / ST/VAT Act of the State Government / the Income Tax Act, 1961. (Board Resolution / Claimant Company's Appointment Letter / ________________ to that effect as proof enclosed herewith)

2. The VAT/Sales Tax Authorities for M/s ________________ accept payment of VAT/CST through cash or adjustment of input tax credit as effective discharge of VAT/CST payment on sale of goods.

3. For purpose of fulfillment of the condition at Para 2 (d) of the Notification No. 102/2007 dated 14-09-2007 as amended and for considering sanction of refund of 4% AD, as Statutory Auditor / Chartered Accountant of M/s ________________, we hereby certify that we have verified the Bills of Entry & corresponding TR6 challans/e-receipts, invoices of sale and supporting documents as proof of payment of appropriate VAT/CST on sale of goods vide said invoices [viz., VAT/CST challans / returns & details of cheques / DD's / ________________], sales registers etc. Based on said verification, we certify that the goods imported under the Bills of entry (as detailed in the correlation sheet enclosed herewith) have been sold under various sales invoices (as detailed in the correlation sheet enclosed herewith) and on each such sale, appropriate VAT/CST had been paid to the concerned VAT/Sales Tax authorities (as detailed in the correlation sheet enclosed herewith).

4. For the purpose of examining the clause of unjust enrichment to the importer in respect of subject refund claim, we have verified the importer's Books of Accounts and other relevant documents & records / cost sheets / price structure / __________ etc. of the goods. Based on such verification, we have satisfied ourselves that the price at which the imported goods have been sold to buyers (including those cases where the goods were subjected to RSP/MRP based assessment at the time of import) vide various invoices does not include the component of the said 4% Additional Duty of Customs levied under Section 3(5) of the Customs Tariff Act, 1975 which was paid at the time of import. As such, we certify that the claimant has not
passed on the incidence of the 4% Additional Duty to the buyer or any other person and hence the requirement to rule out unjust enrichment to the importer/claimant is fulfilled in respect of all goods imported and sold as covered by the subject claim (as detailed in the correlation sheet enclosed herewith).

5. For coming to such conclusion that the burden of 4% Additional Duty has not been passed on by the importer to the buyer or any other person and that the requirement to rule out unjust enrichment has been fulfilled, we further give the following explanation / justification / grounds:

(i) The 4% Additional Duty being claimed as refund has been shown in the Books of Accounts / Balance Sheet / Trial Balance for the period ___________ as 'Receivables / Recoverables in cash / _______________ under the sub-heading 'Loans & Advances / _______________' under the head, 'Current Assets / ________________.'

(ii) The 4% Additional Duty claimed as refund has not been charged to 'Expenses / _______________' in the Profit and Loss Account of the company and therefore the same is not forming part of the cost of the goods and hence the burden of 4% AD is not being passed on to the buyer or any other person.

(iii) ........................................................................................................

Place:................................. Signature:....................................................

Date:................................. Name:......................................................

For M/s ____________________________

(CA)

Membership No.................

* To be filled in with appropriate details and strike out wherever not applicable

Enclosure 1: Co-relation Sheet with details of imports & 4%AD paid, Sales & VAT/CST Paid

Enclosure 2: Documentary evidence supporting the fact that the CA issuing the certificate is the Statutory Auditor / Chartered Accountant certifying the importer's financial records under the Companies Act, 1956 / ST/VAT Act / Income Tax Act, 1961
**Enclosure to Annexure II**

**Co-relation Sheet between Imports, Sales and VAT/CST paid thereon**

Importer's Name: ____________________________

Date of filing claim with customs: ______________

<table>
<thead>
<tr>
<th>SL No</th>
<th>B/E No. &amp; date</th>
<th>TR No. &amp; Challan No. &amp; date</th>
<th>Description of imported goods</th>
<th>Qty Imported</th>
<th>4% AD paid (Rs.)</th>
<th>Sales Invoice No. &amp; Date</th>
<th>Name of buyer</th>
<th>Qty sold</th>
<th>State from which goods were sold</th>
<th>Applicable Rate of VAT / CST</th>
<th>VAT/CST paid (Rs.)</th>
<th>VAT/CST payment Reference No.</th>
<th>Refund claimed (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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</tbody>
</table>

(i)

Sub-Total for each individual item of B/E and total for each B/E and Grand total for total nos. of Bills of entry

<table>
<thead>
<tr>
<th>SUB-TOTAL</th>
<th>SUB-TOTAL</th>
<th>SUB-TOTAL</th>
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<th>SUB-TOTAL</th>
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<th>SUB-TOTAL</th>
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(ii)

Total

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(iii)

Sub-Total

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(ii)

Total

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<thead>
<tr>
<th>GRAND TOTAL</th>
<th>G.TOTAL</th>
<th>G.TOTAL</th>
<th>G.TOTAL</th>
</tr>
</thead>
</table>

| 1          |         |         |         |
Annexure- III

Certificate from the Chartered Accountant for not submitting original ST/ VAT Challans and for submitting copies of ST/VAT Challans or copies of ST/VAT payment documents in different forms evidencing payment of ST/VAT

With regard to the imports made vide Bill/s of Entry No. _______________ dated _______________ and TR6 Challan/s No. _______________ dated _______________ (List Enclosed) wherein the 4% Additional Duty has been paid and the refund is sought by M/s. _______________ under Notification No. 102/2007 dated 14-09-2007, as amended; we certify as follows:

1.

It is certified that we are the Statutory Auditors / Chartered Accountants who certify the annual financial accounts and the statement of accounts of M/s _______________ under the Companies Act / ST/VAT Act / Income Tax Act. (Board Resolution / Claimant Company’s Appointment Letter / ...................... to that effect as proof enclosed herewith).

2.

To fulfill the requirement in terms of Para 2(e) (iii) of the Notification No. 102/2007-Customs dated 14.9.2007, we certify that the Sales Tax Authorities for M/s _______________ accept payment of VAT/CST through cash or adjustment of input tax credit as effective discharge of VAT/CST payment on sale of goods.

3.

To fulfill the requirement in terms of Para 2(e) (iii) of the Notification No. 102/2007-Customs dated 14.9.2007, we state that for the relevant months/period, we have verified the VAT/CST returns filed by the importer and certify that M/s _______________ has effectively discharged the VAT/CST liability therein by payment of the same to the respective State Government/s on the sale of imported goods against which the refund of 4% AD is being claimed. The copies of VAT/CST returns & documents evidencing the payment of VAT/CST (as effective discharge of VAT/CST payment on imported goods), duly certified by us as true copies of their originals are enclosed herewith. / Details of returns & documents verified by us evidencing payment of VAT/CST for relevant states/periods are given in the following abstract. (Strike out wherever not applicable)

<table>
<thead>
<tr>
<th>State where VAT/CST paid</th>
<th>Return for the Month / Period</th>
<th>CST / VAT</th>
<th>VAT/CST Payment Mode (Challan/Cheque/DD/e-payment/ Bank Statements/ Input Credit Adjustments)</th>
<th>VAT/CST Payment Reference No. &amp; Date</th>
<th>Total VAT/CST paid in Rs.</th>
<th>Amount of VAT/CST paid on sale of goods pertaining to subject claim</th>
</tr>
</thead>
</table>

Place:...........................................

Date:........................

Name:...........................................

For M/s ______________________ (CA)

Signature:...........................................

Membership No.......................

Enclosure: Certified copies (by CA) of returns & documents evidencing payment of VAT/CST (Strike out if not applicable)
Annexure-IV

Certificate from a Chartered Accountant who either certifies the importer's financial records under the Companies Act, 1956 / ST/VAT Act / Income Tax Act in cases where imported goods are sold through Consignment Agent/Stockist

With regard to the imports under Bill/s of Entry No. __________ dated __________ and TR6 Challan/s No. __________ dated __________ (List enclosed) wherein the 4% Additional Duty has been paid and the refund under Notification No. 102/2007 dated 14-09-2007 as amended, is sought by M/s ____________.

1. It is certified that we are the Statutory Auditors / Chartered Accountants who certify the annual financial accounts and the statement of accounts of M/s ____________ under the Companies Act / ST/VAT Act / Income Tax Act. (Board Resolution / Claimant Company's Appointment Letter / ...................... to that effect as proof enclosed herewith)

2. To fulfill the requirement of the Notification No. 102/2007-Customs dated 14.9.2007, we certify that
   (i) M/s ____________ has been authorised as Consignment agent/Stockist to sell the imported goods in terms of the agreement entered into between the importer M/s ____________ and consignment agent/stockist M/s ____________; (Agreement copy attested by us enclosed herewith)
   (ii) that each of the sale invoices issued by the consignment agent/stockist indicates that the sale is made by him on behalf of the importer in the capacity of importer's consignment agent/stockist.
   (iii) appropriate VAT/CST has been paid by Consignment Agent/Stockist, M/s ____________ on behalf of importer M/s ____________ and that the importer, M/s ____________ in turn, has paid/reimbursed the VAT/CST amount to his Consignment Agent/Stockist M/s ____________
   (iv) VAT/CST payment made to concerned authorities is correlated with 4% AD paid on imported goods (as per enclosed correlation sheet)

Place:__________________________
Date:__________________________

Signature:__________________________
Name:__________________________
For M/s _______________________
(CA)
Membership No...................

Enclosures: As above
Annexure – V

Self-declaration for not passing on the incidence of 4% AD to any other person

Refund on the Bill/s of Entry No. _____________ dated ____________ / List enclosed

We, M/s ___________________________, the importers, declare and certify that the refund of 4% Additional duty (levied under section 3(5) of the Customs Tariff Act, 1975) is being claimed in terms of the Notification No. 102/2007 dated 14-09-2007 and is required to be considered as the conditions stipulated therein are fulfilled in respect of the Bill/s of Entry No. ___________ dated ____________ / List enclosed

(a) We are registered with VAT/CST authorities of the state of ________________ under TIN No. ________________.

(b) For the purpose of fulfillment of requirement to rule out unjust enrichment in the subject case of refund of 4% AD, we declare and state as follows:

1. We have paid, at the time of import, applicable duties of customs including the 4% Additional Duty of Customs levied under section 3(5) of the Customs Tariff Act, 1975. The imported goods were subsequently sold by us to buyers vide various invoices and applicable VAT/CST was paid on such sales (to the VAT/CST authorities of the State Government/s.)

2. We declare that the price at which the imported goods have been sold to buyers vide various invoices does not include the component of the said 4% Additional Duty of Customs levied under Section 3(5) of the Customs Tariff Act, 1975 which was paid at the time of import. As such, we state and certify that we have not passed on the incidence of 4% Additional Duty of Customs levied under section 3(5) of the Customs Tariff Act, 1975 to the buyer or any other person.

Place:_________________________ Signature:______________________________

Date:____________________________ Name:______________________________

Designation:________________________

For M/s __________________________
Annexure - VI

To

THE ASST./DEPUTY COMMISSIONER OF CUSTOMS REFUND,

ICD, TUGHlkabad,

NEW DELHI

REF: AUTHORIZATION FOR PAYMENT OF REFUND AMOUNT DIRECTLY TO BANK ACCOUNT

<table>
<thead>
<tr>
<th>COMPANY NAME</th>
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<tbody>
<tr>
<td>ADDRESS</td>
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</tr>
<tr>
<td>BANK ACCOUNT NO.</td>
<td></td>
</tr>
<tr>
<td>BANK NAME</td>
<td></td>
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<tr>
<td>11 DIGIT IFS CODE</td>
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</tbody>
</table>

I DECLARE THAT THE ABOVE PARTICULARS ARE CORRECT. I AUTHORIZE PAYMENT OF REFUND AMOUNT FOR MY REFUND CLAIMS FILED AT ICD, TUGHLAKABAD, NEW DELHI TO MY ABOVE MENTIONED BANK ACCOUNT THROUGH NEFT/RTGS AFTER DEDUCTION OF BANKS SERVICE CHARGE AT THE RATIO OF 0.09% AND APPLICABLE NEFT/RTGS CHARGES AS PER RBI GUIDE LINES.

FOR: M/S APPLICANT

AUTH. SIGN.

VERIFIED WITH BANK ALSO