

**Circular No. 11. /2001-CUS**23<sup>rd</sup> February 2001

**F.NO.467/32/2000-Custom.V**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

**Sub : Valuation (Customs) – Cases handled by Special Valuation Branch of the Custom Houses –  
Review of instructions**

The existing instructions and the procedures observed in the various Custom Houses in regard to cases taken up by the Special Valuation Branch of the Custom Houses have been reviewed by the Board and the following instructions are issued in modification of the earlier Circular No. 1/98-Cus, dated 1.1.98:-

- (a) The 'Special Valuation Branch' (SVB, for short) as an institution specialising in investigation of transactions involving special relationships and certain special features having bearing on value of import goods should be continued. SVBs would continue to be located only at four major Custom Houses, i.e., Chennai, Calcutta, Delhi and Mumbai and any decision taken in respect of a particular case in any of these major Custom Houses shall be followed by all other Custom Houses/formations.
- (b) The Special Valuation Branch of that major Custom House, (out of the 4 mentioned earlier) which is located proximate to the Head or Corporate Office of the importer (having special relationships etc. with the suppliers), would handle the investigation into valuation of such importer. Wherever in the declaration prescribed under the Customs Valuation (Determination of Price of imported goods), Rules, 1988 (hereinafter referred to as "Valuation Rules, 1988"), the importer has himself made an averment that the transactions are between related persons in accordance with Rule 2(2) of the Valuation Rules, 1988, and there is a, prima facie, justification for further enquiry, the concerned case of import may be referred to the SVB of the concerned Custom House, where a separate case file should be opened and a registration number assigned to the case. Similar reference to SVB to look into valuation on account of special relationship could be ordered by Commissioner concerned where though not disclosed by the importer, such relationship comes to light on any intelligence or while enquiring into transactions of any importer with a particular supplier.
- (c) It will be deemed that a, prima facie, case exists for investigation by the SVB where the importer is not able to provide evidence to the effect that the price has not been influenced by the relationship or where the importer is not able to demonstrate that the price for the said goods closely approximates to one of the following values ascertained at or about the same time –
  - (i) the transaction value of identical goods, or of similar goods, in respect of sales to unrelated buyers in India;
  - (ii) the deductive value for identical goods or similar goods; and
  - (iii) the computed value for identical or similar goods.

2. Apart from investigation of special relationship case, SVB will also handle more complicated cases of additions to declared transaction value as stipulated under Rule 9 of the Valuation Rules. No reference to SVB would be necessary where any additions are sought to be made under Clauses (a) and (b) of Rule 9(1). Where, however, the additions sought to be made are considered to be in the nature of 'royalty and licence fee' under Rule 9 (1)(c), or where the value of any part of proceeds of any subsequent resale, disposal or use of imported goods accrues to the seller [i.e. Rule (9)(1)(d)] or where any other payments are made or are contemplated to be made in future by buyer to seller as a condition of sale of imported goods etc., [i.e. Rule 9(1)(e)], the case may be referred to the SVB after following the provisional assessment procedure.

3. All cases to be registered in the SVB for special investigation shall be with the specific approval of the concerned Commissioner of Customs. Without the approval of the Commissioner, no case should be referred to the SVB.

4. Where the imports requiring investigation by SVB are noticed in a Custom House or Customs formation other than Chennai, Calcutta, Delhi, or Mumbai Custom House, all the relevant records should be forwarded to the SVB of the concerned Custom House which would take up the investigation of the case, after following the provisional assessment procedure. The Custom House which would be undertaking the investigation will be determined in terms of paragraph 1(b) above.
5. There should be greater co-ordination amongst the SVBs of the four Custom Houses which undertake investigations in case where special relations between the importer and supplier exist or in cases referred to in paragraph 2 above. The information available, showing special relationship in respect of a supplier and importer, under investigation in any SVB needs to be shared amongst the four Custom Houses on a regular basis. Once a case is registered by the SVB of one of the 4 Custom Houses, detailed information regarding the same alongwith PAN No. of the importer should be furnished to the Directorate of Valuation for maintaining a Central Registry. The Directorate of Valuation will also circulate such details through the monthly Valuation Bulletins to all Custom Houses, so that imports effected at any Custom House in such cases under investigation by SVB are undertaken provisionally and interests of revenue are safeguarded.
6. The procedure so far being adopted for registration and subsequent investigation of the cases may continue to be followed. The requirement of furnishing information and the formats of the sample questionnaire, as also the list of the documents required to be submitted have since been reviewed and a consolidated questionnaire along with list of documents has been prepared (Annex- A). This should be issued by the assessing group, dealing with particular imports, to the importer soon after it is decided (with Commissioner's concurrence as mentioned earlier) to refer the case to a SVB. Any importer to whom the questionnaire is issued should be instructed to furnish the reply to the referring Custom House as well as to the SVB of the concerned major Custom House, within 30 days of receipt of the questionnaire. The questionnaire should be issued by the Custom House referring the case to the SVB.
7. Upon receipt of reply to the questionnaire within the prescribed time limit, the SVB will decide within 7 days whether the importer has replied to the questionnaire substantively. Otherwise, immediate further information not furnished will be sought before taking step for finalisation of investigation.
8. Board is very keen that decision to make reference to SVB and advancing all assessments of particular importer for goods from particular suppliers to be undertaken on provisional basis, should be made after very careful consideration and good deal of circumspection. It would be imperative for the concerned Commissioner of Customs to critically examine the issues involved and decide whether it merits detailed enquiries by SVB and adoption of the provisional assessment procedure. In each and every case, the decision would be taken at his level before provisional assessment is ordered and matter referred to SVB. There would be however no need to obtain Commissioner's approval for imports made under different bills of entry, in a particular case, once the case has been registered with the SVB.
9. The amount of extra duty deposit presently kept at 1% will be continued. Board has however decided that if the importer does not furnish complete reply to the questionnaire within 30 days, of receipt of the 'Questionnaire' by the importer, the extra duty deposit will be increased to 5% till the date of receipt of reply by the Department. It should therefore be impressed upon the concerned importers (in the public notice that is issued) to ensure timely replies being sent to the Questionnaire to avoid any higher deposit being insisted.
10. Furthermore, where provisional assessment is being resorted to, the investigation and finalisation of the assessment must be completed within four months from the date of reply. If no decision is taken within 4 months, the extra duty deposit should be discontinued and the concerned Deputy Commissioner/Assistant Commissioner will be held responsible for inexplicable delay in finalisation.
11. It has been reported that the Declaration forms prescribed for valuation purposes are being filled up in a very casual manner by the importers leaving many columns blank. All the assessing officers must be directed to ensure correct filling up of these forms including reference to the relevant B/E before they allow individual clearances after provisional assessment. (The declaration form is being revised to include details of the ports/ICDs through which the imports will be effected).