

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CUSTOMS (PORT)
CUSTOM HOUSE, 15/1 STRAND ROAD, KOLKATA- 700001

STANDING ORDER. : 13 /2018

Subject: Need to issue speaking order

All Assistant/Deputy Commissioners of Customs in-charge of Assessment Groups posted at Kolkata Customs Port Commissionerate are to note Board's Instruction No. 07/2018-Customs dated 05.04.2018 regarding need to issue speaking order.

Section 17(5) of the Customs Act provides that '*where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the Bill of Entry or the Shipping Bill, as the case may be.*'

2. It has been observed that officers exercising the powers under the above mentioned sub-section are not issuing a speaking order in each and every case particularly where the importer or exporter, as the case may be, does not confirm his acceptance of the re-assessment. It may be appreciated that an importer or an exporter has an inalienable right to know the reasons for re-assessment. Omission to issue speaking orders in matters of re-assessment, may not prejudicially affect the right of the importer or exporter to appeal as such, but nevertheless deprives him of knowing the grounds of such re-assessment. At the same time, any such re-assessment without the support of a speaking order could be perceived as legally questionable. Time and again, courts have frowned upon the instances of non-issuance of speaking orders under the said sub-section.

3. In this regard, the confirmation of acceptance on behalf of the importer must be in the form of:

- i) Reply to the Query raised by the Assessing Officer in ICES.
- ii) Letter submitted by the Importer/Customs Broker uploaded through e-sanchit or by Post/ Sevottam/ delivered by self/ CB.

4. In view of the above, all Assistant/Deputy Commissioners of Customs in-charge of Assessment Groups are instructed to ensure compliance.

5. Difficulty faced, if any, may be brought to the notice of the undersigned.



(Manish Chandra)
Commissioner of Customs (Port)
Custom House, Kolkata

F. No. S60 (Misc)- 274/2018 A (G)
Date: 18.09.2018

Copy To:

1. The Chief Commissioner of Customs, Custom House, Kolkata.
2. PA to the Commissioner of Customs (Port), Custom House, Kolkata.
3. The Commissioner of Customs (Airport & Admn.), Custom House, Kolkata
4. All Joint / Addl. Commissioner of Customs, Custom House, Kolkata.
5. All Asstt./Deputy Commissioners of Customs, Custom House, Kolkata.
6. All Asstt./Deputy Commissioners of Customs, Haldia.
7. Dy. Commissioner of Customs, EDI, Custom House, Kolkata, for uploading on departmental website.
8. Notice Board.
9. Guard File.