



भारत सरकार  
Government of India  
वित्त मंत्रालय, राजस्व विभाग  
Ministry of Finance, Department of Revenue  
सीमा शुल्क आयुक्त (निवारक) का कार्यालय  
Office of the Commissioner of Customs (Preventive)  
पूर्वोत्तर क्षेत्र  
North Eastern Region  
सीमा शुल्क भवन 110 एम . जी. रोड शिलांग . 793001  
Custom House, 110 M. G. Road, Shillong - 793001  
Phone: 0364-222597/2225325/2229005. Fax: 0364-2223440/2229007. E-mail: cus.shg-meg@nic.in

**Standing Order No. 01/2020  
Dated Shillong the 10th February 2020**

**Subject: Levy and Collection of Social Welfare Surcharge (SWS) on imports under various schemes such as Merchandise Exports from India Scheme (MEIS), Services Exports from India Scheme (SEIS) etc.**

Attention of all concerned is brought to the Levy and Collection of Social Welfare Surcharge (SWS) on imports made and present practice regarding its debit through duty credit scrips such as MEIS, SEIS etc. of the Foreign Trade Policy (FTP) as enunciated by CBIC Circular No. 02/2020-Customs dated 10.01.2020.

2. As per Section 110 of the Finance Act, 2018, SWS is levied and collected, on the goods imported into India, as a duty of Customs on the goods specified in the First Schedule to the Customs Tariff Act, 1975. The SWS is calculated at the rate of 10% on the aggregate of duties, taxes and cesses which are levied and collected under Section 12 of the Customs Act, 1962. This surcharge is in addition to any other duties of Customs or tax or cess chargeable on imported goods.

3. The duty credit scrips issued under schemes such as MEIS, SEIS etc. are granted as rewards/incentives for exporters under the respective FTP. As per Para 3.02 of the Foreign Trade Policy 2015-20, these scrips can be used for payment of BCD and Additional Customs Duty specified under section 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 for import of inputs or goods and for payment of Central Excise duties on domestic procurement of inputs or goods. The relevant Customs exemption notifications also allow debit of BCD and Additional Duties of Customs in the duty credit scrips. It is to mention that the debit of SWS through duty credit scrip is not envisaged in the FTP and the exemption notifications.

4. Further, as per para 3.15 of the FTP, BCD paid through debit in the duty credit scrip is allowed to be adjusted for duty drawback. Duties debited in duty credit scrips are taken into account while determining the All Industry Rates and Brand Rate of duty drawback. Similarly, Additional Customs Duty paid on imported goods and Central Excise duty paid on Drawback. Hence duty credit scrips are only a mode of payment of duty and not an exemption from duty even though the use of the said scrip is governed by an exemption notification.

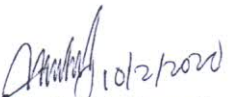
5. In this regard, Hon'ble Supreme Court vide its judgement dated 06.12.2019 (supra) in the case of M/s Unicorn Industries Vs. Union of India and Others (Civil Appeal Nos. 9237 & 9238 of 2019), inter-alia held that "A Notification has to be issued for providing exemption under the said source of power. In the absence of a notification containing an exemption to such additional duties in the nature of education cess and secondary and higher education cess, they cannot be said to have been exempted... The proposition urged that simply because one kind of duty is exempted, other kind of duties automatically fall, cannot be accepted as there is no difficulty in making the computation of additional duties, which are payable under NCCD, education cess, secondary and higher education cess. Moreover, statutory notification must cover specifically the duty exempted. When a particular kind of duty is exempted, other types of duty or cess imposed by different legislation for a different purpose cannot be said to have been exempted".

6. In view of the above, it appears that there is no exemption from SWS in FTP and the relevant Customs exemption notification. Therefore, SWS is not exempted and has to be levied and collected on the imported goods.

3. As per past practice, SWS was being allowed to be debited in the duty credit scrips along with Basic Customs Duty and Additional Duties of Customs. However, in view of the current judgement it has emerged that SWS cannot be debited through duty credit scrips and therefore has to be paid by the importer in cash.

4. With regard to the past cases of debits of SWS already made in duty credit scrips, it has been decided that for ensuring ease of doing business, such past cases should not be disturbed and the payments made through debit in duty credit scrips may be accepted as revenue duly collected. Recoveries in cash should not be insisted for these cases.

5. Difficulties faced, if any, in implementation of this Order may be brought to the notice of this office.

  
[जी. एम. कामेई / G. M. Kamei]  
आयुक्त / Commissioner

**SPEED POST**

C. No.VIII(48)06/CUS/TECH/MISC/2018/16470-92 (A)

Date-

11 FEB 2020

Copy for information to:-

1. The Chief Commissioner, CGST & Customs, Guwahati zone.
2. The Commissioner, CGST Commissionerate, Agartala/Aizawl/Dhubri/Dimapur/Guwahati/Imphal/Karimganj/Shillong.
3. The Deputy/Assistant Commissioner, Customs Division, Agartala/Aizawl/Dhubri/Dimapur/Guwahati/Imphal/Karimganj/Shillong .with a request to bring to the notice of all concerned in their jurisdiction and ensure that the prescribed guidelines are followed.
4. The Deputy/Assistant Commissioner, Moreh LCS, Agartala LCS, ICD Amingaon.
5. The Superintendent, Computer Cell, Customs Hqrs Shillong to upload the contents of this *Standing Order* to the Commissionerate website.
6. The Hindi translator, Customs Hqrs, Shillong to get issued Hindi version of this *Standing Order*.
7. Guard file.

[वाज़िम मुस्तफा/Wazim Mustafa]

उप आयुक्त (तकनिकी)/Deputy Commissioner (Tech)