

INDIRECT TAX NEWSLETTER

November 2025





A. Customs & Trade Newsletter

A. Key Policy Updates

Directorate General of Foreign Trade (“DGFT”)

1. Clarification issued for issuance of Export Obligation Discharge Certificate (“EODC”) for imports made under Advance Authorization (“AA”) during October 13, 2017 to January 09, 2019^[1]

On April 28, 2023, the Hon’ble Supreme Court of India had issued a ruling stating that exporters must fulfill pre-import requirements to be eligible for the IGST and Compensation Cess exemption. Meanwhile, the affected exporters were allowed to claim a refund. It has now further been clarified that EODCs shall not be withheld in the following cases:

- Where IGST has been paid in cash
- Where the Applicant has not availed exemption from IGST, Compensation Cess or other levies (except Basic Customs Duty (“BCD”))
- Where the Applicant has complied with the pre-import condition.

Central Board of Indirect Taxes and Customs (“CBIC”)

2. Launch of an online module for filing of applications for customs bonded warehouse. MOOWR & MOOSWR Permissions^[2]

The CBIC has operationalized a dedicated online module for filing of applications for the following:

- Manufacture and Other Operations in Warehouse Regulations, 2019 under Section 58 of the Customs Act, 1962; and
- Manufacture and Other Operations in Special Warehouse Regulations, 2020 under Section 58 A of the Customs Act.

It is available at <https://www.icegate.gov.in/guidelines/warehouse-licensing>.

3. Launch of Single Window Interface for Facilitating Trade (SWIFT 2.0) and onboarding of AQCS, PQMS and FSSAI for processing of No-objection certificates (“NOC”)^[3]

The CBIC has announced launch of SWIFT 2.0, which shall be used as a single touch point for processing of NOCs from 60 Participating Government Agencies (PGA) in a phased manner. From Application submission to issuance of the NOCs including live updates, unified dashboard, etc., shall be made available on the portal itself.

With effect from December 01 2025, NOCs the following PGAs shall be filed and processed on SWIFT 2.0:

- Animal Quarantine and Certification Services;
- Food Safety and Standards Authority of India; and
- Plant Quarantine

[1] Policy Circular No. 07/2025-26, dated November 11, 2025

[2] Circular No. 28/2025- Customs, dated November 15, 2025

[3] Circular No. 29/2025-Customs dated November 21, 2025



B. Customs Law: Key Advance Rulings & Judgements

1. Issuance of show cause notice despite payment of differential duty along with interest held invalid

In the present case, the exporter had realized increased foreign exchange as compared to the Free on Board value declared in his Shipping Bills. Through an investigation by the Directorate of Revenue Intelligence, differential duty along with interest was recovered from him. Despite payment, a SCN was issued demanding confiscation of goods along with levy of penalty.

The Hon'ble CESTAT, Kolkata held issuance of such SCN as invalid.

2. Optical Switch Unit/Optical Line Protection classifiable under Tariff Heading 8517.62.90 of the Customs Tariff but not eligible for a concessional basic custom duty^[4]

The present case pertains to the eligibility of Optical Switch Unit/Optical Line Protection for concessional basic customs duty under Notification No. 57/2017-Cus., dated ...

The Hon'ble CESTAT, Kolkata examined the technical features of the product and concluded the following:

- Product is classifiable under Tariff Heading 8517.62.90 of the Customs Tariff;
- It is not a simple switch but a part of optical network systems which manages protection and routing of signals; and
- Being an optical transport equipment, it falls under the exclusions mentioned in the above referenced Notification and is not eligible for a concessional BCD.

3. Royalty is includable on the transaction value of goods imported as a beneficial owner

In this case, Xiaomi India was engaged in trading consumer electronic goods - Mobile phones, television and power banks with no manufacturing facility of their own in India. The goods are either imported from Xiaomi China and their affiliates or manufactured by their contract manufacturers.

Per business facts, the Company was required to pay royalty/licence fee to Qualcomm and to Beijing Xiaomi in respect of the following:

- Import of Mobile phones (finished/complete goods).
- Import of parts and components of mobile phones by its CMs for manufacturing purposes.

The major ground of submission by the Company was that the Goods were imported by CMs and not by the Company. Hence, transaction value declared on the BoEs filed by the CMs could not be loaded with the Royalty paid by the Company. Further, the Royalty paid is not in relation to the imported goods.

The Hon'ble Court held as follows:

- Upon an examination of the contracts between the Company and its CMs, it was evident that the CM's have no effective control on the inputs and only get paid a manufacturing cost for assembling/ manufacturing the finished mobile phones. Hence, the Company was the beneficial owner/buyer of goods and not the CMs.
- The royalty payments, as per the Agreements, are made on account of bundled licensed software technologies and licensed hardware technologies, embedded in the imported parts and components used for making, using in the manufacture and selling of finished mobile phones. Hence, they are in relation to the imported goods.

[4] M/s Tirumala Seven Hills Pvt. Ltd. versus Commr. of Customs (Airport & Admin), Kolkata, 2025 (11) TMI 793 - CESTAT KOLKATA



4. Advertisement and Promotional Expenses (APE) and Management Service Fees (MSF) paid by the Indian subsidiary to its related entities are not to be added to the transaction value of imported goods^[5]

In the present case, the importer undertook import of motorcycles, accessories, and other goods from its related entities and had entered into the following agreements:

- Distributorship Agreement which mandated the importer to market and promote the brand's products in India; and
- Management Services Agreement, under which the foreign related company provided back-office support, for which the Company paid Management Service Fees.

It was alleged that such expenses were in relation to the imported goods and a condition of sale. Hence, they should be included in the transaction value of the goods.

The Hon'ble CESTAT, New Delhi held in favor of the importer and observed the following:

- APE expenses were being incurred to enhance domestic market reach and brand awareness, not because of any legal obligation linked to the supply of imported goods; and
- MSF was being paid for independent business support services rendered, such as, IT systems, finance, HR, and warranty management. Hence, they had no nexus with the goods imported and were independent of import activity and cannot be added to transaction value.

[5] M/s. Triumph Motorcycles (India) versus Addl. Director General (Adjudication), D.R.I., New Delhi, Final Order No. 51625/2025 dated October 29, 2025



Thank You

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