

F.No. 591/04/2016-Cus (AS)

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Anti-Smuggling Unit)

New Delhi, dated 8th February, 2017

To
All Principal Chief Commissioners/ Chief Commissioners of Customs/Customs (Preventive),
All Principal Chief Commissioners/ Chief Commissioners of Customs & Central Excise.
All Principal Directors General / Directors General of CBEC.
All Principal Commissioners/Commissioners of Customs / Customs (Prev).
All Principal Commissioners/Commissioners of Customs (Appeals).
All Principal Commissioners/Commissioners of Customs & Central Excise.
All Principal Commissioners/Commissioners of Customs & Central Excise. (Appeals).

Subject: Passing of order under Section 110 of the Customs Act, 1962 - reg.

Madam/Sir,

Attention is invited to Section 110 of the Customs Act, 1962 and Para 1.1 of Chapter 15 of the Customs Manual 2015.

2. It has been brought to the notice of the Board that in several cases, goods are being held-up/seized by the field formations only under *panchnama* and separate orders for seizure of goods are not being passed. The Hon'ble Delhi High Court, in a recent order, has held that a *panchnama* is a statement by *panchas* (witnesses) and cannot be taken to be an order passed by the proper officer under Section 110 of the Customs Act, 1962.

3. Though Section 110 of the Act *ibid* does not specify passing an order for seizure of goods, it says that *where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.*

4. In view of the above, in all future cases, the following may be adhered to:

- *Whenever goods are being seized, in addition to panchnama, the proper officer must also pass an appropriate order (seizure memo/order/etc.) clearly mentioning the reasons to believe that the goods are liable for confiscation.*
- *Where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. In such cases, investigations should be fast-tracked to expeditiously decide whether to place the goods under seizure or to release the same to their owner.*

5. Further, it has been brought to the notice of the Board that in cases where provisional release of seized goods is allowed under Section 110A of the Act *ibid*, show cause notices are not being issued within the stipulated time period on the ground that the goods have been released to the owner of the goods. The provisions of the Customs Act, 1962 are clear that irrespective of the fact whether goods remain seized or are provisionally released, once goods are seized, the time period (including extended time period) stipulated under Section 110(2) of the Act shall remain applicable and has to be strictly adhered to.

6. The Chief Commissioners/Director Generals are requested to circulate the present guidelines to all the formations under their charge. Difficulties, if any, in implementation of the aforesaid guidelines may be brought to the notice of the Board. Hindi version follows.

Rohit
08/02/17
(Rohit Anand)

Under Secretary to the Government of India