

Circular No.28/2015-Customs

F.No.394/68/2013-Cus (AS)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Anti-Smuggling Unit)

New Delhi, dated 23rd October, 2015

To

All Chief Commissioners of Customs,
All Chief Commissioners of Customs (Preventive),
All Chief Commissioners of Customs , Central Excise and Service Tax,
All Chief Commissioners of Central Excise and Service Tax,
All Chief Commissioners of Service Tax,
Chief Commissioner (AR), CESTAT,
All Directors Generals,
Web Master, CBEC.

Sir/Madam,

Subject – **Revised Guidelines for Arrest and Bail in relation to offences punishable under Customs Act, 1962- reg.**

Attention of the field formations is invited to the guidelines for arrest and bail in relation to offences punishable under Customs Act, 1962 issued vide F. No. 394/71/97-Cus (AS) dated 22.06.1999 and F. No. 394/68/2013-Cus (AS) dated 17.09.2013. The threshold limit (s) specified in the guidelines issued on 17.09.2013 has been further streamlined in accordance with guidelines issued for launching of prosecution in relation to offences punishable under Customs Act, 1962 vide Circular No.27/2015-Customs [F.No.394/68/2013-Cus (AS)] dated 23.10.2015.

2. Accordingly, the para 2.3 of the existing guideline issued vide F. No. 394/68/2013-Cus (AS) dated 17.09.2013 shall read as under:-

“ **2.3** While the Act does not specify any value limits for exercising the powers of arrest, it is clarified that arrest in respect of an offence, should be effected only in exceptional situations which may include:

- (a) Cases involving unauthorised importation in baggage/ cases under Transfer of Residence Rules, where the CIF value of the goods involved is Rs. 20,00,000/- (Rupees Twenty Lakh) or more;
- (b) Cases of outright smuggling of high value goods such as precious metal, restricted items or prohibited items or goods notified under section 123 of the Customs Act, 1962 or offence involving foreign currency where the value of offending goods is Rs. 20,00,000/- (Rupees Twenty Lakh) or more;

- (c) In a case related to importation of trade goods (i.e. appraising cases) involving wilful mis-declaration in description of goods/concealment of goods/goods covered under section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the CIF value of the offending goods is Rs. 1,00,00,000/- (Rupees one crore) or more;
- (d) Fraudulent availment of drawback or attempt to avail of drawback or any exemption from duty provided under the Customs Act, 1962, if the amount of drawback or exemption from duty is Rs. 1,00,00,000/- (Rupees One Crore) or more. In cases related to exportation of trade goods (i.e. appraising cases) involving (i) wilful mis-declaration in value / description ; (ii) concealment of restricted goods or goods notified under section 11 of the Customs Act, 1962, where FOB value of the offending goods is Rs. 1,00,00,000/- (Rupees One Crore) or more.
- (e) The above criteria of value mentioned in sub para 2.3 (a) to 2.3 (d) would not apply in cases involving offences relating to items i.e. FICN, arms, ammunitions and explosives, antiques, art treasures, wild life items and endangered species of flora and fauna. In such cases, arrest, if required, on the basis of facts and circumstances of the case, may be considered irrespective of value of offending goods involved.”

3. The Chief Commissioners/Director Generals are hereby directed 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.

Enclosures: As above

Yours faithfully,

(A.C. Mallick)
Under Secretary to the Government of India

FORMAT
Monthly Report on Persons Arrested under the Customs Act, 1962
(excluding NDPS Act) in a Zone

Sl. No	Name, Designation and Age of the person arrested	Date of arrest (dd/mm/yyyy)	Commissionerate/ DRI Concerned (Location Code)	Description and Value of the seized/ detained goods (Rs. in crores)	Amount of Duty evaded (Rs. in crores)	Role in evasion/ smuggling of goods and nature of evidence collected	Appraising case/ outright smuggling case
Total							

Enclosure to the Circular No. 28/2015-Customs dated 23/10/2015 issued vide F.No. 394/68/2013-Cus (AS)