

Circular No. 5 /2016 -Customs

F. No. 465/12/2010-Cus V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 9th February 2016

To,

All Principal Chief Commissioners Customs
All Principal Chief Commissioner of Customs & Central Excise
All Chief Commissioners of Customs,
All Chief Commissioners of Customs & Central Excise,
All Directorate-Generals, Chief Departmental Representative,
All Principal Commissioners of Customs,
All Principal Commissioners of Customs & Central Excise
All Commissioners of Customs
All Commissioners of Customs & Central & Excise

Sub: Procedure for investigation of related party import cases and other cases by the Special Valuation Branches - reg.

The 'Special Valuation Branch' (hereinafter referred to as "SVB") was created as an institution specializing in investigation of transactions involving special relationships between buyer - seller or those involving other special circumstances surrounding the sale of imported goods, both of which have a bearing on the assessable value. Detailed instructions were issued vide Circular Nos. 1/98 - Customs dated 1.1.98 and 11/2001-Customs dated 23.2.2001, prescribing the procedure to be observed by the Custom Houses for referring cases to Special Valuation Branches and time lines to be followed for finalising such cases.

2. However, trade and industry has been repeatedly representing regarding delays in finalisation of SVB investigations, continued uncertainty due to provisional assessments, increase in transaction costs due to extra duty deposits and burdensome procedure of renewal of SVB orders. Board has also taken cognizance of the WCO's Guide to Customs Valuation and Transfer Pricing (June 2015) and the fact that the circulars 1/98 and 11/2001 were based upon the Customs Valuation (Determination of Price of imported goods), Rules, 1988, which have since been superseded by the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Accordingly, after considering the above and the large number of SVB investigations

pending in various Customs Houses, a need has been felt to streamline the procedures relating to investigations by SVBs.

3. Vide Circular No. 29/2012 dated 7th of December, 2012, it had been decided to vest functional control over SVBs with the Director General of Valuation (DGOV), with effect from 1st January, 2013. However, upon assessing the impact of the revised administrative arrangements and taking into consideration the suggestion of the industry that jurisdictional Chief Commissioner / Commissioner offer a convenient avenue for redressing grievances, it has been decided to withdraw the said circular with immediate effect. Henceforth, the Special Valuation Branches shall function under the supervisory control of the jurisdictional Chief Commissioner/Principal Commissioner/Commissioner. DGoV shall continue to support the SVBs by issuing advisories on legal issues & guidance notes. DGoV shall also continue to qualitatively monitor investigation orders issued by SVBs.

3.1 The SVBs are presently functioning at the Customs Houses at Bengaluru, Chennai, Kolkata, Delhi and Mumbai. Para 1 (b) of circular no. 11/2001 dated 23rd Feb 2001 laid down the jurisdiction of the SVBs, based upon the principle of location of the corporate office of the importer. After reviewing this arrangement from the point of view of convenience of the trade, it has been decided to continue with the same administrative arrangements. Accordingly, as & when imports requiring investigation by SVBs are noticed at any customs formation, the concerned Commissionerate shall after following the procedure laid down in this circular, transfer all relevant records to the jurisdictional SVB for investigations. However, in cases where the import takes place through CHs of Mumbai / Delhi / Chennai / Kolkata / Bangalore, the importer will be free to select the SVB of the Customs House of import or the Customs House most proximate to the corporate office, as convenient to him. The jurisdiction of the five SVBs is attached as Annexure F.

3.2 The Board has reviewed the practice relating to levy of 'Extra Duty Deposits' (EDD) in cases where SVB investigations are undertaken. It has been taken into consideration that 'Extra Duty Deposit' @ 1% of declared assessable value is being obtained from the importer for a period of 4 months during which time he is required to submit required documents and information to the SVB. In the event of his failing to do so, the EDD can be increased to 5% till such time the importer complies. Upon the importer complying with the requisition for documents and information, Circular 11/2001 – Cus dated 23.2.2001 provides that EDD shall be discontinued, while imports will continue to be assessed provisionally till the completion of investigations. In other words, the imports were continued to be assessed provisionally on the basis of a PD Bond but without any EDD. It has also been noted that many importers have represented on delays in dispensing of EDD, even though they have provided the required information and a period of 4 months has passed without the case having been decided. Therefore, the Board has decided that while reference to SVB requires the assessments to be provisional, for the sake of reducing

transaction cost and bringing uniformity across Customs Houses, no security in the form of EDD shall be obtained from the importers. However, if the importer fails to provide documents and information required for SVB inquiries, within 60 days of such requisition, security deposit at a rate of 5% of the declared assessable value shall be imposed by the Commissioner for a period not exceeding the next three months. Simultaneously, the importer shall be granted a further period of 60 days to comply with the requisition for information & documents. If the importer fails to submit documents within this extended period, the Commissioner in charge of SVB may consider the use of other provisions of the Customs Act for obtaining documents / information from an importer for conducting investigations. In no case shall the imposition of Security Deposit exceed the period of three months specified above. Furthermore, the Board has also decided that the importer would be free to choose whether the Security Deposit to be provided for the purposes of provisional assessment shall be by way of cash deposit or a Bank Guarantee. The form of Bond to be initially furnished by the importer is attached as Annexure D. The form of Bond to be used in a case where taking a Security Deposit becomes necessary is attached as Annexure E.

3.3 It has also been decided that the existing system of adjudication, wherein the proper officer of the SVB passed an appealable order followed by the assessing officer passing another corresponding order finalizing provisional assessments should be replaced. It has now been decided that the SVB shall not issue an appealable order. Instead, the SVB shall convey its investigative findings by way of an Investigation Report to the referring customs formation for finalizing the provisional assessments. This would obviate multiple streams of appeals for the trade.

3.4 During consultations with field formations, it has been reported that while circular 11/2001- Cus dated 23.2.2001 cast the responsibility upon the Commissioner to carefully examine whether a case merits SVB investigations, lack of adequate information at the stage of assessment did not facilitate making a judicious decision on whether a case needs to be referred to SVB or not. Accordingly, it has been decided to introduce a questionnaire to be filled by the importer (attached as Annexure A to the circular), which would enable the jurisdictional Commissioner to take a decision on whether a case needs to be referred to SVB for investigations.

3.5 The Board has also decided that in order to ensure that only cases with significant revenue implications are taken up for SVB investigations, the following cases shall not be taken up for inquiries by SVBs :

- (i) Import of samples and prototypes from related sellers
- (ii) Imports from related sellers where duty chargeable (including additional duty of Customs etc.) is unconditionally fully exempted or nil.

- (iii) Any transaction where the value of imported goods is less than Rs 1 lac but cumulatively these transactions do not exceed Rs 25 lacs in any financial year

Cases, which may be considered for SVB Investigations

4.0 While filing a bill of entry, every importer makes a declaration about whether the seller of imported goods is a related party or not, as defined under Rule 2(2) of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (CVR, 2007). In other words, where any importer makes a declaration that the transaction is between 'related persons', as defined under Rule 2 (2) of CVR 2007, it would be necessary to examine whether or not the circumstances surrounding the sale of the imported goods indicate that the relationship has influenced the price. Accordingly, such transactions will require to be examined as to whether SVB inquiries are necessary.

4.1 Apart from investigation of transactions involving related parties, cases involving possible additions to declared transaction value also need to be examined to determine whether SVB investigations are necessary. Accordingly, transactions where any payments are sought to be made which are in the nature of instances given below, shall be examined with respect to the need for SVB investigations:

(a) 'royalty and licence fee' under Rule 10 (1)(c) of CVR, 2007

or

(b) where the value of any part of proceeds of any subsequent resale, disposal or use of imported goods accrues to the seller [i.e. Rule (10)(1)(d)] of CVR, 2007

or

(c) where any other payments are made or are contemplated to be made in future by buyer to seller as a condition of sale of imported goods etc., [i.e. Rule 10(1)(e)] of CVR, 2007

4.2 However, no reference to SVB would be necessary where any additions are sought to be made under Clauses (a) and (b) of Rule 10(1), as it is expected that such matters would be decided routinely by Appraising Groups.

Procedure for considering reference to SVB

5. Scrutiny of a transaction between related persons or involving additions to value on account of royalty, licence fee etc. can pose complex issues and may lead to delay in clearance. Therefore, importers are advised that if their transaction falls in such a category they should, in so far as possible, file a prior bill of entry as provided under the second proviso to subsection (3)

of section 46 of the Customs Act, 1962, preferably 15 days prior to the import. The importers are also advised to provide information as prescribed in Annexure A to this circular as well as information enjoined under Rule 3 (3) (b) of CVR 2007 at the time of filing of the Bill of Entry itself. Such advance filing of the Bill of Entry is expected to provide sufficient time for taking a decision on whether the transaction needs to be referred to SVB or not and therefore ensuring timely clearance of the goods. This would be necessary only in the first instance of import and once a decision has been taken regarding referring the matter to SVB or not, there would be no need for such advance filing of the Bill of Entry for each subsequent import.

5.1 Upon filing of the Bill of Entry, and receipt of information in Annexure A, the proper officer shall proceed to determine whether, prima facie, there is a need for investigation by the SVB. He shall complete such examination within 3 days of the filing of Bill of Entry and the matter submitted before the Commissioner. While examining the information submitted by the importer, the proper officer shall carefully examine the “circumstances surrounding the sale” and evaluate the case on the following parameters:-

- i. Has the importer declared the price of the goods imported is a “transfer price”?
- ii. What is the basis on which the price has been settled between the buyer & seller?
- iii. Has the price been settled in a manner consistent with the way the seller settles prices for sales to buyer who are not related to the seller?
- iv. Does the nature of relationship between the buyer and seller appear to influence the price?
- v. Is the information provided by the importer in terms of rule 3 (3) (b) able to demonstrate that the transaction is at arms length?
- vi. Are there any payments, such as royalty, licence fee etc., actually made or to be made, as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation cast by the seller? Are such payments included in the price actually paid or payable?
- vii. Whether any part of the proceeds of subsequent re-sale, disposal or use of the imported goods accrues, directly or indirectly, to the seller?
- viii. What is the nature of other payments, if any, made or to be made by the buyer as a condition of sale of the imported goods?

- ix. Has the importer entered into an Advance Pricing Agreement with the Income Tax Authorities or obtained an Advance Ruling?
- x. Will the prices paid or payable by the importer be settled with the seller at the end of a defined period by means of a debit note / credit note?

5.2 While examining the information provided by the importer in terms of Rule 3(3) (b), if any, the proper officer shall bear in mind that the interpretative note to CVR 2007 states:

“A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in rule 3(3)(b).”

5.3 After examining the transaction on the above lines, the proper officer at the customs station of import shall submit the findings to the Commissioner for a decision on whether the case is fit for being referred to the SVB for investigations.

5.4 The Commissioner shall after due consideration of the preliminary findings, take a considered view whether:

- (a) the matter be referred to the SVB for further investigations and the goods be provisionally assessed to duty in terms of section 18 of the Customs Act, or
- (b) the transaction does not merit investigations by SVB and that assessment be finalised on the basis of enquiries to be conducted by the proper officer in terms of Rules 4 to 9 of the CVR 2007 or
- (c) the transaction be assessed in terms of Rule 3 of CVR 2007

Procedure for reference to SVB:

6. In the event of the Commissioner directing investigations by SVB, the proper officer shall promptly carry out provisional assessment in terms of section 18 of the Customs Act, 1962 and ensure that no delays occur in the release of the goods.

6.1 In order to facilitate expeditious inquiries by the SVB, the proper officer shall alongside of provisionally assessing the bill of entry, requisition further information from the importer as per Annexure B to this circular. The importer should be advised to furnish the documents and a duly indexed reply to the questionnaire to the jurisdictional SVB (as per para 3.1) within 60 days.

6.2 Upon completion of the procedure for provisional assessment and issue of the questionnaire (Annexure B), all related records shall be transferred to the jurisdictional SVB, and in no case later than 3 working days of the release of the goods.

6.3 The documents received from the importer with respect to the checklist shall be duly acknowledged by the SVB. An intimation shall be forwarded to RMD and the referring appraising group regarding submission of the documents within time so that provisional assessments, without security deposit or bank guarantee, continue till the finalisation of the investigation.

Procedure for cases where reference to SVB is not required:

7. In case where after examination of the transaction, it is decided by the Commissioner that a reference to SVB is not necessary, the Customs House shall issue a reference number to the importer and the Risk Management Division to indicate that the transaction has been examined from the point of view of need for SVB inquiries and it has been decided not to refer the same for SVB investigations.

Procedure in Special Valuation Branch

8. Upon receipt of all related records from the referring customs formation, the SVB shall forthwith assign a case number and update the Central Registry Database (CRD) maintained by DGoV. The SVB shall also inform the RMD of the details of the importer, his IEC code, and details of seller for inserting suitable instructions for assessing officers at all Customs Houses so as to ensure provisional assessments during the currency of SVB inquiries.

8.1 Upon receipt of information from the importer as per Annexure B, SVB shall commence inquiries, during the course of which the Deputy Commissioner / Asst. Commissioner (SVB) may call for further documents or information as required. The importer shall also be given suitable opportunity to submit evidence in support of the declared value.

8.2 The SVBs shall, as far as possible, complete the investigations and issue its findings within two months from the date of receipt of information in Annexure B. In cases where investigations are not completed within 2 months, the SVB shall seek the approval of the jurisdictional Commissioner for such extended time period as is deemed necessary to complete investigations. However, where investigations are not completed within 4 months from the date

of receipt of information in Annexure B, the matter shall be submitted before the Chief Commissioner for extension of period as is deemed fit.

8.3 Upon completing investigations, the SVB shall submit the findings before the Principal Commissioner/Commissioner, quantifying the extent of influence on the transaction value due to the relationship or payments towards royalty or licence fee or other payments actually made or to be made as a condition of sale of the imported goods. Upon approval by the Principal Commissioner / Commissioner, an Investigation Report (IR, for short) shall be prepared incorporating all relevant facts, submissions made by the importer, investigative findings, grounds for acceptance or rejection of transaction value, and the extent of influence on declared transaction value, if any. The IR shall include all relied upon documents and shall be communicated to the referring customs station/appraising group and such other stations where imports have been provisionally assessed. A copy of the IR shall also be sent to the DGoV.

Finalisation of assessments

9. Upon receipt of the IR from the SVB, where investigative findings are that the declared value is found conforming to Rule 3 of the CVR, 2007, the customs stations where provisional assessments have been undertaken shall immediately proceed to finalize the same. There would be no need to issue a speaking order for finalising the provisional assessments in such cases.

9.1 However, when investigative findings are that the declared value has been influenced by the circumstances surrounding the sale, the proper officer shall issue a show cause notice to the importer within 15 days of the receipt of the IR, under intimation to the concerned SVB.

9.2 In cases where imports have been cleared through multiple customs locations, the jurisdictional commissioner of the SVB shall, after issue of notices by the proper officers in the said locations, make a proposal addressed to the Commissioner (Customs), CBEC recommending appointment of a common adjudicating authority by the Board for the purpose of passing order for finalization of the provisional assessments.

9.3 The adjudicating authority shall, after following the principles of natural justice, pass an order quantifying the extent of influence on the declared transaction value. The Order shall be endorsed to the Risk Management Division and the DGoV, for updating the Central Registry Database.

9.4 The appellate provisions under Section XV of the Customs Act would apply for filing appeals against the order passed by the adjudicating authority.

Change in circumstances surrounding the sale

10. In any case where, the circumstances of sale or terms and conditions of the agreement between the buyer and related seller change, or any other payments of the kind referred under Rule 10 (1) (c), (d) & (e) of the CVR, 2007 become payable, the importers shall be required to declare the same at the place of import in the prescribed format at Annexure C. In all such cases, the proper officer shall examine the transactions as per procedures laid out above in this circular and the jurisdictional Commissioner shall refer the matter to the jurisdictional SVB, where required.

10.1 In view of the above, it may be noted that the system of renewal of SVB orders has been discontinued with immediate effect.

10.2 Instructions regarding disposal of pending cases are contained in circular 4 / 2016 dated 9th February 2016.

Monitoring of SVB investigations:

11. DGoV shall facilitate co-ordination amongst the SVBs. Once a case is registered by the SVB, detailed information regarding the same along with the IEC code of the importer should be entered in the Central Registry Database (CRD) maintained by the Directorate General of Valuation. DGoV shall monitor the progress of the investigations and report to the Board cases involving any inordinate delays.

12. This circular is issued in supersession of Circular No. 1/98 – Cus dated 1.1.98 and 11/2001-Cus dated 23rd February 2001 and comes into immediate effect.

13. Difficulties, if any, faced in the implementation of this Circular may be brought to the notice of the Board.

14. Hindi version follows.

Yours faithfully,

(S.Kumar)
Commissioner (Customs)

Circular No.5 / 2016-Customs

F. No. 465/12/2010-Cus V

BE No:

Customs Station:

Annex-A

Questionnaire to be filled by the importer at the time of filing bill of entry

Importer	
1	Name & Address of the importer
1.1	IEC Code
1.2	Central Excise Registration number, if any
1.3	Service Tax Registration number, if any
1.4	PAN number
2.	Whether the importer is a proprietorship/partnership/private limited company/public limited company/branch office of company incorporated outside India/wholly owned subsidiary etc.?
3	Whether the importer is manufacturer or manufacturer cum trader or only a trader?
3.1	If the importer is a manufacturer, please provide address of unit (s); and jurisdictional central excise / service tax commissionerate, division & range.
3.2	If the importer is a manufacturer, please briefly describe the manufacturing activity undertaken (principal inputs and description of goods manufactured)
3.3	If the importer is a manufacturer cum trader, please list the goods which are imported and traded.
3.4	If the importer is only a distribution & marketing company or maintenance & services co. etc., please briefly describe the business activity and commodities traded/serviced etc.
Seller	
4.	Name, address, website of the foreign seller from whom the goods are imported
4.1	Whether the seller is the manufacturer of the imported goods or a trader?
4.2	Please specify the clause of Rule 2(2), CVR 2007 in terms of which the Buyer (importer) and seller are related, if applicable. Please provide details of the relationship.
4.3	Please provide a gist and title of all agreements between the buyer (importer) and the seller and/or with their associates
Goods	
5	Have goods identical to the goods imported under the present BE, been imported earlier? If yes, please provide details.
5.1	Whether the importer has imported any capital goods, plant, machinery, equipment, etc., from the seller of the imported goods or its related or associated concerns?
5.2	Does the seller of the imported goods supply the same directly to any other unrelated person in India? If so, please furnish details of other importers in India, if available.

5.3	Has the price of the goods been settled in manner consistent with the way the price is settled by the seller with unrelated buyers?
5.4	Please provide the information under Rule 3 (3) (b) of CVR, 2007, if any.
5.5	Is the price of the imported goods determined on the basis of a price list? If yes, please provide copy of the price list and the basis of arriving at the invoice value.
5.6	If the price is not based upon a price list, then is the price declared a 'Transfer Price'?
5.7	What is the basis on which the price has been settled between the buyer and seller?
	Other Payments (Costs & Services under Rule 10 of CVR, 2007)
6.	Whether the <u>goods imported</u> by the importer are sold under a trade mark, design, licencing/royalty agreement or patent owned or controlled by the seller of the goods or any other person?
6.1	Whether the <u>product manufactured</u> by the importer using the imported goods is sold under a trade mark, design, licencing/royalty agreement or patent owned or controlled by the seller of the goods or any other person?
6.2	Whether any amount or any part of the proceeds of any subsequent resale, disposal or use of the imported goods accrues, directly or indirectly, to the seller?
6.3	Whether there are any other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller?
6.4	Is any amount paid or payable, directly or indirectly, to or on behalf of the seller of the imported goods in connection with the production of the imported goods? (for example, materials, parts, components, tools, dies, moulds, engineering, development, art work, design work, plans or sketches undertaken elsewhere than in India)
6.5	Are any services rendered by or on behalf of the importer relatable to the goods imported or undertaken on behalf of the seller of foreign goods?
6.6	Will the price paid or payable by the importer be settled with the seller at the end of defined period by means of debit note / credit note (post – import price adjustment)?
	Other information
7.	Has the importer or any of its associates entered into an Advance Pricing Agreement with the Income Tax Authorities or obtained Advance Ruling? (please enclose copy).

Note:

1. The replies to this questionnaire shall be signed by the Authorised Signatory of the Importer accompanied by a self-certified copy of the statutory document as proof of such authorization.
2. In cases where the import takes place through CHs of Mumbai / Delhi / Chennai / Kolkata / Bangalore, the importer will be free to select the SVB of Customs House of Import or the Customs House most proximate to the Corporate Office, as convenient to him.

Company Seal

(Signature of Authorised Representative)/ Director (Finance)/CFO

Name:

Designation:

Tel no. / email:

Annex-B

Questionnaire and documents to be filed by the importer to SVB within 60 days

Details of Importer	
1.	Name of the importer with full address of the Corporate office, registered office, administrative office/factory
1.1	Please attach a copy of the Annex A filed at the customs station.
1.2	Please provide the copy of the bill of entry, invoice, bill of lading, packing list and LC in respect of which Annex A was filed.
1.3	Please provide copies of all provisionally assessed bills of entry and accompanying, invoice, bill of lading, packing list and LC since filing of Annex A at all ports.
1.4	Please provide Annual reports, if any, for a period of upto three preceding years.
1.5	Please provide Balance Sheets, if any, for a period of upto three preceding years.
1.6	Please provide, copy of Transfer Pricing report filed before Income Tax Dept, if any, or a Transfer Pricing Report prepared for Customs Purposes / Tax Purposes, if any
1.7	Please provide copy of Advance Pricing Agreement, if any
1.8	Whether the importer has imported any capital goods, plant, machinery, equipment, etc., from the seller of the imported goods or its related or associated persons? Please furnish copies of Bills of Entry, invoice, packing list, bill of lading & LC (or remittance details), as applicable.
Details of goods imported	
2.	Whether the imported goods are component parts of CKD/SKD sets for local assembly into finished goods? If yes, furnish a complete list of the items imported in CKD/SKD condition.
Pricing Pattern	
3.	Are the imported goods or identical or similar goods (meaning assigned in terms of CVR, 2007) internationally quoted in any data bases, commodity exchanges, industry publications (e.g. PLATT, Public Ledger etc)? If yes, please provide details of price listings and copies of relevant printed material
3.1	If the imported goods are for stock & sale, please provide a pricelist for sale in India of the imported goods.
3.2	If the imported goods are for captive consumption by the importer please provide the pricelist of the goods manufactured and sold in India.
Terms & Conditions of Sale	
4.	Whether the imported items are exclusively supplied by the sellers to the importer in India?

4.1	Whether the product imported is sold under a trade mark, design or patent owned or controlled by the seller of the goods or any other person? If yes, please provide details and copies of the agreements.
4.2	Whether the importer is incurring any expenses on behalf of the seller or their associates? If yes, please provide copies of the agreement and details of the expenses incurred.
4.3	Whether any amounts are paid by the importer in the form of agency commission, overriding commission or any other remuneration, including that for services rendered by or on behalf of the seller, to other importers in India or to the seller of the imported goods, or their related or associated concerns or persons. If yes, please provide copies of the agreements and details of such expenses
4.4	Is the price paid or payable by the importer to be settled with the seller at a future date by means of debit note / credit note (Post – Import price adjustment)? If yes, please provide details.
	Relationship particulars
5.	Specify the role, if any, of the seller or any of its associate business entities, in your corporate policy, design specification, quality control, marketing, sub-licensing of patent, franchise, etc?
5.1	Whether any legal liabilities created by contracts or agreements entered into by the seller devolve on the importer? If so, details thereof.
5.2	Whether the seller is in a position, directly or indirectly, to exercise restraint over the importer, legally or operationally, in any manner? If so, details thereof.
5.3	Whether the converse position for serial no. 5.2. or 5.3 applies? If so, details thereof.
5.4	Whether any third party is in a position, directly or indirectly, to exercise restraint over both the importer and the seller of imported goods, legally or operationally, in any manner? If so, details thereof
5.5	Whether the importer and the seller of the imported goods, together, are in a position, directly or indirectly, to exercise restraint over a third person, legally or operationally, in any manner? If so, details thereof.

Please note:

After scrutiny of the information & documents provided by the importer under Annexure A and B, the Special Valuation Branch of the Customs House may require additional information / documents, which shall be communicated to the Importer in writing.

Company Seal

Signature of Authorised Representative/Director (Finance)/CFO

Name:

Designation:

Tel no. / email:

ANNEXURE – C

(Para 10 of Circular 5 / 2016 dated 9th February 2016 refers)
(on the letterhead of the importer)

To,
Commissioner of Customs
Customs House _____

I (Name of the person) , (Designation) , of M/s (Name of Company) do hereby declare & confirm that, –

This declaration is in relation to the Bill of Entry No. _____
dated _____

- (a) there is a change in the circumstances surrounding the sale of the goods between us and our related seller (s)
- (b) there is a change to the terms & conditions contained in the agreement (s) between us and our related seller (s).
- (c) We have entered into a new agreement with our existing related seller / new related seller / or their associates
- (d) there is a change in the rate of royalty payment / licence fee / or other payment being made to the seller of the imported goods.
- (e) We have undertaken a post-import price adjustment with our seller

*(*Please strike out, which ever are not applicable; please provide supporting documents in respect of (a) to (e), as applicable)*

The above statements are true and correct to the best of my knowledge.

Company Seal

(Signature of Authorised Representative/Director (Finance)/CFO

Name:

Designation:

Tel no. / email:

Continuity Bond

(Under Section 18 of the Customs Act, 1962)

(To be executed by the Importer of goods subject to Inquiries by Special Valuation Branch under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007)

(Circular No5 / 2016 dated 9th February 2016 issued from CBEC F.No: 465/12/2010 - Cus V)

KNOW ALL MEN BY THESE PRESENTS THAT We M/s_____ having our corporate office located at_____ and holding Import-Export Code No._____ hereinafter called the "Importer" (which expression shall include its successors/heirs, executors, administrators and legal representatives) are held and firmly bound unto the President of India hereinafter called the "President" (which expression shall include his successors and assigns) in the sum of Rs_____ Rupees_____ (please fill amount in words) to be paid to the President for which payment well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and legal representatives firmly by these presents.

Sealed with our seal(s) this ___ day of _____ 20

WHEREAS the Assistant Commissioner of Customs/Deputy Commissioner of Customs at the _____ (fill in name of customs station of import) (hereinafter called the "Proper Officer") has agreed to make provisional assessment of the goods imported from time to time by the importer pending submission of further documents and furnishing information and/or completion of further enquiries and the Proper Officer has agreed to allow provisional clearance of the goods mentioned in the schedule hereto annexed upon the importer agreeing to furnish such bond as is herein contained.

NOW THE CONDITION of the above written bond is such that -

(1) If the importer shall within ninety days from the date of importation of this consignment or within such extended period as the Proper Officer may allow, produce such documents and furnish such information as may be called for by the Proper Officer/Special valuation branch, and

(2) If the importer pays to the President, the difference between the duty finally assessed and the duty provisionally assessed in respect of the goods imported from time to time.

Then the above written bond shall be void and of no effect; otherwise the same shall remain in full force and virtue.

AND IT IS HEREBY AGREED AND DECLARED by the importer as follows :-

1. This bond is given under the orders of the Central Government for the performance of an act which is in public interest.

2. The President through the [Deputy Commissioner / Assistant Commissioner of Customs] or other officer may recover the said sum of Rs _____ in the manner laid down in Section 142 of the Customs Act, 1962 without prejudice to any other mode of recovery.

3. This bond shall remain in force from the date hereof and the obligation and liability of the importer shall be a continuing one in respect of all goods imported from time to time by the importer between the period of _____ (*present date*) and the payment by the importer of the difference between the duty finally assessed and the duty provisionally assessed in respect of the goods imported from time to time.

IN WITNESS WHEREOF the importer has herein set and subscribed its hands and seals the day, month and year first above written.

SIGNED AND DELIVERED by and on behalf of the importer at _____
(*place*) in the presence of :-

(Signature of Authorised Signatory and Corporate Seal)

Witnesses:

1.

2.

Accepted for and on behalf of the President of India
(Signature of the Proper Officer)

Schedule to Continuity Bond

(under section 18 of the Customs Act, 1962)

(To be executed by the Importer of goods subject to Inquiries by Special Valuation Branch under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007)

(Circular No5 / 2016 dated 9th February 2016 issued from CBEC F.No: 465/12/2010 - Cus V)

Bill of Entry Number	Date	Provisional Assessable Value	Balance of bond value	Remarks	Signature / date / name / designation of officer
(1)	(2)	(3)	(4)	(5)	(6)

Continuity Bond

(With Bank Guarantee or Security Deposit)

(under section 18 of the Customs Act, 1962)

(To be executed by the Importer of goods with provision for security deposit/bank guarantee subject to Inquiries by Special Valuation Branch under the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007)

(Circular No. 05 / 2016 dated 9th February 2016 issued from CBEC F.No: 465/12/2010 - Cus V)

KNOW ALL MEN BY THESE PRESENTS THAT We M/s_____ having our corporate office located at_____ and holding Import-Export Code No._____ hereinafter called the "Importer" (which expression shall include its successors/heirs, executors, administrators and legal representatives) are held and firmly bound unto the President of India hereinafter called the "President" (which expression shall include his successors and assigns) in the sum of Rs_____ Rupees_____ *(please fill amount in words)* to be paid to the President for which payment well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and legal representatives firmly by these presents.

Sealed with our seal(s) this ___ day of _____ 20

WHEREAS the Assistant Commissioner of Customs/Deputy Commissioner of Customs at the _____ *(fill in name of customs station of import)* (hereinafter called the "Proper Officer") has agreed to make provisional assessment of the goods imported from time to time by the importer pending submission of further documents and furnishing information and/or completion of further enquiries and the Proper Officer has agreed to allow provisional clearance of the goods mentioned in the schedule hereto annexed upon the importer agreeing to furnish such bond as is herein contained; and

WHEREAS the importer has deposited with the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, at ----- *(location)*,

* a bank guarantee;

OR

* a security deposit

mentioned in the schedule hereunder for the due observance of and performance of the terms and undertakings on the part of the importer and for being applied in part or full towards the indemnity hereby given or otherwise according to law.

* strike out whatever is not applicable

NOW THE CONDITION of the above written bond is such that –

(1) If the importer shall within ninety days from the date of importation of this consignment or within such extended period as the Proper Officer may allow, produce such documents and furnish such information as may be called for by the Proper Officer/Special valuation branch, and

(2) If the importer pays to the President, the difference between the duty finally assessed and the duty provisionally assessed in respect of the goods imported from time to time.

Then the above written bond shall be void and of no effect; otherwise the same shall remain in full force and virtue.

AND IT IS HEREBY AGREED AND DECLARED by the importer as follows :-

1. This bond and security deposit/bank guarantee are given under the orders of the Central Government for the performance of an act which is in public interest.

2. The President through the [Deputy Commissioner / Assistant Commissioner of Customs] or other officer may recover the said sum of Rs _____ in the manner laid down in Section 142 of the Customs Act, 1962 without prejudice to any other mode of recovery.

3. This bond and security deposit / bank guarantee shall remain in force from the date hereof and the obligation and liability of the importer shall be a continuing one in respect of all goods imported from time to time by the importer between the period of _____ (*present date*) and the payment by the importer of the difference between the duty finally assessed and the duty provisionally assessed in respect of the goods imported from time to time.

IN WITNESS WHEREOF the importer has herein set and subscribed its hands and seals the day, month and year first above written.

SIGNED AND DELIVERED by and on behalf of the importer at _____ (*place*) in the presence of :-

(Signature of Authorised Signatory and Corporate Seal)

Witnesses:

1.

2.

Accepted for and on behalf of the President of India
(Signature of the Proper Officer)

Schedule to Continuity Bond

(under section 18 of the Customs Act, 1962)

*(To be executed by the Importer of goods with provision for security deposit/bank guarantee subject to
Inquiries by Special Valuation Branch under the
Customs Valuation (Determination of Value of Imported Goods) Rules, 2007)*

(Circular No. 5 / 2016 dated 9th February 2016 issued from CBEC F.No: 465/12/2010 - Cus V)

Bill of Entry Number	Date	Provisional Assessable Value	Balance of bond value	Details of security deposit or bank guarantee whichever is applicable	Balance of security deposit or bank guarantee value (whichever is applicable)	Remarks (attach bank guarantee in original counter-signed by officer making this entry)	Signature / date / name / designation of officer
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Annexure F

**F.No: 465/12/2010-Cus V
Cir No. 5/2016**

Jurisdictions of Special Valuation Branches

Sl. No.	Special Valuation Branch	Commissioner In charge	Jurisdiction
1	Bengaluru	Airport and Air Cargo Complex, Bengaluru	Karnataka Kerala
2	Chennai	Customs –III, Chennai	Andhra Pradesh Puducherry Tamil Nadu Telangana
3	Delhi	Commissionerate of Customs (General)	Chandigarh NCT of Delhi Haryana Himachal Pradesh Jammu and Kashmir Punjab Rajasthan Uttar Pradesh Uttarakhand
4	Kolkata	Customs (Port)	Andaman and Nicobar Islands Arunachal Pradesh Assam Bihar Chhattisgarh Jharkhand Manipur Meghalaya Mizoram Nagaland Orissa Sikkim Tripura West Bengal
5	Mumbai	Customs (Import-II), Mumbai Zone I	Dadra and Nagar Haveli Daman and Diu Goa Gujarat Madhya Pradesh Maharashtra