



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA

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February 15, 1995

CUSTOMS MEMORANDUM ORDER
NUMBER 3-95-B

To : All Collectors of Customs,
Division and Section Chiefs,
Examiners/Appraisers
SGS Manila Liaison Office (SGS-MLO)
Importers, Brokers and all others concerned

SUBJECT : Amendment to CMD 3-95 on the Tentative
Release of CRF-questioned shipments under
Joint Order 1-91

A. AMENDED PROVISIONS

To better attain its objectives, certain provisions of CMD 3-95 are hereby amended to read as follows:

"3.2 When Tentative Release may be allowed:

3.2.1 x x x

3.2.2 There is NO PRIMA FACIE case of gross inaccuracy or wrong findings whenever the following are obtaining:

3.2.2.1 The commodity involved has a similar case already previously decided by the Appeals Committee where the decision on value is within (+) or (-) 20% of the CRF findings at hand, or the decided classification is the same as the CRF classification being questioned provided however, that the decision on the value is not more than one (1) year old.

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3.2.2.2 When the CRF value is within (+) or (-) 20% of a value in the computer files of the Valuation Center and Library which is not more than six (6) months old. Where value exists in the Valuation Center and Library program which is higher than the CRF, the CRF value shall be adopted but the appraiser concerned shall elevate the matter to the Appeals Committee in accordance with the procedure provided for in paragraph 4.2.7 of this Order for determination on the merits as to whether the CRF value or the published value shall finally be adopted."

x x x

"3.4 Government Security on Tentative Release

3.4.1 Form of the Security. - To secure government revenue pending resolution of an appeal, the importer shall be required a guarantee which may take the form of either a Manager's/Cashier's check or a company post-dated check subject to the determination of the Chief, Collection Division following the guidelines in 3.4.2 below.

3.4.2 Determination of the Form. - In determining the form of the guarantee, the Chief, Collection Division of the port shall limit acceptance of a company post-dated check to the following cases:

3.4.2.1 Companies belonging to the top 3,000 corporations as appearing in the list of the Securities and Exchange Commission.

3.4.2.2 Companies whose post-dated checks are guaranteed by the Customs Broker individually or through a reputable/accredited association of Customs Brokers. The guaranty shall

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be in the form of an interest bearing Account to be opened with the Philippine National Bank (PNB) Port Area Branch in the name of the guarantor the outstanding balance of which shall be:

(a.) not less than the amount of the specific PDC being guaranteed in the case of guaranty by individual Customs Broker;

(b) not less than ₱1,000,000.00 at any given time in the case of guaranty by the association of Customs Brokers. However, the total aggregate amount of PDC's that the association can guarantee cannot exceed the actual balance in the account.

In the event the guaranteed PDC becomes due and remains uncollected, PNB shall credit this amount to the account of the Bureau of Customs in accordance with existing accounting regulations on remittance of revenue. For the purpose, PNB shall coordinate with the Chief, Cash Division, of the port of entry concerned for the mechanics of the fund management. After debiting, the individual guaranty (by individual broker) is released. In the event no amount is due on the guaranteed PDC as resolved by the Appeals Committee, Chief, Cash Division concerned shall likewise officially notify PNB for the release of the individual guaranty by individual Customs Brokers. For guarantor associations, however, the guarantor-association shall, in case of debiting, replenish the debited amount for purposes of maintaining the minimum amount of deposit required under this Order. When the outstanding balance goes lower than the above-stated amount, PNB shall so inform the guarantor-association in writing and if within five (5) working days from notice no replenishment is effected, PNB shall promptly notify the Commissioner of Customs who shall then temporarily suspend the privilege of the erring guarantor-association to guarantee PDC's until such time that the account has been replenished.

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"3.4.4 Amount of Security. The amount of the security (managers's/cashier's,PDC) shall be determined as follows:

3.4.4.1 Where the issue is valuation and/or classification, it shall be equivalent to the difference in the duties, taxes and other charges as between that due on the contested CRF and the lower value and/or classification as claimed by the importer.

Where the CRF value and /or classification is raised at the instance of the examiner/appraiser wherein a higher value and/or classification could be adopted based on the second sentence of 3.2.2.2 above, or based on a previous committee decision which is not more than one (1) year old or a value in the Valuation Center and Library which is not more than six (6) months old or based on established classification, or manifest error in SGS classification, and the like, the importer shall pay duties and taxes based on the CRF value/classification and shall not be required to put up a security to cover the difference in duties and taxes as between that due on the examiner's/appraiser's value and/or classification and the contested CRF. However, the covering entry shall be marked and so considered as one under tentative liquidation."

B. EFFECTIVITY

This Order shall take effect immediately.


GUILLERMO L. PARAYNO JR.
Commissioner