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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
MANILA

DEC 00 1993

CUSTOMS MEMORANDUM ORDER
NO. 64-93

TO: All Collectors of Customs
Chiefs of Services
Chiefs of Divisions and
All Others Concerned

SUBJECT: *Guidelines in the Implementation of
Customs Administrative Order
10 - 93 dated November 16, 1993
regarding the imposition of
Surcharge under Section 2503 of the
Tariff and Customs Code as amended
by Republic Act 7651.*

To ensure a uniform application and more effective implementation of Customs Administrative Order 10-93 relative to the imposition of surcharge on imported articles due to undervaluation, misclassification and misdeclaration, the following guidelines as prescribed under Customs Memorandum Order 2-86 are hereby republished incorporating thereto the amendments as provided for under Republic Act 7651.

I. Percentage Difference in Undervaluation, Misclassification and Misdeclaration

For purposes of determining the amount of surcharge due to undervaluation, misclassification and misdeclaration, the computation of the percentage difference shall be in accordance with Customs Memorandum Order No. 23-84, dated March 12, 1984.

II. Amount of Surcharge

The Collector of Customs shall impose the surcharge in accordance with the following:

a) For Misclassification. Where the percentage difference in misclassification is ten per cent (10%) or more but not exceeding thirty per cent (30%) the amount of surcharge shall be as follows:

a.1 When the percentage difference is ten per cent (10%) or more but not exceeding twenty per cent (20%), a one time surcharge of the difference in customs duty shall be imposed.

a.2 When the percentage difference is twenty per cent (20%) or more but not exceeding thirty per cent (30%) a two times surcharge of the difference in customs duty shall be imposed.

b) For Undervaluation, Misdeclaration in Weight, Measurement or Quantity. - When the percentage difference in undervaluation/misdeclaration in weight, measurement or quantity is ten per cent (10%) or more, but not exceeding thirty per cent (30%), the amount of surcharge shall be as follows:

b.1 When the percentage difference is ten per cent (10%) or more but not exceeding twenty per cent (20%), a one time surcharge of the difference in customs duty shall be imposed.

b.2 When the percentage difference is twenty per cent (20%) or more but not exceeding thirty per cent (30%) a two times surcharge of the difference in customs duty shall be imposed.

When the percentage difference exceeds thirty per cent (30%), the existence of fraud is presumed and the imported articles shall be subject to seizure proceedings under Section 2530 of the Tariff and Customs Code, as amended.

III. Non-Imposition of Surcharge

1. Misclassification

1.1 Surcharge shall not be imposed when the declared or entered classification is based on rulings by the following government agencies which are still enforced at the time of entry:

- 1.1.a. Bureau of Customs in the form of:
 - 1.1.a.1. Customs Tariff Circulars
 - 1.1.a.2. Customs Information & Valuation Classification Circulars
 - 1.1.a.3. Request for Value Classification Information
- 1.1.b. National Economic Development Authority through the Philippine Standard Commodity Classification
- 1.1.c. Tariff Commission - issued pursuant to Section 1313-a of the TCCP, as amended

- 1.1.d. Department of Finance
- 1.1.e. Board of Investment - through Certificates of Prior Authorization

Provided however, that the description of the article is found correct upon examination and provided further, that based on the result of the examination, the article is found essentially the same as that described in the ruling.

1.2 When the imported article is described in sufficient detail to enable the same to be identified for tariff classification, provided that it specifically classified in the tariff code, it should also be described in tariff description or terms of the heading and sub-heading of the Code.

2. Undervaluation

2.1 Surcharge shall not be imposed on the following cases/situations:

2.1.a. When the declared or entered value is based on:

2.1.a.1. Officially approved value information, such as those contained in Customs Information Valuation and Classification Circulars (CIVCC) and related revision orders:

2.1.a.2. Request for Value and Classification Information (RVCI);

2.1.a.3. Alert information issued and circularized by the Commissioner and Port Collector of Customs;

2.1.a.4. Established value, as determined by Customs and other value information contained in similar and/or related issuances.

2.1.b. When the value, whether or not published or established, used as basis for appraisal:

2.1.b.1. No longer current/prevailing;

2.1.b.2. Is a value of like or similar article of different brand which

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affects the value of the article, providing however; that the price difference could reasonably be attributed to the difference in brand;

2.1.b.3. Is a value of like or similar article without or with different specification as to size, measurement, rating, grade and similar qualities so that articles may not be essentially the same, provided however, that the price difference could be attributed to the difference in size, measurement, rating and grade.

3. Error in Valuation, Tariff Classification, Return of Weight, Quantity or Measurement -

- 3.1 Manifest errors in invoice and entry
- 3.2 Errors in returns of weight, measure or gauge
- 3.3 Errors in distribution of charges in invoices

Provided however, that these errors do not involve any question of law and are certified to under penalties of falsification and perjury by the surveyor or examining official, as the case may be.

4. Other cases-situations relative to non-imposition of surcharge not covered by paragraphs 1 to 3 above.

This covers situations where the Port Collector of Customs concerned decides not to impose surcharge on a case-by-case basis with due notice to the Commissioner of Customs in accordance with Section 3501 of the Code, as amended.

IV. Repealing Clause:

All other laws, rules and regulations inconsistent herewith are hereby modified or repealed accordingly.

V. Effectivity:

This Order shall take effect immediately.

Guillermo L. Parayno, Jr.
 GUILLERMO L. PARAYNO, JR.
 Commissioner