

**CONTROLLER GENERAL OF DEFENCE ACCOUNTS,
ULAN BATAR ROAD, PALAM, DELHI CANTT – 110010.
(IFA wing)**

Ph No. 011 – 25665529, 25665569 -572, FAX No. 011- 25674779.

IFA Instruction No. 09 of 2011

No. IFA/109

Dated :- 29--11—2011.

To

All Pr.IFAs/IFAs
All Pr.CDAs/CDAs

Sub :- Determination of CFA in custom duty exemption cases.

A number of references were received in HQrs office seeking clarification regarding loading of custom duty exemption element in procurement cases and how to determine CFA in custom duty exemption cases. The matter was referred to MoD (Fin) for issuing clarification in this regard.

2. The clarification issued by MoD (Fin) vide No. Addl FA (P)/Dy No. 2030 dt. 18.11.2011 is reproduced hereunder for information and guidance of all concerned :-

(i) When different bidders quote different tax liability, it becomes imperative to add the value of customs duty exemption sought by a bidders to its bid so as to have a like-to-like fair comparison. **The CST is prepared with such loading. The number which determines L-1 in the CST also determines the CFA for the procurement.**


(ii) MoD (Fin) has further clarified that the following aspects may also be kept in view while considering the procurement proposals :-

- (a) Where it is known that the items being procured are not manufactured in India, care should be taken to ensure that global tenders are issued and the procurement is preferably made directly from OEMs rather than through local tenders. The existing instructions about engagement of Indian agents of foreign OEMs have to be carefully followed. The relationship of the agent, principal should be properly verified, registration details of the Indian agents should be called for, the bid should separately mention import cost in FE and the agents commission in ruppees and the split payment should be made to foreign OEMs and Indian agent in FE/RE as per Agency Commission Agreement.
- (b) Before agreeing to any custom duty and excise duty exemption, it has to be ensured that the authority for granting such tax exemption has been properly delegated to the CFA. The delegation of authority is through a statutory notification with the knowledge of tax authorities. In case the tax exemption authority does not vest with the CFA, necessary clearance should be taken from the competent authority before conclusion of the contract.

- (c) The granting of tax exemption should be done after due diligence about the details of actual imports involved through proper verification of invoice etc.. The exemption certificate should be carefully worded to avoid the document being fraudulently being misused for covering duty free imports of other items not really required by the procuring agency. Instances have occurred where the quantities or specifications were latered to import something different or larger quantities than what was intended by the certificate issuing authority.
- (d) **The Customs Duty Exemption should be issued for a fixed amount, which should be the same, which was included in loading the bid during the CST preparation.**
- (e) **Where a vendor is fully exempted from payment of customs or excise duty and does not need any exemption certificate from the procuring agency, the amount of notional tax/duty otherwise payable should not be loaded onto the bid. As otherwise, it would defeat the very purpose of granting tax exemption to the vendor.**

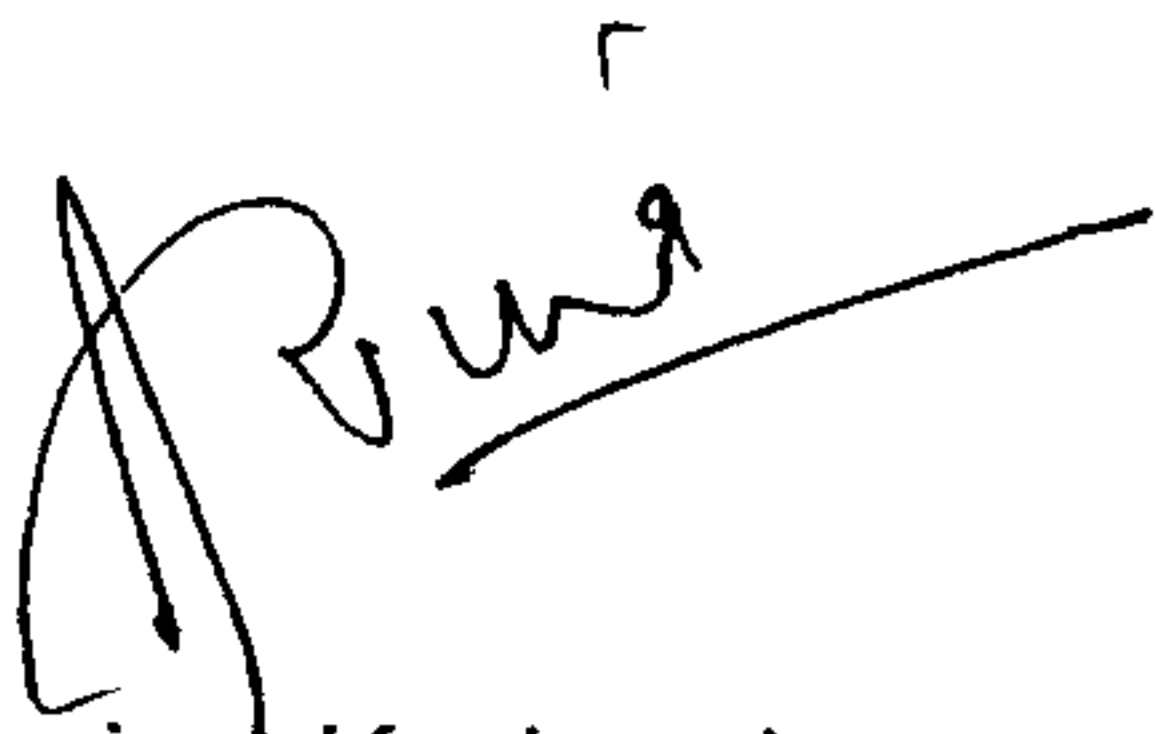
3. It is therefore advised that the procurement cases involving custom duty exemption element may be regulated accordingly.

Note : This also disposes of IFA (WNC) letter No. IFA/WNC/157/CGDA/Corres dt 08.03.2011 & IFA (NC) letter No. IFA/39/Misc dt. 09.08.2011


(Arvind Kadyan)
Jt.CGDA (IFA)

Copy to :-

1. JS & Addl FA (S), MoD (Fin) - for kind information.
2. JS & Addl FA (P), MoD (Fin) – for kind information.
3. JS & Addl FA(V), MoD (Fin)- for kind information.
4. ADGFP, AHQ.
5. ACNS (P & P), NHQ.
6. ACAS (Fin P), Air HQrs.
7. DDG, Coast Guard HQrs.
8. CC R&D, DRDO HQrs.
9. Border Roads Hqrs.
10. All Jt.CGSDA (Local).
11. All RTCs.
12. EDPS (Local) - for publishing on website.


(Arvind Kadyan)
Jt.CGDA (IFA)