

**Directive on Customs Valuation
No. 70/2004**

Directive No.70/2004(E.C)

Whereas the customs proclamation No 622/2001 does not specifically provide for the responsibilities of importers or of their agents with regard to misdeclatations or misdescriptions of goods to be imported to Ethiopia;

Whereas it has become necessary to clearly describe the duties, responsibilities and the liabilities of the importers and/or of their agents; and

Whereas the powers & duties of the customs valuation officer need to be defined & must be transparent to the customers;

Now therefore, in accordance with article 112(2) and 107(2) of the proclamation, the Authority has here by issued these directives as follows.

1. Short title

This directive may be cited as Directive on Customs Valuation No 70/2004 (E.C)

2. Definitions

In this directive;

- 1) “Authority” means The Ethiopian Revenues and Customs Authority.
- 2) “Customs Valuation Officer” means an officer of the Authority assigned by the Tariff and Valuation data Classification Directorate to determine the value of imported goods.
- 3) “Proclamation” means the customs proclamation No. 622/2001.
- 4) “Assessing officer” is a customs valuation officer who finalizes assessment on goods having a declared value of birr 50,000 or less.
- 5) “Customs procedures verification (CPV) officer” is a customs valuation officer who finalizes assessment of goods valued at more than birr 50,000.

- 6) "Assessment Support Team" is a customs valuation team which supports the assessment valuation officers with respect to valuation, Tariff, classification, origin etc.
- 7) "Assessment" is the process of examination of documents and determination of customs duties and taxes by assessing or CPV officers, and includes provisional assessment, reassessment and any order of assessment in which the duty and taxes assessed is nil.
- 8) "Adjudication" is the process of deciding and notifying the customer of his violations of customs procedures and, when necessary, referring the case for confiscation of goods or impositions of penalties by enforcement officers. It means also administrative settlement of customs offences.
- 9) "Appeal" is the process of hearing and ruling on petitions and grievances of the customers or department officers on the decisions of customs valuation officers with respect to assessment.
- 10) "Review" is the process of monitoring performance by higher officer of the proper application of customs valuation procedures executed by subordinate officers.
- 11) "Operational Branch manager" is a manager below and next in rank to the general branch manager and is responsible for coordinating process owners and overseeing or controlling the general operational activities of the branch.
- 12) "General branch manager" is a branch manager above the rank of the operational manager responsible for the branch administration and management in all aspects.

3. Declaration by the importer

- 1) The importer or his agent shall furnish -
 - (a) a declaration disclosing full and accurate details relating to the value of imported goods; and
 - (b) Any other statement, information or document including an invoice of manufacturer or producer of the imported goods where the goods are imported from or through a person other than the manufacturer or producer, as considered necessary by the customs valuation officer for determination of the value of imported goods under these directives.

- 2) Nothing contained in these directives shall be construed as restricting or calling into question the right of the customs valuation officer of the Authority to satisfy himself as to the truth or accuracy of any statement, information, document or declaration presented for valuation purposes.
- 3) The provisions of the proclamation relating to confiscation, penalty and prosecution shall apply to cases where wrong declaration, information, statement or documents are furnished with the intention to deceive the authority.
- 4) The importer shall provide, for purposes of customs valuation, all relevant information as per the form attached with these directives.

4. Liability of the importer and/or his agent

- 1) Any importer and/or his agent who provides wrong, misleading or inaccurate information to the customs Authority or any appropriate officer thereof with respect to values, type or kind of goods, size or amount of goods, country of origin or any other relevant details of information required for the accomplishment of such customs formalities as inspection, examination, tariff classification, valuation and clearance of goods May;
 - (a) be liable for a fine to be determined by the Authority based on the amount of taxes and customs duties that the Authority could have otherwise foregone because of the vices of the information provided by the importer/agents; provided that the fine shall not exceed the total amount of taxes and duties to be paid by the importer; or
 - (b) be liable for a fine not exceeding two hundred thousand Birr in cases where the vices of the information do not affect the amount of taxes and duties to be determined by the Authority;
- 2) Notwithstanding the provisions of this Article, the importer and/or his agent shall be punished according to Article 93 of the proclamation where the misdeclarations or misdescriptions of goods or misrepresentations of facts contained in the information or documents he/she provided or submitted to the Authority are found to have been committed deliberately and with the intention to reduce or not to pay taxes and duties otherwise payable.

5. Power of Assessment of Customs Officers

1. Goods the declared value of which is not more than 50,000 birr shall be assessed by the assessing officer.
2. Goods the declared value of which is more than 50,000 birr shall be assessed by the CPV officer.
3. Assessing officers shall submit advisory opinion to the CPV officers where the value of goods is beyond the limit of their competence.
4. Where necessary, the CPV Officer may refer the documents to the assessment team for their comments on such issues as identified by him and shall take his own decision subsequent to the receipt of the comments.
5. The Assessment support team shall assist and support the assessing officers by organizing information & data and providing opinion and comments relevant to issues at hand.
6. The Assessment support team shall provide comments and advises to the assessing officers in less than or within ten days from the day on which the issue is referred to them.

6. Power of Reassessment and Seizure

- 1) Goods may be reassessed within ten years period from the date of the original assessment where it is deemed or reasonably believed that the original assessment made by the assessing officer or CPV officer is less than the value of the goods that could have otherwise been assessed taking all reasonable circumstances and information in to account.
- 2) Where the reassessment is made after the release of goods, the seizure procedures executable by the enforcement officers shall be applicable on the properties of the importer to get taxes and duties paid on the difference provided that the importer will have the chance to settle the case administratively prior to seizure.

7. Right to Provisional Assessment

The customs Valuation officer may conduct a provisional assessment and order the release of goods pending final assessment provided that the importer, to avail of such procedure, shall furnish such surety and/or security in accordance with the provisions of the proclamation.

8. Powers of Adjudication by customs officers

- 1) On proof of violations of customs laws and procedures the following powers of adjudication is granted to the respective officers:
 - a) The assessing officer may adjudicate cases where the value of goods is not more than 50,000 Birr.
 - b) The CPV officers may adjudicate cases on goods the value of which is more than 50,000 but not exceeding 200,000 Birr.
 - c) The operational branch manager shall adjudicate cases of serious nature involving goods the value of which is more than 200,000 Birr.
 - d) Notwithstanding the previous alinea, the operational branch manager shall have the power to adjudicate and settle all civil offences by administrative decisions in accordance with directives issued for administrative settlement
- 2) In the process of adjudication the customs assessment support team who must be expertise in matters of valuation, origin, enforcement, classification etc. shall perform the function of registry of adjudicated cases and shall present the view of the department before the adjudicating authority.

9. Powers and duties of the customs valuation officer

- 1) Subject to appeal to the appeal committee at head quarter, the customs valuation officer shall have exclusive power to determine values of customs goods and assess taxes and duties payable thereon;
- 2) The valuation officer may reject any information or evidence provided or submitted for customs purposes by the importer/agent where he has sufficient and justifiable reason to believe that the information or documents are not genuine and accurate;
- 3) For the purpose of sub Article (2) of this Article, the customs valuation officer shall, as much as possible, exhaust all inquiries to support his/her decision with reasonable grounds;

- 4) The Customs Valuation officer has the right to rectify his own assessment in case of minor errors before or after assessment notice is given to the customer.
- 5) No appeal is allowed before the customs valuation officer has exhausted the right of rectifying his mistakes.

10. Grounds for suspicion and rejection of declared Values by customs officers

- 1) Notwithstanding the provisions of Article 9, the customs officer shall reject the declared transactional values of goods when the discrepancy between the declared transactional values and the reference values is more than the particular threshold of the transactional values.
- 2) Any abnormal discount or reduction of values from the ordinary competitive values shall be rejected in accordance with sub-Article (1) above.
- 3) No discount is acceptable for customs purposes unless it is clearly mentioned in the invoice itself with its reasons and made indiscriminately to others as well.

11. Power of suspicion on and rejection of declared values by the customs officers

- 1) When the customs valuation officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the customs valuation officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined in accordance with declared values.
- 2) At the request of an importer, the customs valuation officer shall intimate the importer in writing the grounds for doubting as per provisions of Article 9, the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard before taking a final decision under sub-Article (1) of this Article.

- 3) For the removal of doubts, it is hereby provided that:-
- (i) This Article by itself does not provide a method for determination of value; it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with relevant provisions of the proclamation on the different methods for customs value determination.
 - (ii) The declared value shall be accepted where the customs valuation officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.
 - (iii) The customs valuation officer shall have the power to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include-
 - (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transactions were assessed;
 - (b) the sale involving an abnormal discount or reduction from the ordinary competitive price;
 - (c) the sale involving special discounts limited to exclusive agents;
 - (d) the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
 - (e) the non declaration of parameters such as brand, model, grade and other similar specifications that have relevance to value;
 - (f) The submission of fraudulent or manipulated documents.

12. Right to Appeal by importer

- 1) Any importer aggrieved with the decision of the Assessing officer, CPV officer or operational branch manager may bring his appeal to the General branch manager within 20 working days from the day on which the importer/exporter or his agent has received notice of the final assessment.
- 2) The importer still having grievance on the decision of the general branch manager may go to the appeal committee at head quarter in accordance with the proclamation.

13. Appeal

- 1) A branch appeal support team shall assist the branch manager in the decision making process and shall also work as registry.
- 2) A party aggrieved by any decision or order passed by an officer of customs who is lower in rank than the branch manager may file an appeal to the branch manager within thirty days from the date of the communication of the order, passed by such officer, to the party.
- 3) If the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of thirty days, the branch manager may, on being satisfied as to the cause of delay, allow it to be presented within a further period of thirty days.
- 4) The appeal should be made in the prescribed format in duplicate and shall be accompanied by copy of the decision or order passed by the adjudicating authority along with the ground of appeal. The format and the procedure for appeal may be prescribed by ERCA.
- 5) Branch Manager, on receipt of such appeal, shall issue a notice to the other party (respondent) informing about the appeal received and call for the views/comments of the respondent on the grounds of appeal.
- 6) The appellant shall not be entitled to produce before the Branch Manager any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the adjudication authority, except in the following circumstances, namely:

- a) Where the adjudicating authority has refused to admit evidence which ought to have been admitted; or,
 - b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called
 - c) Where the appellant was prevented by sufficient cause from producing before the authority any evidence which is relevant to any ground of appeal; or,
 - d) Where the adjudicating authority has passed the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
- 7) No evidence shall be admitted unless the Branch Manager records in writing the reasons for its admission. Nothing shall affect the powers of the Branch Manager to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal.
- 8) The Branch Manager shall not take cognizance of any evidence produced unless the adjudication authority or an officer authorized in this behalf by the said authority has been allowed a reasonable opportunity:
- a) To examine the evidence or documents or to cross-examine any witness produced by the appellant; or,
 - b) To produce any evidence or any witness in rebuttal of the evidence produced by the appellant.
- 9) The Branch Manager (Appeals) shall, after making such further inquiry as may be necessary, pass such order as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against.
- 10) Where the Branch manager is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, or, that the order requires enhancement of any penalty or fine in lieu of confiscation or confiscation goods of greater value or reduction in the amount of refund, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded or requiring enhancement of any such penalty or fine or reduction of amount of refund shall be passed unless the appellant is given notice within the time-limit in the show cause notice against the proposed order.

- 11) The order of the Branch Manager disposing of the appeal shall be in writing and shall state the points for determination in such appeal, the decision thereon and the reasons for the decision. The Branch Manager shall, where it is possible to do so, hear and decide every appeal within a period of sixty days from the date on which it is filed.
- 12) Any party aggrieved with the order passed by the branch Manager may file appeal with the Appeal Committee within sixty days of communication of such decision or order to the party.

14. Review and the Review Committee

- 1) Review Committees and review support Teams shall be established at the branch and Headquarter, respectively.
- 2) The Branch Manager may, of his own motion or on the recommendation of the branch review support Team, call for and examine the record of any proceeding in which an assessing/adjudication authority subordinate to him has passed any decision or order, for the purpose of satisfying himself as to the legality or propriety of any such decision.
- 3) The Branch Review Support Team consisting of officers from the Branch may be deployed to examine the aforesaid orders and advise the Branch Manager for further course of action.
- 4) The Review Committee may, of its own motion, or, on the recommendation of Headquarter Review Support Team, call for and examine the record of any proceeding in which an order has been passed by Branch Manager for the purpose of satisfying itself as to the legality or propriety of any such decision.
- 5) The Headquarter Review Support Team consisting of officers from the Headquarters may be deployed to examine the aforesaid orders and advise the Review Committee and also act as Registry for the said Committee.
- 6) The Branch Manager shall be required to forward all the orders passed b them to the Review Committee.

15. Appeal Committee

- 1) The 'Appeal Committee' shall be headed by a Deputy Director General And shall comprise any two of the following experts:

- (i) Officer from Valuation
 - (ii) Officer from Enforcement
 - (iii) Officer from Classification or,
 - (iv) Officer from Public Grievance.
- 2) The Officers comprising the Appeal Committee shall be different from the Officers comprising the Review Committee at the Headquarters, to the extent possible.
- 3) A Headquarter appeal Support Team, shall be set up for assisting the Appeal Committee in the matters of receiving the appeals and other documents, issuing notices and for the maintenance of records. It will also act as Registry.
- 4) The Committee shall meet periodically depending upon the number of appeals received.
- 5) Any party aggrieved by any decision or order passed by the Branch Manager or Branch Manager may file an appeal to the “Appeal Committee” within sixty days from the date of the communication of such decision or order to the party.
- 6) If the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, the Appeal Committee may, on its satisfaction, allow it to be presented within a further period of thirty days.
- 7) If at any stage of hearing of an appeal, the Appeal Committee feels it appropriate, it may grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing.
- 8) No such adjournment shall be granted more than three times to a party during hearing of the appeal.
- 9) The appeal may filed in the prescribed format in duplicate and shall be accompanied by a copy of the decision or order passed by the adjudication authority along with the grounds of appeal. The format and the procedure may be prescribed by the ERCA.
- 10) The Registry of the Appeal Committee, on receipt of such appeal, shall issue a notice to the respondent informing about the appeal received and call for the views/comments of the respondent on the grounds of appeal.

- 11) The appellant shall not be entitled to produce before the Appeal Committee any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the adjudication authority, except in the following circumstances, namely:
 - a) Where the adjudication authority has refused to admit evidence which ought to have been admitted; or,
 - b) Where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by that authority; or,
 - c) Where the appellant was prevented by sufficient cause from producing before the authority any evidence which is relevant to any ground of appeal; or,
 - d) Where the adjudication authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
- 12) No evidence shall be admitted unless the Appeal Committee records in writing the reasons for its admission.
- 13) Nothing shall affect the powers of the Appeal Committee to direct the production of any document, of the examination of any witness, to enable the Appeal Committee to dispose of the appeal.
- 14) The Appeal Committee shall not take cognizance of any evidence produced unless the adjudication authority or an officer authorized in this behalf by said authority has been allowed a reasonable opportunity;
- 15) The Appeal Committee shall, after making such further inquiry as may be necessary, pass such order as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against.
- 16) However, where the Appeal Committee is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, or, that the order requires enhancement of any penalty of fine in lieu of confiscation of confiscation goods of greater value of reduction in the amount of refund, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded or requiring enhancement of any such penalty or fine or reduction of amount of refund shall be passed unless the appellant is given notice within the time-limit in the show cause notice against the proposed order.

- 17) The Order of the Appeal Committee disposing off the appeal shall be in writing and shall state the points for determination in such appeal, the decision thereon and the reasons for the decision.
- 18) The Appeal Committee shall, where it is possible to do so, hear and decide every appeal within a period of ninety days from the date on which it is filed.
- 19) On the disposal of the appeal, the Appeal Committee shall communicate its order to the parties, the adjudicating authority and the Branch Manager, where the order appealed against before the Appeal Committee has been passed by such Branch Manager.
- 20) Any party aggrieved with the order passed by the Appeal Committee may file appeal with the Tax Tribunal Appeal Committee within sixty days of communication of such decision or order to the party.

16. Administrative settlement of all customs offences

All customs offences adjudicated with respect to valuation shall be subject to administrative settlement for the purpose of the payment of deferred taxes and duties together with the penalties provided under the directives issued by the Authority for administrative settlement.

17. Establishment of Prosecution Committee

- 1) A prosecution committee shall be established at the head quarter to examine and decide, after the conclusion of administrative settlement, the cases in which criminality elements such as fraud and smuggling and other criminal offences may be detected and put in evidence and cases in which criminality elements may be suspected so that further investigation might be triggered.
- 2) After examination of the administrative settlement, the prosecution committee shall decide to bring the case to criminal prosecution where;
 - a) The criminal intent of importer/exporter or his agent is found clearly manifested from the evidences during the examination of the case; and
 - b) Criminality elements may be suspected and further triggered investigation has clearly manifested and put them in evidence ; and

- c) The amount of taxes and duties which the Authority could have otherwise foregone due to the offences is more than 500,000 or 25% of the overall taxes and duties payable.
- 3) In any other cases where the criminal intent of the importer/exporter or his agent is not manifested from the evidences gathered during examination of the settlement nor from the further investigation results, then the prosecution committee shall confirm the administrative settlement.
- 4) The general branch manager might examine a case at branch level and recommend for examination and prosecution to the prosecution committee.
- 5) The prosecution committee may prescribe its own working procedures but in any case the decision of the prosecution committee shall be made by presence of Quorum.

18. Admissibility of Evidences

Soft and data base evidences retrieved or produced from or developed in customs managed information systems is acceptable and admissible at court proceedings

19. Recovery of government money after administrative settlement

In the case where the execution of the administrative settlement is not effective nor fully efficient, the authority shall identify the sources of sizeable or recoverable assets of the offender before bringing the case to the court because of insolvency.

20. Application of the Directive

- 1) This Directive will prevail over other directives which are inconsistent with this Directive with respect to valuation.
- 2) Other Directives issued on valuation shall remain valid in so far as they are not inconsistent with this Directive

21. Effective date

This directive shall come into effect on the date of endorsement by the Director General of the Authority.

Melaku Fenta

Director General of
The Ethiopian Revenues & customs
Authority