Trends in Revenue Fraud

The Indian Customs' Perspective

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Commercial Fraud

Commercial fraud means, any offence against statutory or regulatory provisions which Customs are responsible for enforcing, committed in order to:

- Evade, or attempt to evade, payment of duties/levies/taxes on movements of commercial goods; and/or
- Evade, or attempt to evade, any prohibitions, restrictions or requirements applicable to commercial goods; and/or
- Receive, or attempt to receive, any repayments, subsidies or other disbursements to which there is no proper entitlement nor transaction; and/or
- Obtain, or attempt to obtain, illicit commercial advantage injurious to the principle and practice of legitimate business competition ; and/or
- Exploit, or attempt to exploit commerce for the purpose of transferring proceeds of crime.

This amended definition was agreed by the Working Group on Commercial Fraud, approved by the 27th Session of the Enforcement Committee and adopted by the Council in June 2008

What is at stake

Loss of Government revenue

Direct

Indirect

Larger web

- Generation of black money
- Illegal transfer of value/money
- Laundering of money
- Financing of global terrorism and other crimes

Trade route more attractive since strengthening of Suspicious Transaction Reporting and measures against cash couriers globally

Working Group on Commercial Fraud

- First meeting in December 2005
- Replaced by the Working Group on Revenue Compliance and Fraud, which first met in December 2014
- Non-Revenue related topics (such as environmental crime, protection of cultural heritage and consumer protection fraud) were beyond the Terms of Reference of the new Working Group

Typologies

- WCO Commercial Fraud Typologies Summary
- FATF and FATF Styled Regional Bodies
- Different possible ways to classify frauds


Revenue Fraud
Import
Export
Transit/Diversion

Revenue Fraud (Import)

- Undervaluation
  - Chiefly to avoid payment of leviable duties
  - High-duty products are more vulnerable
- Overvaluation
  - To avoid anti-dumping duties
  - To avoid regulatory requirements
  - To avail undue subsidies/incentives under special schemes

Revenue Fraud (Import contd.)

- Mis-description
  - To pay a lower rate of duty
  - To avoid specific rates of duty
  - To escape regulatory requirements
- Mis-declaration of weight
  - Leading to undervaluation
  - To facilitate concealment of undeclared cargo
- Mis-declaration of Retail Sale Price

Revenue Fraud (Import contd.)

- Origin Frauds
  - Both preferential and non-preferential
  - Avoidance of trade policy levies such as anti-dumping duties
  - Availment of preferential treatment not due
- Non-fulfilment of post-importation requirements or conditional exemptions

Revenue Fraud (Export)

- Overvaluation
  - To avail higher drawback/refund than due
- Mis-description
  - To avail higher rates of drawback/refund
- Mis-declaration of quantity/weight
- Undervaluation
  - To avoid export duties

Revenue Fraud (Transit/Diversion)

- Goods in transit
  - Diversion/substitution en route
  - Smuggling after completion of transit operations

- Diversion of duty-free goods
  - Diversion of export goods into domestic market
  - Diversion of inputs imported duty-free into domestic market

Case Study: Drawback fraud

- Intelligence indicated a syndicate indulging in fraudulent availment of drawback by way of export of overvalued readymade garments (RMG)
- Exports were suspected to be made through a large number of taxi/ bogus firms for which no remittances were received.
- Searches were conducted at various places in Delhi/Gurgaon.
- The documents and evidence recovered indicate that the syndicate had floated/created about 400 fake firms, which were used to siphon off drawback of over USD 108 million during the period from January, 2014 to March, 2016.
- The firms had been exporting RMG of inferior and substandard quality by grossly overvaluing the goods, for claiming excessive drawback.

Case Study: Origin Fraud

- Intelligence indicated the misuse of various FTAs in the import of LED TV sets by major global brands
- The FTAs in question required regional value content in the region of 35%-40%
- The LED panel, an essential component, is known to have only a few manufacturers globally (with none in the relevant FTA partners), and comprises about 60% of the value of the TV set
- Approximately USD 77 million has been recovered

Case Study: Export Fraud

- Intelligence suggested fraudulent claim of benefits under Duty Free Import Authorization/Advance Authorization Scheme by carrying out fictitious deemed exports to a non-operational 100% Export Oriented Unit by dummy merchant exporters.
- Acting on this intelligence, searches were conducted at various locations. Majority of declared addresses were found to be fake/incorrect. Certificates purportedly issued by the Central Excise authorities against which the merchant exporter made supplies to the 100% EOU, were also found to be forged.
- After making fictitious exports, the DFIA scrips were transferred to other firms who utilized them for duty free import of mulberry raw/mulberry silk.
- Evasion in excess of USD 15 million.
- Two persons were arrested.

Case study: Remittance Fraud

- Certain importers were suspected of transacting substantial fraudulent remittances against imports.
- Detailed verification revealed that the importers had used fake addresses and had adopted the following modus operandi to remit money overseas:
  - a. Preparing Forged Bills of Entry
  - b. Submitting the same Bill of Entry multiple times before the same bank or different banks for outward remittance
  - c. Presenting Bills of Entry of unrelated importers before the bank for making outward remittances
- The inflated amount remitted by these firms is about USD 350 million against actual imports of USD 3.8 million

Case Study: Mis-classification

- Several tyre manufacturers importing SBR (Styrene Butadiene Rubber) packed in Metal Boxes had been evading Customs Duty by not declaring the value of the Metal Boxes also known as Intermediate Bulk Containers (IBC).
- Such IBCs were being supplied to the importers by the supplier company under an agreement to return such packing material (IBCs) to its subsidiary company based in India.
- The Indian subsidiary had been utilizing the IBCs domestically
- As per the General Rules of Interpretation of the HS, the packing material or containers suitable for repetitive use are to be separately classified
- Estimated duty liabilities of USD 1.5 million

Case Study: Undervaluation

- Intelligence suggested undervaluation by a multinational Industrial automation and control systems from a related supplier.
- The impact of the relationship on the transaction value had been previously examined by the Special Valuation Branch
- Search was conducted at the office premises of the importer and documents pertaining to investigations were resumed
- It was found that the importer had suppressed the fact of a Discount Agreement with its parent company during the SVB enquiry
- The duty evaded is approximately USD 7.5 million

Thank you

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