

**F.No. 711/07/2003-Cus (AS)**

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs  
(Anti-Smuggling Unit)  
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New Delhi, dated the 29<sup>th</sup> March, 2017

To

All Principal Chief Commissioners/ Chief Commissioners of Customs/Customs (Preventive),  
All Principal Chief Commissioners/ Chief Commissioners of Customs & Central Excise.  
All Principal Directors General / Directors General of CBEC.  
All Principal Commissioners/Commissioners of Customs / Customs (Prev).  
All Principal Commissioners/Commissioners of Customs (Appeals).  
All Principal Commissioners/Commissioners of Customs & Central Excise.  
All Principal Commissioners/Commissioners of Customs & Central Excise. (Appeals).  
Webmaster, CBEC.

**Subject: Disposal of seized/confiscated cigarettes of foreign origin vis-à-vis provisions of the Cigarettes and other Tobacco products (Packaging and Labelling) Rules, 2008.**

Madam/Sir,

I am directed to refer to Board's instructions of even no. dated 10.02.2010 on the above mentioned subject. The matter of disposal of seized/confiscated cigarettes has been examined by the Board afresh in view of the suggestions that there are difficulties being faced by the field formations in adhering to the requirements spelt out in the above mentioned Circular and the subsequent statutory provisions on the issue.

2. All tobacco products (whether domestically manufactured and sold or imported) require to comply with the requirements contained in the Cigarettes and other Tobacco Products [(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003)] and the Rules framed thereunder. Ministry of Health and Family Welfare Vide Notification GSR 727 (E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739 (E) dated 24.09.2015]. The COTP Rules are strict in nature and their compliance requires that the printing of pictorial and textual warning on cigarette packets is in specified format, colours, resolution, font and language.

3. The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity which includes cigarettes. As the imported cigarette packs are intended for retail sale, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or pre-packing or importation, the retail sale price, etc. In terms of the said Act and Rules it is illegal to manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless the package is in such standard quantities or number and bears thereon such declarations and particulars in such a manner as prescribed.

4. Rule 11(1) of the IPR (Imported Goods) Enforcement Rules , 2007, provides that where it is found that the goods detained or seized have infringed intellectual property rights, and have been confiscated under section 111 (d) of Customs Act, 1962 and no legal proceedings are pending in relation to such determination, the Deputy/Assistant Commissioner of Customs, as the case may be, shall destroy the goods under official supervision or dispose them outside the normal channels of commerce after obtaining “no objection” or concurrence of the right holder or his authorised representative.

5. In view of the above, the field formations may refer to the following guidelines while disposing of illicitly imported cigarettes, which are seized /confiscated,

- i. The cigarette packets shall have, *inter alia*, specified health warning to cover 85% of the principal display area of the package; 60% shall cover pictorial warning and 25% shall cover textual health warning; the placement of the warning; the language to be used on the package; every package of cigarette should have name of the product; name and address of the manufacturer or importer or packer; origin of the product (for import); quantity of the product and date of manufacture [Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution Act, 2003 (COTPA 2003) and rules may be referred]
- ii. Cigarette packets shall have the name and address of the manufacturer or packer or importer and the month and year in which the commodity is manufactured or pre-packed or imported [Legal Metrology (Packaged Commodity) Rules, 2011 refers ].

5.1 Such cigarettes should be disposed of by sale to NCCF/Kendriya Bhandar and other Consumer Cooperatives (refer to Circular No. 39/2016-Customs dated 26.8.2016) or by e-auction.

6. The cigarette packets which do not comply with the provisions of laws as discussed above should not be released for home consumption in the domestic market and should be destroyed. Such destruction shall be carried out in compliance of pollution control laws that are in force in consultation with the respective State Pollution Control Boards.

7. Every seizure must be investigated with regard to counterfeiting and where found to be illicitly manufactured; they must be destroyed in terms Rule 11 of Intellectual Property Rights Rules 2007 (IPR Rules), which is the responsibility of the Right Holder. In cases where such counterfeit goods are restricted, the customs law does not permit their release into the market for consumption.

8. The Chief Commissioners/Directors General are requested to circulate the present guidelines to all the formations under their charge. Difficulties, if any, in implementation of the aforesaid guidelines may be brought to the notice of the Board.

9. The instruction vide letter of even No. dated 10.02.2010 stands superseded.

10. Hindi version follows.

(Rohit Anand)  
Under Secretary to the Government of India