

## **CONCEPT PAPER ON FACELESS E-ASSESSMENT.**

### **I. Background:**

1. In order to modernise the Customs administration, ease the burden of compliance for EXIM community, enhance transparency and efficiency, develop and maintain functional specialization, improve the quality of assessment practices, rely upon risk-driven approach and fast track border clearances, the Central Board of Indirect Taxes and Customs has carried out several reforms in the past few years. The focus of these reforms has been to cut down redundancies, place greater faith in the EXIM community and simplify the business processes and improve the robustness of our risk management system to balance facilitation and enforcement. These measures have earned us not only a quantum jump in the Trading Across Borders ranking but also greater recognition and appreciation by all the stakeholders – global as well as local about the trade facilitation initiatives spearheaded by CBIC.
2. Indian Customs is embarking on a new reform which would add further momentum to the ongoing reforms. CBIC has decided to introduce Faceless Assessment to (i) bring anonymity in assessment and cut down the physical interface between the Assessing Officer and the importer/broker to the extent technologically feasible (ii) ensure uniformity in assessments across the country (iii) promote sector specific approach and functional specialisation (iv) improve workload balance amongst various field formations for efficient utilisation of the resources. The introduction of faceless assessment is part of the string of reforms titled ‘Turant’ Customs. CBIC had initiated a pilot project on Faceless Assessment at different Customs Stations. After the successful run of the pilot, CBIC has now decided to implement the Faceless Assessment across the country.
3. Apart from Faceless assessment, the other aspects of Turant Customs are Paperless Customs through intelligent e-Sanchit, Machine Release i.e. end-to-end automated clearance without any interface of officer at any stage, Advance Cargo Information through revised Sea Cargo Manifest and Transshipment Regulations, Improving visibility and traceability of Regulatory controls and logistics supply chain, further enhancing automation and technology in Customs clearance processes.

### **II. Journey towards Faceless Assessment:**

1. One of the core functions of Customs administration is to give ‘clearance’ (referred to as ‘out of charge’ in Customs parlance) to the imported goods for home consumption, after levying appropriate duties / taxes and enforcing applicable restrictions and prohibitions in relation to those imported goods at the time of crossing the border. The clearance function may comprise of (a) assessment of bill of entry by the proper officer or acceptance of self-assessment done by the importer by Customs Automated System or (b) physical examination of goods or inspection

of marks and numbers on the cartons or checking integrity of container seals. The decision with regard to (a) and (b) is taken based on the risk evaluation carried out by Customs Automated System.

2. The Customs officers have three distinct roles in the Customs Automated System while granting clearance to the imported goods – (i) role of an assessing officer who does the document scrutiny – i.e scrutiny of bill of entry and relevant supporting documents submitted either by an importer or a Customs broker on behalf of the said importer (ii) role of an examining officer who does the physical examination of goods including checking the marks and numbers and integrity of seals on the container and (iii) role of an ‘out of charge officer’ who gives ‘Customs clearance’ or ‘out of charge’ once appropriate duty stands paid and the imported goods are either not prohibited or conditions attached to the import have been complied with. The three distinct roles mentioned above can be performed either by a single officer or more than one officer as long as the officers are empowered as proper officers under Section 17, 18, 46 and 47 of Customs Act 1962.
3. The Customs Automated System broadly categorizes the bills of entry into two separate categories – (a) facilitated bills of entry and (b) non-facilitated bills of entry. The facilitated bills of entry are neither subjected to assessment nor examination and they are routed directly to ‘out of charge officer’ for granting clearance. The assessment function and the decision with regard to whether a consignment has to be subjected to examination is taken over by the Risk Management application. The ‘out of charge officer’ verifies whether requisite supporting documents have been submitted along with the bill of entry before giving the clearance. In the event of any deficiency with regard to submission of supporting documents or if a risk is perceived with regard to any bill of entry, the ‘out of charge officer’ with concurrence of Additional Commissioner can override the facilitation given by Customs automated system and refer the bill of entry either for assessment or examination. In the case of non-facilitated bills of entry, the Customs Automated System would indicate whether a bill of entry has to be subjected to either assessment or examination or both.
4. One of the important aspects with regard to assessment and examination is the place where these processes can be done. While the examination is done by examination officers where the goods are physically present i.e either in the docks or CFS or ICD, the assessment is done by appraiser / superintendent and Assistant or Deputy Commissioner in the Customs House, which is generally away from the examination area. Both the assessing officers and examining officers have independent access to the bill of entry in the Customs EDI system for carrying out respective functions. The assessment function in Customs automated system is divided into different Groups based on Customs Tariff Classification. The present configuration of groups is as follows:

Chapter Number From	Chapter Number To	Assessment Group
1	26	1
27	27	1A
28	28	2
29	29	2A
30	31	2B
32	34	2C
35	36	2D
37	37	2E
38	38	2F
39	39	2G
40	40	2H
41	43	2I
44	46	2J
47	49	2K
50	71	3
72	83	4
84	84	5
85	85	5A
86	92	5B
93	99	6

5. With the introduction of Risk Management System, the assessment function or acceptance of self-assessment along with the decision on examination is taken by Risk Management application based on profiling and risk evaluation. Post introduction of RMS, the assessment and examination functions have been limited to non-facilitated bills of entry and the quantum of those bills of entry filed is not more than 30% at all India level.

### III. Existing Structure of Commissionerates:

1. One of the important dimensions which is relevant in the context of Faceless Assessment is the non-uniform manner in which the structure of Customs Commissionerates and the Assessment Groups have been organized in different Customs Zones. The existing Customs zones could be categorised in the following types on this basis:
  - A. **Customs Zone with full-fledged Commissionerate in terms of Customs functions:** The term full-fledged Commissionerate signifies that all the Customs functions in relation to import as well as export goods is done in that Commissionerate. The example of such zone is Bangalore zone (Bangalore ACC, Mangalore Port, and Bangalore ICD) and Kolkata zone (Kolkata port, Kolkata ACC, Kolkata preventive Commissionerate)
  - B. **Customs Zone with full-fledged Customs Commissionerate combined with separate Import and Export Commissionerates:** The example of such zone is Delhi zone, as ICD Patparganj is a full fledged Commissionerate, ICD TKD (Import) & Delhi ACC (Import) are import Commissionerate and ICD (TKD) Export & ACC (Export) are Export Commissionerate.
  - C. **Customs Zone without full-fledged Commissionerate combined with Import and Export Commissionerate as well as functional Commissionerates:** The term functional Commissionerate signifies a Commissionerate doing partial Customs functions or procedure. The example of such zones are Mumbai I, Mumbai II and Chennai Zone. In Mumbai II zone, NS I Commissionerate is meant for Assessment group I & II and related functions, NS III deals with Assessment group III& IV and NS V does the work related to Assessment Group V, VA, VB and VI. Mumbai I Zone also has similar distribution in terms of assessment group between Import-I and Import II Commissionerate. Chennai zone has different kind of work distribution between the Commissionerate. Chennai II does the only assessment work in relation to imported goods where as Chennai IV has all the CFS under it where the examination of imported goods is done. Chennai VII is a complete Commissionerate for air cargo.
  - D. **Customs Commissionerates under GST Zones** like Hyderabad, Meerut, Cochin, Visakhapatnam, Bhopal and Shillong
2. Further, with regard to physical location of Customs formations, some Commissionerates are situated at one location and some are spread at different locations. For example, ICD (TKD)- Import Commissionerate is at one location, whereas ICD Patparganj Commissionerate is spread across different ICDs. Similarly, preventive Commissionerate also spread across many LCS or ICD. These LCS or ICDs are small units carrying out all the Customs functions.

3. Though there is variation in the manner in which the assessment is organized in various zones as brought out above, one common thread amongst all formations is the clear division of work between an examination officer and an assessment officer. Hitherto the assessment is done either remotely by Risk Management System or in the jurisdiction by the local / jurisdictional officers where the goods have arrived and are available, if required, for examination. In other words, the assessment and examination for non-facilitated bills of entry were happening in the same zonal jurisdiction, though it may not be in the same Commissionerate. It is also worth noting that prior to abolition of Group 7, the assessment of imported goods in multiple locations under group 7 was done by officers in Export Commissionerate and examination of goods was done by the Import Commissionerate.
4. In fact, the following features in the Customs Automated EDI System such as (a) online queries from assessing groups and online response to queries from trade, (b) paperless clearance through uploading of supporting documents in e-sanchit and (c) a centralized application catering to all Customs locations has made it possible to undertake assessment under one administrative Commissionerate and conduct examination and provide verification report about imported goods in another administrative Commissionerate, as evident in the case of JNCH and Chennai formations. Though the Commissionerates having supervision on examination and assessment have been different and separated, however, the separation has been till now under one Zone.

#### **IV. Future Structure of Commissionerates:**

1. In future, the idea is to restructure the existing Commissionerates into two distinct categories:
  - a. National Assessment Commissionerates (NACs)
  - b. Jurisdictional Port Commissionerates (JPCs)
2. All NACs are essentially “Virtual Commissionerates” wherein officers drawn from different Customs locations, who are not physically co-located, but are virtually connected. Each NAC would have an all India jurisdiction and it would comprise of a cluster of “Faceless Assessment Groups” (FAGs) headed by AC/DCs drawn at all India level either from different Virtual Commissionerates or different JPCs. The FAGs are legally empowered to undertake assessments pertaining to any Customs location in India. The Customs Automated System would allocate the bills of entry to the officers who are part of those FAGs in a randomized manner for the purposes of assessment, irrespective of the port in which the goods have arrived and a bill of entry has been filed for Customs clearance. However, the randomized allocation would ensure a balanced workload amongst all the officers assigned to a particular FAG.
3. By its very design, the concept of FAG would contribute to (a) anonymity of the assessment officer, unless the bill of entry warrants a personal intervention by the importer or the broker in terms of additional documentation or information requirements and (b) uniformity in assessment practices across the country through developing

specialized knowledge in each Faceless Assessment Group and thereby reducing transaction costs and uncertainty amongst the trade.

4. Each FAG would have an all India jurisdiction and it may or may not necessarily have a presence in all Customs formations. As mentioned earlier, the officers of each FAG would be able to assess any bill of entry assigned to them by the Customs Automated System irrespective of the port where the goods have arrived. With the introduction of FAG, the assessment part of the Customs clearance procedure would be delinked with the geographical location where the goods are available for examination. The presence of FAG in a JPC is decided based on the import commodities profile of Customs location, quantum of bills of entry and availability of officers at DC/AC and Appraiser / Superintendent level.
5. While assessing a bill of entry, every officer of FAG, irrespective of where he is actually posted, would become the part of JPC where the imported goods have arrived. This would be ensured by tweaking the existing jurisdictional notifications. Further, the AC/DCs in-charge of FAG would be exclusively working in assessment alone and no other work pertaining to JPC, where they are administratively located, would be assigned to them.
6. While the officers of the NAC are designated as AC/DC (NAC), JC/ADC (NAC) and Commissioner (NAC), the officers of JPC are designated as AC/DC (JPC), JC/ADC (JPC) and Commissioner (JPC).

## **V. Functions of NACs and JPCs:**

1. The functions of a NAC include the following:
  - i. Monitor the assessment practice followed by the FAGs assigned to their NAC and ensure uniformity of classification, valuation, exemption benefit and enforcing import policy conditions
  - ii. Ensure best practices, taking into account international practices, are followed by the FAGs in assessment
  - iii. Study audit objections and take corrective action with regard to assessments, wherever necessary
  - iv. Analyse the RMS facilitated Bills of entry pertaining to their industrial sector and advise the DGARM regarding interventions
  - v. Liaise with JPCs with regard to interpretation matters pertaining to classification, valuation, exemption and policy conditions

- vi. Interact with their sectoral trade and industry for inputs, as well as to resolve their issues
  - vii. Function as a knowledge hub or repository for that particular industrial sector
  - viii. Examine the orders/appellate orders in relation to assessment practices pertaining to commodities assigned to each NAC and provide inputs for reviewing of such orders so that uniformity of assessment orders could be upheld at legal forums.
  - ix. Make suggestions for policy intervention, pertaining to the commodities specifically assigned to each NAC
  - x. Assist and guide NACIN in designing training modules and impart training to officers to promote sector specific specialization
2. The Jurisdictional Port Commissionerates (JPCs) would continue to have one Port Assessment Group (PAG) to cater to assessment in cases where a reference is made by FAG to the port of import for any reason. In addition to PAG, the JPC would continue to have the regular contingent of officers to handle examination / inspection of goods and all other functions other than Assessment. The JPC would also set up a Turant Suvidha Kendra for facilitating Customs clearances. The role of Turant Suvidha Kendra is brought out in the later part of this note.

## VI. Proposed NACs:

The following NACs are proposed to be established to commence Faceless Assessment:

Table I

Sl. No. (1)	Virtual Zone (2)	Virtual Commissionerate (3)	Chapter (4)
1	JNCH	Nhava Sheva II	1-26
2	JNCH	Nhava Sheva IV	27-29
3	Mumbai I	Mumbai I Import	30-38
4	Mumbai I	Mumbai I Export	39
5.	Mumbai III	Mumbai III Export	40-46
6.	Chennai	Chennai II	47-49
7.	Chennai	Chennai IV	50-71
8.	Delhi	Delhi TKD	72-83
9.	Delhi	Delhi Export	84
10.	Ahmedabad	Kandla	85
11.	Kolkatta	Kolkatta	86-92
12.	Bangalore	Bangalore	93-99

## **VII. Procedure for Assessment of Bill of Entry by FAGs:**

- i. The importer shall file Bill of entry on the Customs Automated System electronically, and upload supporting documents such as Invoice, Packing List, Bill of Lading as usual in all the cases and License/Authorisation/permission, BIS or other registrations, Scrips, Equipment Type Approval, necessary certificate for claiming duty exemption etc., if required for the consignment
- ii. The selection of a bill of entry for assessment in a NAC shall be done only by the Customs Automated System. The Customs Automated System shall select the Bill of entry for assessment based on the Tariff entries in terms of either duty payable or highest assessable value, in that order, in a bill of entry comprised of the goods specific to the various NACs mentioned in Table I above.
- iii. The JPCs shall set up a Turant Suvidha Kendra to:
  - a. accept Bond or Bank Guarantee
  - b. generate test Memo and forward the samples
  - c. process the request for fee waiver for late filing
  - d. process the request in relation to section 49
  - e. carry out any other technical function referred by the FAGs
  - f. defacing of documents/ permits licences
  - g. Debit of documents/ permits/ licences
- iv. In cases, where the importer has prior knowledge of requirement of execution of Bond or Bank guarantee for filing Bill of entry, such as filing of warehouse Bill of entry or where the importer has sought provisional assessment of bill of entry or where a claim to any concessional rate of duty or exemption under duty remission/exemption schemes, is subject to filing of Bond/ Bank Guarantee, the importer shall execute the required Bond or Bank Guarantee with the Turant Suvidha Kendra at the Jurisdictional Commissionerate, preferably before filing of Bill of entry.
- v. The Bill of entry would be assigned for assessment purposes to a FAG in the concerned NAC by the Customs Automated system.
- vi. For the assessment of the bill of entry, the FAG may decide to:
  - a. assess and verify the entries on the basis of entries in the Bill of entry and documents available in e-Sanchit, without recourse to either prior examination or testing of goods;
  - b. seek additional information or documents for undertaking assessment
  - c. get examination or testing of goods carried out, for the determination of duty liability, with or without seeking additional information or documents;
  - d. get examination or testing of goods carried out for ensuring the compliance of restriction and prohibition, with or without seeking additional information or documents.



- vii. Where an FAG decides to assess and verify the entries on the basis of entries in the Bill of entry and documents available in e-Sanchit, the FAG may
  - a. accept the self-assessment; or
  - b. not agree with the self-assessment and re-assess the bill of entry.
- viii. Where the FAG re-assesses the bill of entry and importer does not agree with the re-assessment, the FAG shall issue a speaking order following the procedure referred in paragraph VIII of this Facility.
- ix. Where the FAG decides to seek additional information or documents, the FAG shall raise a query for additional information or seek additional documents. The importer shall respond to the query electronically. After examining the reply, the FAG shall follow the procedure laid down in paragraph (vi) to (viii).
- x. The FAG may, whether accepting the self-assessment or re-assessing the Bill of Entry, order for second check examination of the goods along with directions to the shed officers at the port to verify original documents, deface documents, take custody of the document, NOC from PGA's etc. Further, where authenticity of any document has to be verified through any external agency, such communication shall be made by the shed officers at the JPC. Further also, the Turant Suvidha Kendra would process the section 49 request of the importer, if requested for.
- xi. Where the FAG decides to get examination or testing of goods carried out for the assessment:
  - a. The FAG may order for first check examination or testing of the goods with specific directions of testing parameters to the shed officers at the port. The responsibility for sending the sample to the laboratory with the requisite test memo, if ordered by FAG would lie with the shed officers and Turant Suvidha Kendra at the port.
  - b. The shed officers at the JPC would feed the examination or the test report in the system and refer the bill of entry back to FAG and thereupon FAG shall follow the procedure as laid down in paragraph (vi) to (ix), as applicable.
  - c. If the FAG concludes that the prior testing of goods is going to take considerable time and the bill of entry should be processed provisionally, the unit may refer the bill of entry to Port Assessment Group at the JPC citing the reasons. In such cases, the bill of entry would be assessed by Port Assessment Group at the JPC subsequent to receipt of examination report.
  - d. Further, if the importer requests for shifting the goods to warehouse under section 49, such request shall be processed by Turant Suvidha Kendra at the port.

- xii. Where the FAG decides to get examination or testing of goods carried out for ensuring the compliance of restriction and prohibition:
  - a. The FAG may order for first check examination or testing of the goods with specific directions of testing parameters, to the shed officers at the JPC. The responsibility of sending the sample to the laboratory with the requisite test memo, if ordered by FAG, would be done by shed officers and Turant Suvidha Kendra at the JPC.
  - b. The shed officers would feed the examination or the test report in the system and refer the bill of entry back to FAG and thereupon FAG, if the goods are not restricted or prohibited, shall follow the procedure as laid down in paragraph (vi) to (ix), as applicable.
  - c. However, if the goods are confirmed to be subject to some restriction or prohibition on the basis of said test report or examination report fed by the Shed officers at the JPC, FAG shall refer the bill of entry to Port Assessment Group at the JPC for adjudication and assessment purposes.
  - d. Further, if the importer requests for shifting the goods to a warehouse under section 49, such request shall be processed by Turant Suvidha Kendra at the JPC.
- xiii. The shed officers at the port would carry out the necessary verification or examination or other tasks, as required by the FAG or required as per Compulsory Compliance Requirements of the Risk Management System.
- xiv. FAG, may at any stage of the assessment, in cases where no adjudication process is involved, transfer the Bill of entry to the Port Assessment Group at the jurisdictional Commissionerate, if considered necessary, for reasons to be recorded in ICES application, and shall transfer the Bill of entry to the Port Assessment Group at the JPC, in case adjudication process is involved.
- xv. Notwithstanding anything mentioned above, the Commissioner of Customs at JPC may at any stage of the assessment direct to pull the Bill of entry back to the Port Assessment Group at JPC in the following situations:
  - a. Where specific alert or intelligence is available pertaining to any consignment;
  - b. Where the Commissioner of Customs has ordered to do so for the reasons to be recorded in writing.

## **VIII. Speaking Order:**

- (1) For any re-assessment done by the FAG which is contrary to the self-assessment done by the importer and in cases other than those where the importer confirms his acceptance of the said re-assessment in writing, the FAG shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry.
- (2) The FAG shall pass the speaking order after giving an opportunity to be heard to the importer
- (3) The importer shall not be required to appear either personally or through an authorised representative before the FAG. The hearing shall be conducted exclusively through video conferencing or other reliable technological means.
- (4) Field formations shall take appropriate steps to create suitable infrastructure and facilities for enabling video conferencing so as to ensure that the importer has access to video conferencing at the local Customs stations. Directorate of Logistics shall coordinate with the field formations in this regard.

## **IX. Appellate proceedings**

- (1) For the purposes of this facility any assessment order or speaking order passed by any FAG, shall be deemed to be passed by the local assessment group of the jurisdictional Commissionerate.
- (2) Any Appeal against any assessment order or speaking order passed by FAG shall lie before the Commissioner (Appeals) having jurisdiction over the JPC.

## **X. Review proceedings**

- (1) For the purposes of this facility any assessment order or speaking order passed by any FAG, shall be reviewed by the NAC.

## **XI. Exchange of communication exclusively by electronic mode and Authentication of electronic records**

For the purposes of Faceless Assessment

- (a) all communications between the FAG and the importer shall be exchanged exclusively by electronic mode; and
- (b) all internal communications between the FAG and JPC officers at the port or Turant Suvidha Kendra shall be exchanged exclusively by electronic mode.

For the purposes of this Faceless Assessment, an electronic record shall be authenticated by the originator by affixing his digital signature in accordance with the provisions of sub-section (2) of section 3 of the Information Technology Act, 2000 (21 of 2000):

Provided that in case of the originator, being the assessee or any other person, such authentication may also be done by electronic signature or electronic authentication technique in accordance with the provisions of sub-section (2) of section 3A of the said Act.

## **XII. Board to specify format, mode, procedure and processes**

(1) CBIC would lay down the standards, procedures and processes for effective functioning of the FAG under this facility, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely: -

- (i) service of the any communication not captured under Customs Automated System at present;
- (ii) receipt of any information or documents from the person;
- (iii) issue of acknowledgment of the response furnished by the person;
- (iv) authentication of information and response including documents submitted during the personal hearing proceedings via video conferencing or other credible technological means;
- (vi) receipt, storage and retrieval of information or documents in a centralised manner;
- (vii) general administration and grievance redressal mechanism in relation to centralized e-assessment.