



Tax alert: Streamlining verification of certificate of origin with third-party invoicing under FTA claims

26 June 2024

Office of the Commissioner of Customs, JNCH has issued revised guidelines on verification of FTA claims through **Public Notice 55/2024 dated 24 June 2024**. The new notice provides clarification on the procedural requirements for a streamlined verification process for **FTA claims, involving third-party invoicing**.

In a nutshell



The new public notice clarifies that the FOB value in manufacturing-exporting country and third country are bound to be different. However, an importer is expected to submit Country of Origin (COO), indicating details of both the FOB value as well as third country invoices details.



Where FTA claims need additional verification time for want of documents or for time needed by importers to gather information, the shipments could be cleared against Bond and Bank guarantee.



While the requirement for currency consistency between the FTA-COO and third-country invoices is logical for verification purposes, it adds a compliance aspect that importers must factor in and communicate to their suppliers.



The new guidelines should bring consistency and better clarity in terms of third country invoicing practice under FTA claims. It, however, places higher responsibility on the trade to provide adequate and consistent information in the bills of entry at the time of self-assessment, which is necessary for streamlining of the cargo clearance process.



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Typically, third-party Invoicing involves a bill-to-ship-to model between parties and is also recognized in Free Trade Agreements. Previously, the Office of Commissioner of Customs, JNCH, vide public notice No. 33/2024 dated 20 MARCH 2024 clarified procedures for submitting documents related to imports claiming preferential duty under Free Trade Agreements (FTAs) with third-party invoicing.

Background:

There were challenges in verification of FTA claims with third-party Invoices in the following instances:

- Missing FOB value in the COO.
- Third-party invoice lacking details mentioned in the COO.
- Third-party invoice containing more items than the COO.
- Commodity and Transaction Code (CTH) mismatch between the Bill of Entry and FTA certificate.

To overcome these issues, a public notice as issued in March 2024, wherein importers were asked to also submit invoice of the manufacturing exporter, which would contain the FOB value, quantity and CTH of the goods. Based on the said invoice of Manufacturer-Exporter, FOB value would become known and quantity and CTH of the goods could be matched.

New Procedures for Streamlined Verification:

Now the Office of the Commissioner of Customs, JNCH has issued revised guidelines on verification of FTA claims through Public Notice 55/2024 dated 24 June 2024. They are as follows:

- **FOB value Submission:**
 - Importers must submit the Certificate of Origin (COO) indicating the FOB value in the relevant column, along with third-country invoice details.
 - Freight and insurance amounts must be disclosed, either in the third-country invoice or through a freight certificate and insurance receipt.
- **Identical FOB Values:** If the value matches in both the COO and third-country invoice (under FOB incoterms) indicating inclusion of the third-country supplier's value addition such as profit and other charges, the same is not permitted under FTA. Thus, the importer must provide an explanation for the identical FOB values when submitting the self-assessed Bill of Entry.
- **Freight Prepaid:** If the Bill of Lading indicates "Freight Prepaid" and is issued in favor of the shipper in the country of origin, the importer must submit a freight certificate, if freight is paid by someone other than the shipper listed on the Bill of Entry.
- **Currency Consistency:** For COOs based on third-country invoices, the values in both documents must be in the same currency to facilitate quick verification of FTA benefits eligibility.
- **Item Discrepancies:** If third-country invoices list more items than the COO, only items covered in the COO will be eligible for FTA benefits, with remaining items assessed at the merit rate.
- **Different HS Codes:** If the third-country invoice indicates a different CTH/tariff entry than the COO, but the product descriptions match, the importer must self-declare the preferred CTH in the BOE. If product descriptions differ, eligibility for FTA benefits will be reviewed according to legal provisions.
- **Early Clearance Option:** In case importer requires additional time to submit requested information or documents, clearance of imported goods can be made against a bond and bank guarantee.



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