

**F. No. CBIC-15020/4/2021-ICD-CBEC**

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Indirect Taxes & Customs  
International Customs Division

\*\*\*\*\*

Room No. 227 A, North Block, New Delhi

Dated the 16<sup>th</sup> October, 2024

To,

Principal Chief Commissioners / Chief Commissioners of Customs / Customs (Preventive) /  
Customs and Central Tax  
Principal Commissioners / Commissioner of Customs / Customs (Preventive)  
Principal Directors General / Directors General,  
(All under CBIC)

Madam / Sir,

**Subject: Retrospective issuance of certificates of origin under India-UAE CEPA- reg.**

Board is in receipt of trade representations citing implementation challenges being faced under the India-UAE CEPA. The issue primarily pertains to non-acceptance of retrospectively issued certificates of origin during finalisation of provisional assessment and, consequent denial of preferential benefit under the CEPA. While procedural discrepancies such as non-marking of 'ISSUED RETROSPECTIVELY' column by the issuing authority and non-uploading of certificate of origin on e-Sanchit are cited as ground for rejection of claim, a substantive issue that section 149 of the Customs Act do not allow amendment in bill of entry after out-of-charge has also been raised.

2. The matter has been examined vis-à-vis the extant legal provisions, including the rules of origin issued under India-UAE CEPA *vide* Notification 39/2022-Cus (N.T.) dated 30.04.2022. The said rules *inter alia* govern the procedure of issuing Certificates of Origin (COOs) by the concerned authorities of India and UAE.

2.1 Rule 15(11) of the said rules explicitly permits the retrospective issuance of COO, under exceptional situations:

(11) The Certificate of Origin shall be issued prior to, at or within a period of five working days of the date of exportation. However, under exceptional cases, where a Certificate of Origin has not been issued at the time of exportation or within five working

days from the date of shipment due to involuntary errors or omissions, or any other valid reasons, the Certificate of Origin may be issued retrospectively, bearing the words "ISSUED RETROSPECTIVELY" in box 9 of the Certificate of Origin, with the issuing authority also recording the reasons in writing on the exceptional circumstances due to which the certificate was issued retrospectively. The Certificate of Origin can be issued retrospectively but no longer than twelve months from the date of shipment.

2.2 Further, rule 21(3) provides for claiming of refund of excess duties paid in cases where a product would have qualified as an originating product when it was imported into the territory, but preferential treatment was not extended at the time of import:

(3) Each Party shall, in accordance with its laws, provide that where a product would have qualified as an originating product when it was imported into the territory of that Party, the importer of the product may, within a period specified by the laws of the importing Party, apply for a refund of any excess duties paid as a result of the product not having been accorded preferential treatment.

2.3 These provisions indicate that where preferential treatment was not claimed or extended at the time of import, the importer does not lose the right to claim the benefit upon subsequent submission of a valid COO within stipulated time frame, provided that authenticity of COO and product origin are not disputed. The requirement of uploading COO on e-Sanchit while filing bill of entry would not apply in this case, as the COO has been issued after the date of importation. A harmonious reading of the provisions is required so that the legal entitlement under the trade agreement is not nullified.

3. Further, rule 15 (13) of the said rules provides that minor discrepancies, including typing or formatting errors, shall not render a COO invalid, provided the certificate corresponds to the products under import and such minor errors do not affect the authenticity of the COO or the accuracy of the information contained therein. In nutshell, minor procedural discrepancies concerning rules of origin should not be seen as countering the intent of extending substantive benefit under trade agreement, unless such discrepancies cast a doubt on the originating status of the product.

4. It is requested that Customs formations under your jurisdiction may be suitably sensitized.

Yours sincerely,

  
16/10/2024  
(Neetisha Verma)

Officer on Special Duty  
International Customs Division