



CHALLENGES IN PAYING DUTIES, TAXES AND MORE: IMPORTER/EXPORTER WOES

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Immense difficulties being faced by Importers/ Exporters and Other Persons in making payment of duties, taxes, interest, penalty, fee etc.

1. Over the period of last few years, it could be seen that all activities pertaining to the assessment, paying of duties/ taxes, filing of the replies to queries, uploading of documents etc has been done through Online Portal of EDI system of Customs. Apparently, the obvious intention behind the same is to facilitate the 'Ease of Doing Business' so that the unnecessary wastage of time/energy/money in visiting the Government authorities can be minimized. The intention is also to avoid or to minimize the meetings with the Government authorities to curb the menace of corruption. However, it has been seen that despite the clear objective and intention, there are a number of situations where the said facilities are inadequate or are totally missing resulting in multiple difficulties that are being faced by the exporter/ importer/other concerned persons. In today's article, we will discuss and highlight the various problems being faced in making the payment of customs duties, excise duties, service tax, penalties, interest, fee, pre-deposits etc. through Online portal or through the designated banks.

2. The payment of customs duties and Interest in case of failure to fulfill the export obligation under the Advance Authorization, EPCG, EOU Schemes etc is a case in point. It is well known that the exporters are required to pay the applicable customs duties along with interest in case of their failure to fulfil the export obligation under the Advance Authorization or EPCG or EOU Scheme. Only after the payment of the said duty and interest, the case can be closed by the licensing authority working under the aegis of the DGFT.



3. However, when a person visits the portal for paying the customs duty and interest, he does not find any TABs to pay the same Online on EDI system in such situation. Consequently, the said duty and interest have to be deposited manually through TR-6 Challan in the designated branches of the authorized banks. But when a person goes to the bank, the bank invariably asks such person to get the certification thereof from the customs authorities. The Customs Officers, of course, take their own sweet time in certifying the same. Needless to say, this results in multiple visits to the Customs office resulting in a wastage of time and money. Needless to say, that the certification from the Customs authorities invariably involves the element of corruption.

4. Interestingly, in Para 4.50 of the Handbook of Procedure-2023, it has been clearly provided that duty and interest are to be paid **Online through the EDI system alone**. It further provides that the said duty and interest can be paid suo motu as per own calculation. This means that no verification or certification is needed at the time of making the payment. It seems that the provisions of the Handbook of Procedure vis-à-vis the EDI System are not in sync with each other. This problem can be easily avoided by creating a facility online in the EDI System so that an exporter can pay the duty and interest suo motu as warranted under the Handbook of Procedures. But the practice for making the payment of duty and interest with customs is contrary to the mandate of Handbook resulting in harassment and contravention of Handbook mandate.

5. Similar problems are faced in depositing the amount of duty against the show cause notice or confirmed duty demand against the adjudication order or appellate order. Likewise, many a times, penalties are imposed on the individuals or firms on account of contravention of the provisions of the Customs Act, 1962. Such persons may be having an IEC or may not be having an IEC. Identical problem as stated above is being faced by such persons in depositing the penalty with the Customs Department.

6. As per Section 129DD of the Customs Act, 1962, if any appeal has to be filed before the Revisionary Authority, Government of India, the appeal has to be accompanied with a fee of Rs.1000/-. Nowadays, the banks clearly refuse to accept the payment of Rs.1000/- in the absence of certification by the Customs Authorities. In the process, he spends lot of amounts towards commutation charges and other charges for making the payment of just Rs.1,000/-. Nobody can understand the logic in the absence of clear provision for making the payment in this type of situation.

7. Another situation relates to making the pre-deposit of 7.5%/10% while filing the appeal before the appellate authorities. Again, there is no mechanism to pay the same Online through the ICEGATE portal. If one chooses to pay manually through TR-6 Challan in the bank, the problem of certification from the Customs authorities is

there in such situation also.

8. Interestingly, there is no written provision in the Customs Act or the Rules or Regulations or Circulars which warrants that the payments have to be made only after the same are certified by the Customs authorities. This is happening as a convenient practice for facilitation of the Customs officers irrespective of immense difficulties faced by such persons who intends to payment the payment to exchequer.

9. Last but not the least, in case a person wants to pay excise duty/service tax payment or the interest or the penalty under said laws in respect of the past period and he chooses to pay the same online through the ACES portal, then it requires the old login ID and password of the such excise or service tax assessee. In case, it is not readily available with the assessee, then one has to follow up again with the Excise/ Service Tax authorities to get the same again regenerated. It is unimaginable as to why such a complex procedure is devised even for making the payments to Government that a person has to run from pillar to post.

8. These are just a few difficulties which we have observed over the last few years that are being faced in making the payment through online systems. There can be some other situations which we have not confronted so far. All these types of difficulties which are currently being faced can be eliminated just by creating one more TAB in the EDI System for making the “Miscellaneous Payments”, whether they pertain to customs duty or interest or penalties or pre-deposits or any other amount etc. Likewise, a TAB can be created in the ACES System to facilitate the payments of Excise Duty, Service Tax, Penalty or Interest in respect of the past period so that the said payments are done and matters are closed. If this is done, it will result in saving lot of time, money and energy of the person intending to pay the same and also it will reduce work pressure on the Government Officers which unnecessarily has to be done currently. Proactive steps are required to be taken by the Government in this regard. If this is done, it would be another step in facilitating the ‘Ease of Doing Business’ as per the motto of our Government.