

MAYHEM OF “ALERT” IN CUSTOMS

AUTHOR : [ABHISHEK12](#)

<https://taxguru.in/custom-duty/mayhem-alert-customs.html>

1. All of us are aware that the Customs Department often places an “Alert” in the EDI System relating to the import of goods or export of goods. The said “Alert” is placed in the System sometimes by the Officers of the DRI or Risk Management Centre of CBIC or any Customs Commissioner. Many times, even the importers or the exporters are not aware that their entity has been placed under “Alert” in the Customs EDI System. They are often taken by utter shock and surprise when they learn about having been placed under the said “Alert” in the EDI system. Sometimes, the export or import consignments are held up at the port on the ground that there is an “Alert” inserted in the System and the consignments are not released unless and until the “Alert” is removed by the authority who has placed it.

2. The practice of placing or issuing “Alert” is being followed by the Customs Department to **alert** the customs officers about the possible undervaluation, misclassification, undue export incentives, import of contraband etc. by the concerned importer or exporter. With the advent of computerization, the system of “Alert” is being placed in the server of the concerned software. Earlier, the “Alert” was being issued by way of “Alert Circulars”. It is not uncommon that various agencies of Customs, including the DRI, issue the “Alert” about duty evasion or contravention of any other provision of customs law, advising the officers to take precautionary steps when dealing with the imports or exports or conferring any benefits to the person against whom the said alert has been placed.



3. The common dictionary meaning of the expression “Alert” is to be vigilant/attentive/careful etc. The Customs department places the Alerts so that the officers become vigilant while dealing with the consignment of the person against whom the alert has been placed. It is **purely an administrative measure** to make the customs

officer aware about the consignment of the persons against whom the alert has been issued. There seems absolutely nothing wrong in this practice as the Customs Department must be assured that the customs law is followed in all aspects by each person in letter and spirit. It is a quite normal, acceptable and logical administrative measure if an “Alert” is placed against a suspect person.

4. However, this does not mean that the Customs Officers are entitled to withhold or detain the consignments unnecessarily in the name of “Alert” or withhold the export benefits claimed by the exporter indefinitely without following the proper procedures (like issuing of show cause notice etc.) laid down in the law or directing the person that his consignment would be cleared or the export incentives would be given only when the Alert is removed by the agency who has placed such Alert. Placing a person in Alert only means that his consignment or documents are required to be examined/scrutinized in depth by the officers. This has to be done as quickly as possible so that the business of the importer or exporter does not suffer. **The Officers are not entitled to withhold the consignments or withhold the benefits for a long period of time**, as there are well laid down procedures under the law to deal with serious violations of the Act, Rules, or Regulations.

5. But very often it is seen that the exporters who export their goods regularly suddenly find that the Duty Drawback or the RoDTEP or IGST refund is not being credited to their account. On query, it is found that there is an “Alert”. In a similar way, when the importer files the Bill of Entry and wants to pay the duty by utilizing the MEIS/SEIS/RoDTEP scrips, the said facility is denied on the ground that there is an “Alert”. The same type of problem exists with Advance Authorizations, EPCG Authorizations, etc.

6. In other words, the “Alert” placed by the DRI or any other Customs formations brings to halt the normal import and export activities, many a times without the knowledge of the concerned importer or exporter. Consequently, he has to face mayhem at the hands of Customs besides the losses being inflicted on him due to the disruption of his business. He is made to run from pillar to post to get the consignments cleared or to get his export incentives. This is happening in a scenario where our Government continuously boasts of “Ease of Doing Business” or “Facilitation of Business” or “Citizen’s Charter” etc.

7. Thus, the importer or the exporter has to face endless trauma when their name is placed in the “Alert” of the EDI System of the Customs without informing them and the consignments or export incentives are held up without any legal basis.

Legal Position

8. Interestingly and surprisingly, there is not even a single word in the Customs Act or the Rules and Regulations made thereunder which empowers the DRI or any of the Customs formations to place the “Alert” in the System and prevent the import or export in an arbitrary manner. Although there are some Circulars which describe “Alerts” as administrative in nature and advise the Customs officers to be careful while dealing with the consignment of the person against whom an alert has been placed. but the said advise is not being followed by the field formation in letter and spirit. There are no clear-cut guidelines/ instructions issued by the CBIC in this regard as to when an importer/ exporter has to be placed under “Alert”; by whom it has to be placed and; when the said “Alert” has to be removed. The absence of clear guidelines creates mayhem for such people against whom the Alert has been placed. The entire practice is being followed in an arbitrary manner without the authority of law and without any guidelines.

9. In view of the above factual and legal backdrop, it is advisable that the practice of placing an importer/ exporter in the “Alert”, should be given a legal shape by way of making suitable regulations in this regard or at least controlling it by way of clear guidelines if we really want the idea of “Ease of Doing Business” to be successfully implemented in India. Needless to say, the said regulations or guidelines must also specify as to how the said “Alert” has to be removed. Ideally with the guidelines also, the authority placing the “Alert” in the System should not be lower than the Chief Commissioner of Customs. If these steps are taken, it would truly

benefit the trade and the industry in a big way and this will help in “Ease of Doing Business” and removing the mayhem at the hands of the Customs authorities.