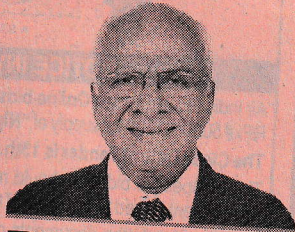


# More penal power for Customs



## EXIM MATTERS

T N C RAJAGOPALAN

In her Budget speech, the finance minister talked of enhanced penalty and prosecution under the Customs laws to deal with bogus entities resorting to unfair practices to avail of undue concessions and export incentives. She said misuse of duty credit scrips and the drawback facility involving more than ₹5 million would be a cognizable and non-bailable offence.

The problem of fake entities or unscrupulous elements obtaining duty credit scrips through wilful mis-statement, suppression of facts or collusion, selling these to unwary importers, who then utilise the scrips, was recognised long before. They escape punishment on the ground that Customs law only provides for punishing the importers. Section 28AAA of the Customs Act was amended in 2012 to provide for recovery of the duties paid through

the scrip, along with interest, from the person who obtained the scrip. The amendment was meant to protect genuine buyers of the duty credit scrips from recovery of duty and interest.

Now, the proposed amendments in Section 104 of the said Act would allow arrest of any person fraudulently obtaining duty credit scrips for more than ₹5 million. Cognizable and non-bailable. A new section, 114AB, is being introduced to provide for a penalty not exceeding the value of the scrip, on the person to whom the scrip was issued. Section 135 is proposed to be amended, prescribing up to seven years imprisonment with a fine on the person obtaining such a scrip. These measures are aimed to punish those obtaining the scrips fraudulently but have also got the genuine buyers of these worried. The premium on the transferable scrips has dropped from around 98.5 per cent to around 96.5 per cent.

Section 135 already has provision for up to seven years imprisonment with fine for fraudulently availing of or attempting to avail of any drawback or exemption for more than ₹5 mn. The amendments now proposed in Section 104 give the relevant Customs office the power to arrest in such cases and make such offences cog-

nisable. Such offences were already non-bailable. The Finance (No.2) Bill, 2019, proposes to empower Customs officers to provisionally attach any bank account for a period not exceeding six months, for safeguarding of government revenue and prevention of smuggling. Specified senior Customs officers can extend the period of attachment by six months more. The attachment can be lifted and bank account released, subject to fulfillment of conditions. It is proposed to give powers to Customs officers to arrest any person who has committed an offence outside India or Indian Customs waters.

A new proposed Section 99B seeks to empower Customs officers to verify a person (through Aadhaar number or any alternative and viable means) for ascertaining compliance with provisions of the Act or any other law. Enabling provisions are being made for giving Customs officers powers to screen someone. The maximum penalty that can be imposed has been hiked.

Overall, the government wants more powers for its officers and more punishment for offenders. Hopefully, these will deter unsavoury activities.

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