

Abstract

Customs Tariff is the duty levied from import and export products in and out of the Kingdom of Thailand. The duty collected from import is called Import Tariff, and one from export is so called Export Tariff. Customs Department is the authority that levies these duties. At present, the government's income derived from customs duty is decreasing because of the import duty reduction in accordance with Free Trade Agreement (FTA) between Thailand and other countries. Import duties are mostly charged on ad valorem rate, which is the percentage of CIF value. Some are still from specific rate, which is charged on a unit of goods. Export duties are hardly affected since the duty could only be collected from eight product categories.

The amount of import duty tends to decrease. It doesn't mean that the duty is less important because customs value and import tariff are elements for the calculation of Value Added Tax (VAT) and Excise Tax. Therefore, the duty must be collected in the manners regulated in Clause one of Section 10 of the Customs Act B.E.2469. If the importer or exporter think that the assessment and the duty have not been done in accordance with the regulations, the importer or exporter may lodge an appeal to the Customs Valuation Appeal Committee to object the assessment of the competent officials as stated in Section 112 sex. of the Customs Act B.E.2469. Appealing with the committee is the way to settle the dispute in administrative authority level. It is the justice process provided by law that allows importer or exporter to against the assessment of the competent officials.

However, the appealing to competent officials's assessment regulated in Section 112 sex of the Customs Act B.E.2469 is just general appeal. Study of customs duty appealing in administrative authority level has shown many important issues needed to be considered and analyzed.

First question : Could offenders under Section 27, Section 27 bis and Section 27 ter of the Customs Act B.E.2469 be deemed as the importer or exporter who are able to lodge an appeal stated in Section 112 sex. of the Act or not? After study, those offenders are neither products importers nor exporters so they are not able to submit any appeal to the appeal committee under Section 112 sex. of the Customs Act B.E.2469.

But for those who avoid duty and prohibitions of restrictions under Section 27 of the Customs Act B.E.2469 are importers or exporters therefore, they have right to lodge an appeal to the appeal committee under Section 112 sex, of the Customs Act B.E.2469

Second question : Competent officials send a note to an importer to come in to settle the case in customs authority level. If the importer doesn't agree with the assessment and duty, from which are used to calculate a fine, and wishes to lodge an appeal against the assessment and duty, how does the importer do since the note is not the assessment notification? From the study, if the note shows adequate details to become the assessment notification, then it is deemed as the notification and could be used as a fundamental document to lodge the appeal.

Third question : The offender receives a note to settle the case in customs authority level and doesn't agree with the assessment and duty, from which are used to calculate a fine. Then the offender lodges an appeal against the assessment and duty to the Customs Valuation Appeal Committee under Section 112 sex. of the Customs Act B.E.2469, is it considered that the importer refuses to settle the dispute at customs authority level or not? From the study, if the offender wishes to settle the case at the level with no intention to delay the fine and the additional duty payment, then the action is not considered as refusing the settle in the customs authority level.

Forth question : Importer or exporter who pay duty exceeding the rate that should be paid as stated in Clause five of Section 10 of the Customs Act B.E.2469 lodges an appeal to the committee under Section 112 sex. of the Customs Act B.E.2469. If the appellant doesn't agree with the committee's ruling, then which regulation should be applied? Is it filing a law suit to claim the exceeding duty back within two years from the date of importing the product as stated in Clause five of Section 10 of the Customs Act B.E.2469 or filing a law suit within thirty days from the date of receiving the ruling of appeal as stated Section 112 octodecim? The study found that if the appellant doesn't agree with the committee's ruling, the appellant must file a law suit to claim back the exceeded amount of the paid duty within two years from the date of importing the product as stated in Clause five of Section 10 of the Customs Act B.E.2469.

Fifth question : As the Customs Department is the authority collecting and assessing VAT and Excise Tax of the imported products. Even though the lodging an appeal against VAT and Excise Tax assessment could be done at the Customs Department according to the Customs Department's Notification No. 29/2549, the department and the Customs Valuation Appeal Committee under Section 112 sex. of the Customs Act B.E.2469 do not have authority to consider the appeal against VAT and Excise Tax assessment. As the result, the department must send copy of the appeal to Revenue Department and Excise Department within seven days from the date of receiving the appeal in questioned. However, since a fundamental value in calculating import duty, VAT and Excise Tax is CIF value, the committee should be the authority considering the appeal. From the study, importer must pay VAT and Excise Tax together with import duty at customs so the Customs Department should also consider the appeal against VAT and Excise Tax assessment as well as the appeal against the import duty assessment. It must be under the authority of the Customs Valuation Appeal Committee under Section 112 sex. of the Customs Act B.E.2469. This could be done by amending the Customs Act B.E.2469, the Revenue Code and the Excise Tax Act B.E.2537 harmoniously.

Sixth question : As the Customs Department is the authority collecting the duty of imported liquors, tobacco and playing card. If the duty payer doesn't agree with the duty collection of these products and lodges an appeal against the collection at the Customs Department by submitting only the form of Appeal Against the Duty Assessment (ksk.171) together with the appeal against the import duty assessment according to the Customs Department's Notification No. 29/2549, could this be done according to the provision? The study found that if the importer does not agree with the collection of the duty of imported liquors, tobacco or playing card of the competent officials, the importer must lodge an appeal against the collection by following Section 44 of the Administrative Procedure Act B.E.2539

Beyond the above six questions that the writer picked up to consider and analyze, in this thesis, the writer also made recommendations and pointed out some problems that could be obstacles for appealing against the competent officials' assessment in order that the Customs Department and relevant person to be acknowledged to these problems and are able to find out the proper solutions.