

Decree 45/2016/ND-CP does not stipulate sanctions for processing business

VCN- Regarding the confusion of Binh Duong on administrative sanctions for processing business, the General Department of Vietnam Customs said that the Government's Decree 127/2013/ND-CP dated 15th October 2013 on sanctions for administrative violations and enforcement of administrative decisions relating to Customs, which was amended and supplemented in Decree 45/2016/ND-CP dated 26th May 2106, does not stipulate sanctions for processing business.



Binh Duong Customs Department said that during the consideration and handling of violations of processing businesses, the Department has obstacles relating to the guidance in the Official Letter No.2765/TCHQ-GSQL of the General Department of Vietnam Customs on application of code for imports and exports on VNACCS including 2 specific cases: Firstly, if a processing business imports goods which are raw materials from foreign countries these goods shall be managed under the code of E11 model, machinery and equipment to produce assets shall be managed under E13 model (including machinery and equipment imported from domestic market), exported products shall be managed under E42 model (including on-spot import and export goods) and G12, 14, 22, 24 models. Secondly, if a processing business imports goods which are raw materials from domestic market, these goods shall be managed under the code of E15 model, machinery and equipment to produce fixed assets which are imported from domestic market shall be managed under the E13 model, and a processing business selling domestic products under the E42 model.

According to Binh Duong Customs Department, Point 2a, Clause 4, Article 1 of Decree 45/2016/ND-CP amending and supplementing Article 7 of Decree 127/2013/ND-CP stipulates: "A fine from 1,000,000 VND to 3,000,000 VND for the acts of not declaring or declaring wrong name, category, quantity, volume, quality, value, origin of goods under 1 of following cases: Goods from overseas to non-tariff areas or from non-tariff areas to overseas".

Point h, Clause 1, Article 13 of Decree 127/2013/ND-CP only stipulates sanctions for the acts of not declaring or declaring wrong name, code, category, quantity, volume, value, tax rate, and origin of goods imported from non-tariff areas to domestic markets".

Reviewing provisions of Decree 127/2013/ND-CP and Decree 45/2016/ND-CP, the Binh Duong Customs Department found that processing businesses which import goods from domestic markets have violations such as not declaring or declaring wrong name, category, quantity, volume, value and origin of goods, the sanctions for these violations have not been specified.

Therefore, Binh Duong Customs Department has wondered whether or not applying the sanctions for processing businesses importing goods from domestic markets with violations according to Point 2a, Clause 4, Article 1 of Decree 45/2016/ND-CP amending and supplementing Article 7 of Decree 127/2013/ND-CP ?

The General Department of Vietnam Customs guided Binh Duong Customs Department to handle these

cases as follow: Clause 3, Article 75 Circular 38/2015/TT-BTC of Ministry of Finance stipulates that goods which are sold and bought between processing businesses and domestic markets are implemented on spot import and export Customs procedures under the relevant model.

Hence, for the violations such as un-declaration or wrong declaration of goods from domestic markets to processing businesses, depending on specific violations of domestic businesses to **apply** the sanctions stipulated in Article 7 or Article 8 and Article 13 of Decree 127/2013/ND-CP.

Regarding the cases above, the General Department of Vietnam Customs stressed that Decree 127/2013/ND-CP which was amended and supplemented in **Decree 45/2016/ND-CP does not stipulate sanctions for processing business.**

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