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**Customs Act 1962 s 28DA - Procedure regarding  
claim of preferential rate of duty**

**(1) An importer making claim for preferential rate of duty, in terms of any trade agreement, shall –**

**(i) make a declaration that goods qualify as originating goods for preferential rate of duty under such agreement;**

**(ii) possess sufficient information as regards the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the rules of origin in the trade agreement, are satisfied;**

**(iii) furnish such information in such manner as may be provided by rules;**

**(iv) exercise reasonable care as to the accuracy and truthfulness of the information furnished.**

**(2) The fact that the importer has submitted a certificate of origin issued by an Issuing Authority shall not absolve the importer of the responsibility to exercise reasonable care.**

**(3) Where the proper officer has reasons to believe that country of origin criteria has not been met, he may require the importer to furnish further information, consistent with the trade agreement, in such manner as may be provided by rules.**

**(4) Where importer fails to provide the requisite information for any reason, the proper officer may,–**

**(i) cause further verification consistent with the trade agreement in such manner as may be provided by rules;**

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(ii) pending verification, temporarily suspend the preferential tariff treatment to such goods:

Provided that on the basis of the information furnished by the importer or the information available with him or on the relinquishment of the claim for preferential rate of duty by the importer, the Principal Commissioner of Customs or the Commissioner of Customs may, for reasons to be recorded in writing, disallow the claim for preferential rate of duty, without further verification.

(5) Where the preferential rate of duty is suspended under sub-section (4), the proper officer may, on the request of the importer, release the goods subject to furnishing by the importer a security amount equal to the difference between the duty provisionally assessed under section 18 and the preferential duty claimed:

Provided that the Principal Commissioner of Customs or the Commissioner of Customs may, instead of security, require the importer to deposit the differential duty amount in the ledger maintained under section 51A.

(6) Upon temporary suspension of preferential tariff treatment, the proper officer shall inform the Issuing Authority of reasons for suspension of preferential tariff treatment, and seek specific information as may be necessary to determine the origin of goods within such time and in such manner as may be provided by rules.

(7) Where, subsequently, the Issuing Authority or exporter or producer, as the case may be, furnishes the specific information within the specified time, the proper officer may,

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on being satisfied with the information furnished, restore the preferential tariff treatment.

(8) Where the Issuing Authority or exporter or producer, as the case may be, does not furnish information within the specified time or the information furnished by him is not found satisfactory, the proper officer shall disallow the preferential tariff treatment for reasons to be recorded in writing:

Provided that in case of receipt of incomplete or non-specific information, the proper officer may send another request to the Issuing Authority stating specifically the shortcoming in the information furnished by such authority, in such circumstances and in such manner as may be provided by rules.

(9) Unless otherwise specified in the trade agreement, any request for verification shall be sent within a period of five years from the date of claim of preferential rate of duty by an importer.

(10) Notwithstanding anything contained in this section, the preferential tariff treatment may be refused without verification in the following circumstances, namely:

- (i) the tariff item is not eligible for preferential tariff treatment;
- (ii) complete description of goods is not contained in the certificate of origin;
- (iii) any alteration in the certificate of origin is not authenticated by the Issuing Authority;

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(iv) the certificate of origin is produced after the period of its expiry, and in all such cases, the certificate of origin shall be marked as "INAPPLICABLE".

(11) Where the verification under this section establishes non-compliance of the imported goods with the country of origin criteria, the proper officer may reject the preferential tariff treatment to the imports of identical goods from the same producer or exporter, unless sufficient information is furnished to show that identical goods meet the country of origin criteria.

Explanation.- For the purposes of this Chapter, -

(a) "certificate of origin" means a certificate issued in accordance with a trade agreement certifying that the goods fulfil the country of origin criteria and other requirements specified in the said agreement;

(b) "identical goods" means goods that are same in all respects with reference to the country of origin criteria under the trade agreement;

(c) "Issuing Authority" means any authority designated for the purposes of issuing certificate of origin under a trade agreement;

(d) "trade agreement" means an agreement for trade in goods between the Government of India and the Government of a foreign country or territory or economic union.

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