

# S.MURUGAPPAN

ADVOCATE, HIGH COURT

**ASSISTED BY:**

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**CONSULTANTS:**

GST,  
CUSTOMS,  
FOREIGN TRADE LAWS,  
FOREIGN EXCHANGE MANAGEMENT ACT.

## OPINION

1. **QUERIST:**

M/s.Fairmacs Shipping & Transport Services Pvt. Ltd.,  
New No.31, Old No.14, Moore Street,  
Chennai – 600 001.

2. **FACTS:**

One of the customers of the querist holds AEO T-II status. As a status holder as above, they are entitled for various facilities with regard to import/export of cargo and one of the concessions given is a facility to paste MRP stickers on the imported packages in their premises. In this connection, they relied on the Circular No.33/2016-Customs dated 22.07.2016 issued by CBIC.

3. **QUERY:**

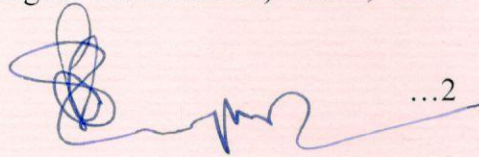
In the above background, the querist would like to know whether the customer, in such a case, can affix the labels after importation and clearance from customs in their premises. This query assumes significance for the reason that now there are no MRP based assessments at the time of import and affixing of these labels is as per the requirement of Legal Metrology (Packaged Commodities) Rules, 2011.

4. **OPINION:**

4.1 Section 18(1) of Legal Metrology Act, 2009 states that, among other things, goods imported in pre-packaged form should bear declarations and particulars in the prescribed manner. This Section reads as follows:

*“(1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.”*

4.2 Rule 10(1) of Legal Metrology (Packaged Commodities) Rules, 2011 provides for the following.



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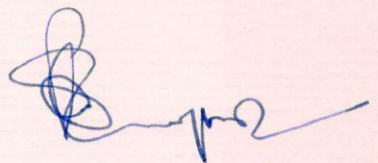
*“(1) Subject to the provisions of rule 6, every package kept, offered or exposed for sale or sold shall bear conspicuously on it, the name and complete address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and the packer and in case of imported packages, the name and address of the importer.”*

Again, in terms of Rule 6(1) of the above Rules, various requirements of labelling are mentioned. The relevant Rule in its entirety is attached as **Annexure-I** to this opinion. In particular, the opening portion of the above Rule reads as follows:

*“(1) Every package shall bear thereon or on the label securely affixed thereto, a definite, plain and conspicuous declaration made in accordance with the provisions of this chapter as, to -*


*(a) the name and address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and packer and for any imported package the name and address of the importer shall be mentioned on every package.”*

- 4.3 As per the General Notes regarding Import Policy, ‘Packaged Products’ when imported into India should comply with the Legal Metrology (Packaged Commodities) Rules, 2011. General Note 5 forming part of Schedule 1 of Import Policy in this regard is attached as **Annexure-II**. As per the note all pre-packaged commodities imported into India shall carry the declarations as mentioned in the note.
- 4.4 A combined reading of all the provisions will show that as per the requirement of Legal Metrology Act and Rules made thereof as well as the Foreign Trade Policy provisions with regard to import of pre-packaged commodities, the pre-packaged goods, when imported should comply with the necessary legal requirements as prescribed. Neither the Legal Metrology Act or Rules nor the General Notes forming part of Import Policy stipulate that the labelling requirements can be complied with **subsequent to the import but before their stocking / sales.**
- 4.5 In this context, it may be seen that the circular issued by Customs in 2016 refers to affixing of MRP stickers; probably the reference can be to declaration of MRP values at the time of import when levy of additional duty in terms of Customs Tariff Act is based on MRP valuation. Apart from that, it also may be noted that one Circular 19/2011-Customs dated 15.04.2011 was issued earlier with regard to affixing of labels. A copy of this circular also is attached as **Annexure-III** to this opinion.





- 4.6 A perusal of the above circular will indicate that the same was issued in the context of Standards of Weights & Measures (Packaged Commodities) Rules, 1977 and DGFT Notification No.44 (RE-2000)/1997-2002 dated 24.11.2000. During that period there was a provision in the policy that the compliance with regard to labelling requirements can be ensured before the imported goods **are cleared by customs for home consumption**. In this background, labelling activity was permitted in bonded warehouses or in the ports/CFS. The Standards of Weights & Measures (Packaged Commodities) Rules, 1977 are no more in force and also the DGFT notification issued with reference to the policy 1997-2002 has no relevance today.
- 4.7 As such, it is not clear in what context in Circular No.33/2016-Customs the Central Board of Excise & Customs is providing relaxation with regard to affixing of MRP stickers in the premises of Authorized Economic Operators. Whether the provisions contained in the Foreign Trade Policy and Legal Metrology Act and Rules can be relaxed by customs authorities in terms of Customs Act will be a moot question. Legally, in our view, unless the authorities functioning under the Legal Metrology Act and the DGFT authorities provide suitable relaxation/amendment in the provisions contained in the Legal Metrology Act/Rules as well as Foreign Trade Policy, it may not be appropriate to import goods without proper labelling under the above provisions.
- 4.8 However, to have a categorical confirmation with regard to this, it may be advisable to approach the AEO Programme Manager himself or the authorities under Legal Metrology Act regarding relaxation of this requirement and the facility for affixing the relevant labels after clearance from customs.



**S. MURUGAPPAN**

Encl.: as above.

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**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.