



## **Bangalore Chamber of Industry and Commerce**

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### ***Taxation (Customs)***

Circular No.88

14.10.2009

All Members

Dear Sirs,

We enclose herewith the following Notification issued from Government of India, Ministry of Finance and Department of Revenue – for your reference and record.

1. Notification No. 112 / 2009-Customs dated 29.09.2009 - [F.No.605/58/2009-DBK] - Exempts certain materials required for the manufacture of the final goods from additional duty, safeguard duty and anti-dumping duty

Thanking you,

Yours faithfully

**T.S. Sampath Kumar**  
Secretary General

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Notification No. 112 / 2009-Customs dated 29.09.2009 - [F.No.605/58/2009-DBK]

### **Exempts certain materials required for the manufacture of the final goods from additional duty, safeguard duty and anti-dumping duty**

G.S.R. 710 (E),- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials required for the manufacture of the final goods when imported into India, from whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the

additional duty, safeguard duty and anti-dumping duty leviable thereon respectively under sections 3, 8B and 9A of the said Customs Tariff Act, except to the extent specified in para 2 to this notification, subject to the following conditions, namely:-

(i) that the importer has been granted Advance Authorisation for deemed export by the Regional Authority in terms of Paragraph 4.1.3(iii) of the Foreign Trade Policy permitting import of the said materials (hereinafter referred to as the said authorisation);

(ii) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit;

(iii) that the said authorisation contains endorsements specifying, inter alia,-

(a) the description, quantity and value of materials allowed to be imported under the said authorisation; and

(b) the description and quantity of final goods to be manufactured out of, or with, the imported materials;

(iv) that in respect of imports made before the discharge of export obligation, the importer at the time of clearance of the imported materials executes a bond with such surety or security, in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;

(v) that in respect of imports made after the discharge of export obligation, if facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or the CENVAT Credit under CENVAT Credit Rules, 2004 has been availed, then the importer shall, at the time of clearance of the imported materials furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided further that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and

the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2004;

(vi) that in respect of imports made after the discharge of export obligation, and if facility under rule 18 or sub-rule 2 of rule 19 of the Central Excise Rules, 2002 or the CENVAT credit under CENVAT Credit Rules, 2004 has not been availed and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (v);

(vii) that the imports and exports are undertaken through seaports at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kolkata, Krishnapatnam, Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the airports at Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum and Varanasi or through any of the Inland Container Depots at Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, , Waluj (Aurangabad) or through the Land Customs Station at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may within the jurisdiction, by special order, or by a public notice, and subject to such conditions as may be specified by him, permit import and export from any other seaport/airport/inland container depot or through any land customs station;

(viii) that the export obligation as specified in the said authorization (both in value and quantity terms) is discharged within the period specified in the said authorization or within such extended period as may be granted by the Regional Authority by supplying final goods manufactured in India which are specified in the said authorization;

(ix) that the importer produces evidence of having discharged obligation to supply final goods to the satisfaction of the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days from the expiry of the period allowed for fulfilment of obligation or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow;

(x) that the said authorisation shall not be transferred and the said materials shall not be transferred or sold :

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions specified in the relevant Central Excise notifications permitting transfer of materials for job work:

Provided further that no such transfer for purposes of job work shall be effected to the units located in areas eligible for area based exemptions from the levy of excise duty in terms of notification Nos. 49/03-CE and 50/03-CE both dated 10th June,2003, 32/99-CE dated 8th July,1999, 33/99-CE dated 8th July,1999, 8/04-CE dated 21stJanuary,2004, 20/07-CE dated 25th April,2007,56/02-CE dated 14th November, 2002,57/02-CE dated 14th November,2002, 71/03-CE dated 9th September,2003, 56/03-CE dated 25th June,2003 and 39/01-CE dated 31st July, 2001;

(xi) that components and parts, required for manufacture of final goods which are wholly exempted from payment of excise duty when removed from the factory of production, may be taken directly from the port of import to the project site as per the procedures and limitations, if any, laid down by the Board in this regard subject to the condition that description and quantity of such components and parts and the address of the site have been specified in the said authorization.

2. The exemption from safeguard duty and anti-dumping duty shall not be available in respect of materials required for final goods specified in paragraph 1 which are covered under sub-clauses (a), (b), (c), (i) and (j) of clause (iii) of the explanation to this notification.

3. The materials required for the manufacture of the final goods, when imported into India and supplied to Export Oriented Unit, Electronic Hardware Technology Park and Software Technology Park, shall be exempted from the whole of the duty of customs leviable thereon, under the First Schedule to the said Customs Tariff Act and from the whole of additional duty, safeguard duty and anti-dumping duty leviable thereon, respectively, under sections 3, 8B and 9A of the said Customs Tariff Act subject to the conditions mentioned in Paragraph 1.

Explanation, – For the purposes of this notification,-

(i) “Dutiable goods” means excisable goods which are not exempt from central excise duty and which are not chargeable to ‘nil’ rate of central excise duty;

(ii) “Electronic Hardware Technology Parks”, “Export Oriented Units” and “Software Technology Parks” have the same meaning as assigned to them in paragraph 9.23, 9.24 and 9.60 of the Foreign Trade Policy respectively;

(iii) “Final goods” means –

(a) supply of goods against the Advance Authorisation scheme or the Advance Authorisation for Annual Requirement or the Duty Free Import Authorisation Scheme or the Duty Free Replenishment Certificate under the Duty Exemption/Remission Scheme;

(b) supply of goods made to Export Oriented Units or Software Technology Parks or Electronic Hardware Technology Parks ;

(c) supply of goods to the holders of licence under Chapter 5 of the Foreign Trade Policy;

(d) supply of goods made to projects financed by multilateral or bilateral Agencies or funds as notified by the Government of India in the Ministry of Finance (Department of Economic Affairs) under the International Competitive Bidding in accordance with the procedures of those Agencies or funds where the agreement provides for tender evaluation without including the duties of customs;

(e) supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or funds as notified by the Government of India in the Ministry of Finance (Department of Economic Affairs) under international competitive bidding in accordance with the procedures of those agencies or funds, where the bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for the goods manufactured abroad;

(f) supply of capital goods either in assembled or unassembled or disassembled condition including plant, machinery, accessories, tools, dies and such other goods used for installation purposes till the stage of commercial production and spares to the extent of ten per cent. of the Free on Rail value of such capital goods for fertilizer plants where such supplies are made after following the procedure of International Competitive Bidding without including the duties of customs;

(g) supply of goods to any project or purpose in respect of which the Government of India in the Ministry of Finance, by notification, permits the import of such goods at Zero duty of customs and where such supplies are made after following the procedure of International Competitive Bidding without including the duties of customs;

(h) supply of goods to power and refinery projects not covered under sub-clause (g) where such supplies are made after following the procedure of International Competitive Bidding without including the duties of customs;

(i) supply of Marine Freight Containers by Export Oriented Units namely, Domestic freight containers manufacturers where such containers are exported out of India within a period of six months or such further period as may be permitted by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be;

(j) supply of goods made to projects funded by United Nation Agencies;

(k) supply of goods to nuclear power projects where such supply is made after following the procedure of Competitive Bidding;

(iv) "Foreign Trade Policy" means the Foreign Trade Policy 2009-2014, published by the Government of India in the Ministry of Commerce and Industry vide notification No.1 /2009-2014, dated the 27th August 2009 as amended from time to time;

(v) "Licensing Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant a licence under the said Act;

(vi) "Materials" means –

(a) raw materials, components, intermediates, consumables, catalysts and parts which are required for manufacture of final goods;

(b) mandatory spares within a value limit of ten per cent. of the value of the licence which are required to be exported along with the final goods;

(c) fuel required for manufacture of final goods;

(d) packaging materials required for packing of final goods;

(vii) "Regional Authority" has the same meaning as assigned to it in paragraph 9.49.1 of the Foreign Trade Policy; and

(viii) "Specified Chartered Accountant" means a statutory auditor or a Chartered Accountant who certifies the importer's financial records under the Companies Act, 1956 (1 of 1956) or the Income Tax Act, 1961 ( 43 of 1961) or the Sales Tax or the Value Added Tax laws of the State Government.

**Sd/-**  
**(Rajesh Kumar Agarwal)**  
**Under Secretary to the Government of India**

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