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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 11th September, 2009.

20 Bhadrapad , 1931 SAKA

Notification No. 98 /2009 - Customs

G.S.R. 664(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 imported into India against a Duty Free Import Authorisation issued in terms of paragraph 4.2.1 and 4.2.2 of the Foreign Trade Policy (hereinafter referred to as the said authorisation) from the whole of the duty of Customs leviable thereon which is specified in 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, subject to the following conditions namely :-

- (i) that the description, value and quantity of materials imported are covered by the said authorisation and the said authorisation is produced before the proper officer of customs at the time of clearance for debit:

Provided that in respect of resultant product specified in paragraph 4.32.3 of the Hand Book of Procedures (Vol.I) of the Foreign Trade Policy, the materials permitted in the said authorisation or a duty free import authorisation for intermediate supply, as the case may be, shall be of the same quality, technical characteristics and specifications as the materials used in the said resultant product:

Provided further that in respect of the said resultant product the exporter shall give declaration with regard to the quality, technical characteristic and specifications of materials used in the shipping bill;

- (ii) that where import takes place after fulfilment of export obligation, the shipping bill number(s) and date(s) and quantity and Free on Board value of the resultant product are endorsed on the said authorisation:

Provided that where import takes place before fulfilment of export obligation, the quantity and Free on Board value of the resultant product to be exported are endorsed on the said authorisation;

- (iii) that in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and 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 per cent. per annum from the date of clearance of the said materials;

- (iv) that in respect of imports made after the discharge of export obligation in full, if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or 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 within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided that, in case,

(a) materials are imported against an authorisation transferred by

the Regional Authority, or

(b) the imported materials are transferred with the permission of Regional

Authority,

then the importer shall pay an amount equal to the additional duty of customs leviable on the materials so imported or transferred, but for the exemption contained herein, together with interest at the rate of fifteen per cent. per annum from the date of clearance of the said materials:

Provided further that no such amount shall be payable in respect of Authorizations issued from 1.5.2006 to 31.3.2007:

Provided also 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;

(v) that in respect of imports made after the discharge of export obligation in full, and if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule 2 of rule 19 of the Central Excise Rules, 2002 or 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 (iv);

(vi) 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 with in the jurisdiction , by special order, or by a Public Notice, and subject to such conditions as may be specified by him, permits import and export from any other seaport or airport or inland container depot or through any land customs station;

- (vii) 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 exporting resultant products, manufactured in India which are specified in the said authorization:

Provided that an Advance Intermediate authorization holder shall discharge export obligation by supplying the resultant products to the exporter in terms of paragraph 4.1.3 (ii) of the Foreign Trade Policy;

- (viii) that the importer produces evidence of discharge of export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days of the expiry of period allowed for fulfilment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow;

- (ix) that exempt materials shall not be disposed of or utilised in any manner, except for utilisation in discharge of export obligation, before the export obligation under the said authorisation has been discharged in full:

Provided further that where the Bond filed under condition (iii) against the said authorisation has not been redeemed by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, the unutilised material may be transferred to any other manufacturer except to the unit availing the benefit of notifications, Nos. 49/03-CE and 50/03-CE both dated 10th June,2003, 32/99-CE and 33/99-CE both dated 8th July, 1999 , 8/04-CE dated 21st January,.2004, 20/07-CE dated 25th April,.2007, 56/02-CE and 57/02-CE both 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, for processing under actual user condition after complying the central excise procedure relating to Job work;

- (x) that in relation to the said authorisation issued to a merchant exporter,-

- (a) the name and address of the supporting manufacturer is specified in the said authorisation and the bond required to be executed by the importer in terms of condition numbers (iii) or (iv) as the case may be shall be executed jointly by the merchant exporter and the supporting manufacturer binding themselves jointly and severally to comply with the conditions specified in this notification; and

- (b) exempt materials are utilised in the factory of such supporting manufacturer for discharge of export obligation and the same shall not be transferred or sold or used for any other purpose by the said merchant exporter until the export obligation specified in condition (vii) has been discharged in full.

2. After discharge of export obligation as specified in condition (vii) of paragraph 1, the Regional Authority shall permit transfer of the said authorisation and/or the goods imported under it subject to such conditions as may be specified.

3. Where the materials are found defective or unfit for use, the said materials may be re-exported back to the foreign supplier within six months from the date of clearance of the said material or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow;

Provided that at the time of re-export the materials are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, as the materials which were imported.

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) "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;

(iii) "Licensing Authority or Regional 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;

(iv) "Manufacture" has the same meaning as assigned to it in paragraph 9.37 of the Foreign Trade Policy;

(v) "Materials" means

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

(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 resultant product;

(c) fuel required for manufacture of resultant product;

(d) packaging materials required for packing of resultant product;

[F.No.605/58/2009-DBK]

Sd/-

(Rajesh Kumar Agarwal)

Under Secretary to the Government of India