

## **SAD Exemption on Stock Transfers from SEZ to DTA Withdrawn**

- CBEC Issues Clarification on Notification 45/2005
- FTWZ Clearances Affected – Past Clearances may be reopened
- Trade Asks CBEC to Put SAD Refund Procedure in Place

### ***[CBEC Circular No. 44 dated 30<sup>th</sup> December 2013]***

Subject: Exemption from Special Additional Duty of Customs (SAD) on goods cleared from the SEZ / FTWZ into the DTA – Clarification.

It has been brought to the notice of the Board that varying practices are being followed by the field formations regarding exemption from SAD on goods cleared from SEZs / Free Trade Warehousing Zones (FTWZ) into the DTA under notification No.45/2005-Customs, dated 16.05.2005. The issue raised is whether the benefit of exemption from SAD under this notification would be available when a DTA unit imports goods and routes it through SEZ / FTWZ for self-consumption i.e. in the nature of stock transfer from SEZ / FTWZ.

2. The matter has been examined by the Ministry. Notification No. 45/2005-Customs, dated 16.05.2005 exempts from SAD goods cleared from SEZ / FTWZ and brought into DTA. The notification clearly states that the exemption shall not be available if such goods, when sold in DTA, are exempt from payment of sales tax / VAT. Prior to the issue of notification, it was brought to the notice of the Ministry that in some States sales tax is exempted in respect of DTA clearances by SEZ units. Further, in certain cases, such as stock transfer of goods from an SEZ unit to its unit in the DTA, no sales tax is levied. Hence, a condition was imposed that the exemption from SAD would be available only if such goods, when sold in the DTA, are not exempted from VAT/ sales tax. The intention was to avoid double taxation.

3. In the case of clearances which are in the nature of stock transfer from SEZ / FTWZ unit to the DTA unit for self-consumption i.e. otherwise than for sale as such, no sales tax / VAT is leviable on such a transaction. As no sales tax / VAT is leviable on the said transaction, SAD is payable.

4. In view of the above, it is clarified that the benefit of SAD exemption on goods cleared from the SEZ / FTWZ unit into DTA unit on stock transfer basis for self-consumption i.e. otherwise than for sale as such, is not available under notification No.45/2005-Customs, dated 16.05.2005. In such cases, SAD would be leviable.

5. Trade Notice/Public Notice may be issued to the field formations and taxpayers.

6. Difficulties faced, if any, in implementation of this Circular may be brought to the notice of the Board.

*F.No.DGEP/SEZ/32/2011*

*F.No.354/261/2013-TRU*