

F. No. 450/41/2005-Cus IV
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)

Room No.229A, North Block.
New Delhi, dated the 20th of November, 2020

To,

All Principal Chief Commissioners/ Chief Commissioners of Customs/ Customs (Preventive),
All Principal Chief Commissioners/ Chief Commissioners of Customs & Central tax,
All Principal Commissioners/ Commissioners of Customs/ Customs (Preventive),
All Principal Commissioners/ Commissioners of Customs & Central tax.

Madam/Sir,

Subject: **Clarifications regarding availment of exemption on temporary import of durable Containers** - reg.

Kind attention is invited to Notification No.104/94-Cus., dated 16.03.1994 (as amended) which grants exemption to import of containers of durable nature, from the whole of the duty of customs and the whole of the integrated tax leviable. The exemption is subject to the condition that such containers are re-exported within 6 months from the date of importation and that the importer executes a bond and furnishes documentary evidence to the satisfaction of the Assistant Commissioner/Deputy Commissioner to safeguard the duty in the event of non-compliance.

2. A representation has been received in Board regarding the eligibility of the exemption available under No.104/94-Cus. dated 16.03.1994, for durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export. There is also a perceived ambiguity regarding procedural and system readiness regarding the import and re-export of such durable containers, which are not explicitly covered by the guidelines as provided under Circular No.31/2005-Cus., dated 25.07.2005.

3. The issue has been examined. Regarding the eligibility of the duty exemption, reference is invited to Board Circulars No.69/2002-Customs, dated 25.10.2002 and No.73/2002-Customs, dated 07.11.2002. These said circulars clarify that "*As per the meanings assigned to the words `durable` and `container` in various Dictionaries, it would appear that any goods (containers) used for packaging or transporting other goods, and capable of being used several times, would fall in the category of `containers of durable nature`". Further, `durable containers` covers within its ambit "*any type of reusable packaging containers such as cases, boxes, cartons, trays, etc., made up of metals or plastics*". Thus, it is hereby reiterated that containers that satisfy following conditions are eligible for the said duty exemption:*

- a) that are durable,
- b) capable of being re-used multiple times,
- c) capable of being identified at the time of re-export viz. a viz. the imported containers, and
- d) satisfy all the other stipulated conditions in the notification.

4. The procedure to be followed for import and re-export of marine containers would continue to be governed by guidelines provided in Circular No. 31/2005-Cus., dated 25.07.2005.

5. For durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export, the procedure to be followed is given below:-

- a) **When empty containers are imported into India** -The empty containers shall be required to be declared as an item in the bill of entry filed under section 46 of the Customs Act, 1962. The containers would be eligible for exemption from all the applicable customs duties as per Notification No.104/94-Cus.,dated 16.03.1994, as amended, subject to fulfilment of conditions therein. However, the bond for re-export and the security if applicable shall be required to be furnished at the time of import in the Customs System. Importers are advised to register the same as continuity bond for ease of compliance.
- b) **When empty containers are moved out of India by sea or air** - The empty containers shall be required to be declared as an item in the shipping bill filed under Section 50 of the Customs Act, 1962. The unique identifier for the containers would require to be verified at the time of the export by Customs.
- c) **When containers are imported laden with import cargo** - In addition to the declaration of items as per the invoice, such containers shall also be required to be declared as a separate item in the bill of entry filed under section 46 of the Customs Act, 1962. While applicable duties on the imported cargo shall be required to be duly discharged as per the applicable tariff rates under the Customs Tariff Act, 1975, the containers would be eligible for duty exemption as per Notification No.104/94-Cus., dated 16.03.1994, as amended, subject to fulfilment of conditions therein. After Customs clearance, the empty containers can be moved, subject to the conditions of the bond and the security if applicable.
- d) **When containers are exported with export cargo** - The durable container shall be required to be filed as separate item (either in the same invoice or in different invoice as per commercial agreement) in addition to the export laden cargo under Section 50 of the Customs Act, 1962, for the goods meant for export. The stuffing of the export cargo at the airport or the exporter`s premises would not be relevant to Customs, as long as the Unique Identifier for the container is verifiable at any time of the export by Customs. The export cargo and the declaration in the shipping bill will be subjected to assessment and examination as per instructions in the Customs Automated System.
- e) **Conditions of bond-** A continuity re-export bond and security, if applicable at the port of import shall be required to be furnished by the importer for the durable containers that are temporarily imported. The processes involved in imports of durable containers for re-export within the stipulated period including facility of partial crediting the bond after export are available in the Customs Automated System.

6. Directorate General of Systems would issue a detailed Systems Advisory in this regard, for guidance of the trade and departmental officers.

7. Any difficulties faced in the implementation of this circular may please be brought to the notice of the Board.

Yours faithfully,


(Eric.C.Lallawmpuia)
OSD (Customs-IV)