

Circular No. 16 /2007- Customs

F. No. : 305/15/2006-FTT (DGEP)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
Directorate General of Export Promotion

New Delhi, the 18th April, 2007

To,
All Chief Commissioners of Customs/ Central Excise,
All Commissioners of Customs /Central Excise

Sir/Madam,

Sub: - Inter Unit Transfer of Capital goods from one EOU/STP/EHTP unit to another EOU/STP/EHTP unit -reg.

A doubt has arisen regarding scope of the term 'capital goods' for inter unit transfer from one EOU/STP/EHTP unit to another EOU/STP/EHTP unit in terms of notification No. 52/2003-Cus dated 31.03.2003 as amended. A view has been expressed that since Sl. No. 1 of Annexure-I to notification No. 52/2003-Cus dated 31.03.2003 specifically lists 'capital goods', items listed at Sl.No. 2 to 30 of the said Annexure-I cannot be considered as 'capital goods' and consequently inter unit transfer of these goods cannot be permitted in terms of condition (4b) of the opening paragraph of notification No. 52/2003-Cus dated 31.03.2003. This issue was also discussed during the Chief Commissioner's Conference held on 15-16 December, 2006.

2. The matter has been examined. Sl.No. 1 of Annexure-I to notification No. 52/2003-Cus refers to the term 'capital goods'. However, this term has not been defined in the notification. Some of the items mentioned in other Sl. Nos. of the Annexure to this notification, which are specifically listed for being eligible for the exemption, may also qualify as 'capital goods' depending upon their use in a particular case (such as overhead cranes, jigs & fixtures, moulds etc). It is viewed that 'capital goods' listed at Sl.No. 1 and some of the goods covered under other Sl.Nos. are not mutually exclusive.

3. Hence it is clarified that specific items listed at Sl. Nos. other than Sl.No. 1 of the Annexure to the notification may also be allowed the facility of inter unit transfer, if these items qualify to be considered as 'capital goods' depending upon their use.

4. The above clarification would also apply to capital goods covered under other annexures to this notification and under annexures to notification No. 22/2003-C.E. dated 31.03.2003 as amended.

5. Wide publicity may please be given to these instructions by way of issuance of Trade/Public Notice. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Directorate General of Export Promotion, New Delhi.

6. This issues with the approval of CBEC.

7. Receipt of this circular may kindly be acknowledged.

(Pawan Kumar Jain)
Addl. Director General (EP)