

**F.No. 307/2/91- FTT**

Government of India  
Ministry of Finance  
Department of Revenue, New Delhi

**Subject :** Issue of show cause notice for recovery of customs duty on goods imported by 100% EOU -  
Regarding

A number of instances have come to the notice of the Board where 100% EOUs had imported capital goods, raw materials and other permissible items under Notification No. 13/81-Cus. dated 9/2/81 but have failed to export any goods or have closed down after exporting a few consignments. A question has been raised as to the stage at which the customs authorities should proceed to recover duties on imported goods and other goods lying in the factory premises of the 100% EOU.

2. The matter has been examined by the Board in the context of an Audit Objection and I am directed to say that the Board has taken a view that liability of customs duties on goods imported by 100% EOUs arises either at stage of the unit being debonded or if any of the conditions of the exemption notification No. 13/81 dated 9.2.1981 has been violated or remains unfulfilled. In this regard, it is seen that one of the conditions of the exemption notification is that the importer exports out of India 100% or such other percentage, as may be fixed by the said Board, or articles manufactured wholly or partly from the goods for the period stipulated by the Board or such extended period as may be specified by the said Board. It is, thus, clear that if the competent authority namely the Board of Approval or the Development Commissioner concerned determines that the unit has failed to export the fixed percentage of articles for the specified period, then in such case it may be held that the conditions of the exemption notification has been violated. At this stage, it will be open for this Department to issue a show cause notice to the Unit for demanding the due duty on the imported goods.

3. Normally the customs authorities should immediately inform the Development Commissioner in case a 100% EOU ceases production prematurely or fails to commence production or export within the stipulated period. In case the Development Commissioner initiates action against the unit for non-fulfilment of export obligation etc. simultaneously the customs authorities should issue show cause notice for failure to comply which conditions of Notification 11/81-Cus. dated 9.2.81. The demand of duty should be confirmed only after a definite conclusion has been arrived at by the Development Commissioner.

Sd/-  
(S.M. Bhatnagar)  
Under Secretary to the Govt. of India

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