

Chapter 18

Import of Samples

1. Introduction:

- 1.1 In international trade it is often necessary to send samples of goods manufactured in one country to another country for being shown or demonstrated for customer appreciation and familiarization and for soliciting orders. Samples are imported by the trade, industry, individuals, companies, associations, research institutes or laboratories. These are brought by representatives of foreign manufacturers as a part of their personal baggage or through port or by courier.
- 1.2 Commercial samples are basically specimens of goods that may be imported by the traders or representatives of manufacturers abroad, to know its characteristics and usage and to assess its marketability in India. Samples include consumer goods, consumer durables, prototypes of engineering goods or even high value equipment, machineries (including agricultural machinery) and their accessories

2. Legal provisions:

- 2.1 India is a signatory to a 1952 Geneva Convention to facilitate the Importation of commercial samples and advertising materials. The notifications issued in this regard enable duty free import of genuine commercial samples into the country for smooth flow of trade. It is, however, not to be used as a means to avoid paying Customs duty through repeated imports of samples in smaller lots.
- 2.2 Goods prohibited under Foreign Trade (Development and Regulation) Act, 1992 are not allowed to be imported as samples e.g. wild animals, wild birds and parts of wild animals and birds, ivory, arms and ammunitions, and narcotic drugs.
- 2.3 Bonafide trade samples can be imported provided these have been supplied free of charge. For duty free clearance the value of individual sample should not exceed Rs.5,000/- and aggregate value should not exceed Rs.3,00,000/- per year or 50 units of samples in a year. However, the prototypes of engineering goods can be imported even if the value is more than Rs.5,000/-. Such prototypes can be imported upto a value of Rs.10,000/- without payment of duty as long as the goods are rendered useless as merchandise by a suitable process. In case the value exceeds Rs.10,000/-, the said goods have to be re-exported within a period of 9 months or such extended period as the Assistant/Deputy Commissioner of Customs may allow. The high valued samples are cleared after depositing duty with Customs and giving an undertaking for their re-export within nine months. The deposited duty is refunded when the machinery is exported back. However, if more than one product is being imported into the India, the value limit is increased proportionately. Similarly, if the samples are consigned to more than one consignee, by any foreign company, and are sent at the same time through the same port/airport, it shall not be charged to duty if the value limit of Rs.5,000/-, per unit is adhered to. The consignments meant for distribution to different parties in India can also be imported together for convenience of transport, if the packets are clearly marked and addressed to different persons in India.

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- 2.4 A commercial traveller of foreign country is eligible to carry bonafide samples if the value of each of the item is not more than Rs.5,000/- per unit. He is also not required to produce the IEC code at the time of clearance of these goods. The traveller must declare that these goods are meant for securing export order or guidance of exporters, and that the total value does not exceed Rs.3,00,000/- per item during the 12 month period and that he has not imported more than 50 units of the said goods within the last 12 months. He also undertakes that he would not sell these goods and if he sells he will pay the duty leviable on those goods.
- 2.5 The value of Rs.5,000/- is the value of the goods in the country of dispatch excluding local refundable taxes like VAT. In case of free samples of Rs.5,000/-, its value does not include freight or courier charges. If value is above Rs.5000/-, the freight and insurance charges would be added to calculate the duty payable.
- 2.6 Importers are trusted to declare correctly and adhere to the undertaking of the limit of yearly value and quantity. Any person suspected to contravene the limit or undertaking deliberately is liable to be investigated, penalized and/or prosecuted.

3. Machinery import:

- 3.1 Machinery that are prototypes of engineering goods, imported either for further manufacture or for use as capital goods for export production or in connection with securing export orders can be imported duty free upto value of Rs.10,000/-. These goods are normally defaced or made un-saleable by punching, cracking, marking with indelible ink etc. The machinery can be cleared by furnishing a Bank Guarantee (or) deposit of the duty payable and an undertaking that these would be re-exported within 9 months of import. For high valued machinery, the importer has to give an undertaking that these are utilised for the purpose of demonstration at the place(s) which is declared. The Customs authority may also seal the machinery during its journey from the port of importation to the place of demonstration and it is unsealed only at the place of operation or place of demonstration

4. Failure to re-export:

- 4.1 The samples have to be re-exported within 9 months. However, the Assistant/Deputy Commissioner of Customs, may under special circumstances extend the period of 9 months for a further reasonable period.

5. Import of samples under other scheme:

- 5.1 Duty free import of samples is permitted under following provisions/schemes:
- (a) Samples can be imported for private commercial exhibition for display or demonstration with the prior permission of Ministry of Commerce and Indian Trade Promotion Organization vide Notification No.3/89-Cus, dated 9-1-1989.
 - (b) Sample can be imported for Government of India sponsored events viz. trade and industry fairs under Carnet vide Notification No.157/90-Cus, dated 28-3- 1990.
 - (c) Samples of goods manufactured by EOUs can be imported duty free in terms of Notification No.52/2003-Cus, dated 31-3-2003.

- (d) It has been clarified that bonafide trade samples should be part of export baggage in terms of para 2.31 of the FTP read with para 2.20 of the said FTP and 2.27 of Handbook of Procedures.

[Refer Instruction F.No.495/2/2011-Cus.VI dated 5-4-2011]
