

Circular No. 13/2017-Cus

F. No. DGEP/FTP/07/2015(Part-I)

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Directorate General of Export Promotion

New Delhi, dated the 10th April, 2017

To

All Principal Chief Commissioners/ Chief Commissioners of Central Excise, Customs & Service Tax,

All Principal Chief Commissioners/Chief Commissioners of Customs,

All Principal Chief Commissioners/Chief Commissioners of LTU.

Sub: DTA clearance of goods procured by EOUs/EHTP/STP units from indigenous sources – charging of Duty – reg.

Madam/Sir,

Attention is drawn to [Circular No.74/2001-Cus dated 04.12.2001](#) issued on the above subject.

2. Vide the above circular, it was clarified that in case raw materials/ capital goods etc., procured from indigenous sources by EOUs/EPZ/SEZ/EHTP/STP units are transferred/ sold back to DTA except for the purpose of replacement, the deemed export benefits already availed of against such goods shall be required to be refunded back and that the export benefits shall be deposited through TR in the designated bank. It was further clarified that the goods will be allowed to be cleared to DTA only on production of a certificate from the jurisdictional Development Commissioner to the effect that such deemed export benefits are paid back. In cases, where no deemed benefits were availed, a certificate to this effect from the jurisdictional Development Commissioner shall be produced. Only after production of such certificate, these raw materials/capital goods could be cleared on payment of appropriate central excise duty.

3. It has been brought to the notice of the Board that following difficulties are normally being faced in getting the certificate from the Development Commissioner:

- Some of the indigenous manufacturers would have shifted their manufacturing units and/or have closed their manufacturing activities.
- The suppliers may not entertain correspondence pertaining to capital goods procured from them several years ago.
- From commercial perspective, it is unfair to expect indigenous manufacturers to refund / surrender deemed export benefits availed by them several years ago (to enable their Customer units to de-bond indigenously procured goods).
- Deemed export benefits provided to indigenous manufacturers under Foreign Trade Policy, should not hinder de-bonding of such goods.

4. Matter has been examined. Attention is drawn to the amendment made to the [Notification No.23/2003-CE dated 31.03.2003](#) vide [Notification No.29/2007-CE dated 06.07.2007](#) whereby an 'Explanation' was added to the principal notification stating that "goods received from Domestic Tariff Area under the benefits of deemed exports under Paragraph 8.3(a) and (b) of the Foreign Trade Policy shall be treated as imported goods." This amendment has been made for the purpose of levy of duty on goods manufactured by such procured raw material so as not to treat them at par with goods manufactured out of wholly indigenous material. This has been amply brought in [para 12 of Circular no. 12/2008-Cus dated 24-7-2008](#). Therefore, goods procured domestically by EOU/EPZ/SEZ/EHTP/STP units on which deemed export benefits have been availed shall be treated as imported goods and applicable Customs Duty has to be paid (after granting applicable depreciation on capital goods) at the time of clearance of such goods.

5. However, it appears that field formations are insisting on production of a certificate from the Development Commissioner as required under [Circular no. 74/2001-Cus dated 04-12-2001](#) even after payment of applicable Customs Duties on clearance of capital goods procured from DTA by EOU/STP/EHTP units where deemed export benefits have been availed.

6. It is therefore, clarified, that the indigenous goods supplied to the EOUs/EPZ/SEZ/EHTP/STP units after availing the deemed export benefits are to be treated as 'imported goods' and accordingly, duty as applicable to the imported goods is liable to be paid. Once the goods are treated as imported goods and applicable Customs Duty is paid at the time of their transfer/sale back into DTA or exit, there is no requirement of refund of the deemed export benefits availed on such goods or for the production of a certificate from the Development Commissioner regarding refund or non-availment of deemed export benefits at the time of clearance of such goods or exit. Alternatively, the EOU/STP/EHTP units would also be allowed to clear the domestically procured goods or on exit, on payment of Excise Duty as per [Notification No. 22/2003-CE dated 31.03.2003](#) only on production of certificate from Development Commissioner to the effect that deemed export benefits have been paid back or not availed, as the case may be, as envisaged in [Circular No.74/2001-Cus dated 04.12.2001](#).

7. [Circular No. 74/2001-Cus dated 04.12.2001](#) is modified to the above extent.

8. This issues with the approval of Board.

9. This may be brought to the notice of all the field formations and also the trade.

Yours faithfully,

(Saroj Kumar Behera)

Joint Director