

Instruction No.13/2022-Customs

F.No. 473/03/2022-LC
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)

Room No 227-A, North Block
New Delhi, July 09, 2022

To,

All Pr. Chief Commissioners/Chief Commissioners, under CBIC
All Pr. Directors General/Directors General, under CBIC
All Pr. Commissioners/Commissioners, under CBIC

Subject: Warehousing of solar power generating units or items like solar panel, solar cell etc. for power plants with resulting goods 'electricity' - In-applicability of Manufacture and Other Operations in Warehouse (no.2) Regulations, 2019 under section 65 of the Customs Act, 1962 regarding.

Madam/Sir,

It is brought to notice of the Board that certain solar power generating units applied for permission under section 65 of the Customs Act, 1962 for warehousing of imported solar panels/solar modules and related accessories etc. declared as capital goods to generate electricity (from sunlight) as resulting/resultant goods for home consumption. Certain jurisdictional Commissioners have granted such permissions.

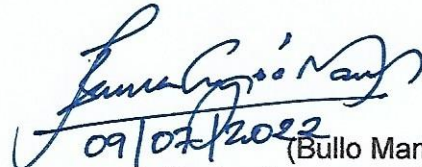
2. In this regard, the undersigned is directed to convey that a reading of section 65 shows that in relation to any particular goods, resulting from the operations, they can either be removed from warehouse for export or for home consumption. In respect of applications of the type referred in para 1 above, the resultant electricity is identical whether it be removed for home consumption or for export. In Manufacture and Other Operations in Warehouse (no.2) Regulations, 2019 (hereinafter referred as 'MOOWR 2019'), the Regulation 15 (removal of resultant goods from the warehouse for export) requires affixing a one-time-lock to the load compartment of the means of transport in which such goods are removed from the warehouse. As the identical goods, i.e. electricity, may also be cleared for home consumption, the provision for removal for export shows that those goods, i.e. electricity, which are of the nature to which it is incapable to affix one-time-lock to the load compartment of the means of transport in which such goods are removed, fall squarely outside the scope of MOOWR 2019 because of inability to satisfy the essence of the prescribed condition.

3. Moreover, the Regulation 20 is that the Board, having regard to the nature of goods, their manner of transport or storage, may exempt a class of goods from any of the provisions of the MOOWR 2019. Neither this power has been exercised by Board to exempt goods in

the nature of electricity from any of the provisions of MOOWR 2019, nor separate regulations relating to removal of electricity have been issued.

4. Incidentally, it may also be noted that the resulting electricity is also not ordinarily capable of being deposited in a warehouse.

5. Accordingly, the undersigned is directed to convey that grant of permission, as referred in para 1 above, is not in accordance with the MOOWR 2019 provisions or principles which are the conditions prescribed by the Board in terms of section 65 of the Customs Act, 1962. The permissions granted to the type of generating units referred herein above need to be immediately reviewed and the necessary follow up action taken. No further permissions in such cases should be granted in terms of section 65 of the Customs Act, 1962.


09/02/2022 (Bullo Mamu)
Under Secretary (LC)