

**OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT),
JAWAHARLAL NEHRU CUSTOM HOUSE , SHEVA ,
DISTT. RAIGAD, MAHARASHTRA**

F.No:S/4-Re-import-05/2004 Gr.IV Date: 08.04.2004

STANDING ORDER NO:37/ 2004

(*) The question of applicability of notification 158/95 Cus dated 16.12.95 vis-à-vis notification 94/96 Cus dated 16.12.96 in relation to re-import of goods exported under Export Promotion Scheme was examined. An apprehension was expressed that notification 158/95, does not safeguard revenue because there is no clause of payment of duty to the extent of export benefits availed, whereas notification 94/96-cus, is more appropriate, even in the cases where importer intends to re-export the goods after carrying the processes specified in the notification 158/95, supra (Policy Circular No. 8 (RE01) 2001-02 dt. 10-01-03, which mentions that the re-import of goods exported availing export benefit should be allowed under notification 94/96 only, because some unscrupulous importers are misusing re-import facility and intend to pay customs duty at very low price and avail exemption, whereas they had already availed huge export

achieve different objectives. Former notification is for re-import of exported goods in which the Department has to ensure that enough evidences are available to identify and that only re-imported goods are re-exported after re-processing, refining & remaking etc., whereas notification 94/96, does not envisage any condition of re-export.

(3) The general principle is that once the goods are exported and mingle with international goods, they normally acquire international character; so far treatment of Customs Act is concerned. That is why there is provision of

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section 20 of the Customs Act for re-import of goods. However, if the same goods are re-imported, the duty shall be charged as if these are goods manufactured in other countries, but for exemption under notification no. 94/96, *ibid*, where the importer can pay duty only to the extent of export incentives in the form of non-payment of terminal excise duty (export under bond), rebate, drawback, DEEC, and DEPB etc.

import under section 20 of the Customs Act, 1962, where the goods are sought to be cleared on payment of appropriate duty. It mentions that in all such cases of re-import, the notification 94/96, *ibid*, shall be applied, even if importer seeks clearance under any other notification or under any export-related exemption notification.

the Customs Act, 1962, and if an importer satisfies the condition of identity of goods (at the time of re-import and thereafter, re-export) and also undertakes to carry out the processes for which these have been re-imported, the benefit of notification is admissible to the goods. Whether the goods are capable of being re-processed in the manner specified in notification is very crucial in extending benefit of notification.

notification 158/95, *ibid*, provided all the steps specified in the notification are followed scrupulously, including the steps taken to clearly mention in the examination report the specifications of goods, so as to use these at the time of re-export for establishing the identity. The samples will also be drawn in those cases, where there is no clear cut marks and numbers on the re-imported goods and identity will be

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(including documentary). The Group shall unambiguously satisfy themselves that the re-imported goods are actually capable of reprocessing, refining, remaking or similar processes in the factory specified at Serial No. 2 of the Table of the Notification 158/95, *ibid*;

(II) All other cases of re-import shall be governed by notification 94/96. The re-imported goods shall be examined with reference to export terms of the said notification. The Docks shall examine all imported goods and ensure that Indian goods are not returned in the guise of goods manufactured in a country other than India. Any misdeclaration shall be brought to notice of the Group for necessary action. The Group shall ensure that such re-imported goods are cleared under notification 94/96, *ibid*, as specified by DGFT in Policy Circular No. 8(RE-01)/2001-2002 dated 10.01.2003.

availed by the importer. In EDI the name allotted to this Group is 7. Other cases of re-import should be handled by respective Groups. In cases, where the export benefits have not been availed by the importer at the time of export, such cases would be dealt in respective Group.

(7) All the officers shall follow above directions scrupulously. Any deviation from these instructions shall be viewed very seriously

Sd/- 08.04.2004

(R. Sharma)
Commissioner of Customs (Import)

ATTESTED BY

(K. S. MISHRA)
DEPUTY COMMISSIONER OF CUSTOMS
APPRAISING MAIN.

