EPCES CIRCULAR NO. 16/2007-08 DATED 11-7-2007

Subject: Ministry of Finance Notification No. 84/2007- Customs dated 6/7/2007 and Notification No. 29/2007-Central Excise dated 6/7/2007 providing for the following:

(i) Duty free re-import of goods by EOU after participation in the International Exhibitions
(ii) EOU to pay anti-dumping duty in case EOU imports raw material which is subject to anti-dumping duty and sells such raw material or finished goods made therefrom into the DTA.
(iii) The raw material imported by EOU to be accounted for as per SION or ad-hoc norms/norms finalized by the Board of Approvals.
(iv) Goods received from domestic tariff area (DTA), under the benefit of deemed exports, to be counted as imported goods.
(v) Providing for sale of services in the Domestic Market
(vi) Sale of goods in the DTA on payment of applicable duty (instead of appropriate duty)

Subsequent to the changes carried out in the Foreign Trade Policy, Ministry of Finance had earlier issued Customs Notification No. 72/2007 dated 21/5/07, Notification No. 76/07 dated 6/6/07 and Notification No. 26/07-CX dated 6/6/07 regarding implementation of certain changes carried out under the EOU Scheme. These have already been informed vide EPCES Circular No. 6 dated 28/5/07 and EPCES Circular No. 12 dated 19/6/07.

Now, Ministry of Finance has issued Notification No. 84/2007-Customs dated 6/7/07 and Notification No. 29/07-Central Excise dated 6/7/07. Copies of these notifications are enclosed alongwith. These notifications provides as follows:

(i) Duty free re-import of goods by EOU after participation in the International Exhibitions

Ministry of Finance Notification No. 52/2003-Customs dated 31.3.2003 provides for duty free import of goods by EOU. Annexure I of this Notification lists the goods which are permitted for duty free. At present if an EOU is participating in an international exhibition and after participation in the exhibition was bringing the goods back in the DTA then the EOU were not able to clear goods without payment of duty as Annexure I of this notification was not having any entry for re-import of such goods. An EOU operating in Rajasthan had reported to the EPCES that after participating in the International Exhibition,
their goods were held up for more than 2 months in the customs and ultimately they have to clear such goods on payment of duty under protest. I had taken up this issue with Director General (Export Promotion), Department of Revenue, Ministry of Finance. Now Ministry of Finance has accepted this request and vide Notification No 84/2007-Customs dated 6/6/07, Customs Notification No. 52/2003 has been amended and in the Annexure I of this notification following has been added:-

“15A. Goods re-imported within 60 days of close of exhibition for which these goods were exported.”

Hence, now if an EOU is sending its goods for participation in exhibition and bringing these goods back within 60 days of close of the exhibition, they are allowed to reimport such goods without payment of duty.

(ii) EOU to pay anti-dumping duty in case EOU imports raw material which is subject to anti-dumping duty and sells such raw material or finished goods made therefrom into the DTA.

Ministry of Finance had issued Notification No. 5/94-Customs dated 18/6/94, wherein EOUs were allowed to import goods, without payment of anti dumping duty, imposed under Section 9A of the Customs Tariff Act. Now Ministry of Finance has issued Notification No. 84/07-Customs dated 6/7/07 wherein Notification No. 5/94 has been amended to provide as follows:-

“Provided that no such exemption shall be applicable to such goods which-
(a) after importation in the hundred per cent. export oriented unit are cleared as such in the Domestic Tariff Area;
(b) are used for the purpose of manufacture or processing of finished goods (including rejects, waste, scrap, remnant and by products) in the hundred per cent. export oriented unit and such finished goods (including rejects, waste, scrap, remnant and by products) are cleared in the Domestic Tariff Area.”;

(iii) The raw material imported by EOUs to be accounted for as per SION or ad-hoc norms/norms finalized by the Board of Approvals.

Notification No. 84/2007-Customs and Notification No. 29/07-CE have carried out changes in Notification No. 52/03-Customs dated 31.3.03 and 22/03-CX dated 31.3.03 providing that goods imported by EOUs shall have to be accounted for in accordance with the SION:-

“Provided that-
(a) where no SION have been notified, the generation of waste, scrap and remnants upto 2% of the import quantity shall be allowed;
(b) where additional items other than those given in the SION are required as input or where the unit considers the existing SION as inadequate or where generation of waste, scrap and remnants is beyond 2% of the import quantity, use of such goods shall be allowed on the basis of self-declared norms till such norms are fixed on ad hoc basis by the jurisdictional Development Commissioner within a period of three months from the date of self declared norms and the unit undertakes to adjust the self-declared/ ad hoc norms in
accordance with norms as finally fixed by the Board of Approval within a six months of fixation of ad hoc norms;”

(iv) Goods received from domestic tariff area (DTA), under the benefit of deemed exports, to be
counted as imported goods.

Ministry of Finance, vide Notification No. 29/07-CX has amended Notification No. 23/03-CX. The
change carried out is quite substantive. Vide this Notification No. 29/07- CX, explanation (ii) of
Notification No. 23/03-CX has been amended as follows:-

EXISTING EXPLANATION (II)

Explanation II : For the purposes of this notification, goods received from any export oriented
undertaking or software technology park unit or electronic hardware technology park unit, as the
case may be, shall be treated as imported goods

AMENDED EXPLANATION (II)

“Explanation II. - For the purposes of this notification, following supplies shall be treated as
imported goods:
(i) goods received from any export oriented undertaking or Software Technology Park unit or
Electronic Hardware Technology Park unit, as the case may be;
(ii) goods received from Domestic Tariff Area under benefits of deemed exports under
Paragraph 8.3 (a) and (b) of the Foreign Trade Policy.”.

This change will be particularly relevant to those EOUs which are procuring 100% indigenous raw
material from domestic market. At present if EOUs are procuring 100% raw material indigenously and
making the product and sell such products in the DTA then they are required to pay central excise duty
only. However if such EOUs were procuring goods from other EOUs then these EOUs were not entitled
to the facility of sale of goods in the DTA on payment of excise duty only. After this amendment if the
EOU is procuring goods from DTA and taking benefits of deemed exports under Paragraph 8.3(a)
(Supply fo goods against Advance Authorization/Advance Authorization for annual requirement/DFIA)
and Paragraph 8.3(b) (Deemed export drawback), then these EOUs will not be entitled for the facility of
sale of goods in the DTA on payment of excise duty.

(v) Providing for sale of services in the Domestic Market

Notification No. 29/07-CX has carried out amendment in Notification No. 22/03-CX dated 31.3.2003
providing as follows:-

“(i) for the words “article in an user industry and such articles”, the words “article or services
in an user industry and such articles or services” shall be substituted;”

Though the Foreign Trade Policy had permitted sale of services in the DTA, the corresponding provision
has come in the Customs Notification as well.
(vi) **Sale of goods in the DTA on payment of applicable duty (instead of appropriate duty)**

Notification No. 29/07-CX dated 6/7/07 has amended Notification No. 22/03-CX providing for the following:

“(ii) for the words “appropriate duty”, the words “applicable duty” shall be substituted;”

I have been told by the office of the Director General (Export Promotion), Department of Revenue, Ministry of Finance, that basically this means that suppose a defence organization is entitled for import of goods without payment of duty (applicable duty is NIL) then the same facility will be available for the sale of goods from EOU to such defence organization. Department of Revenue will be issuing a circular also explaining the scope of this change.

An EOU from Bangalore had reported that they were making supply of products to ISRO. ISRO is entitled for import of these goods without payment of duty. However, EOU was asked to pay duty. Now this kind of situation will not arise.

This is for your information.

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**NOTIFICATION No. 84 /2007-CUSTOMS**

G.S.R (E) – In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby directs that each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table hereto annexed shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely:-

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<tr>
<th>Serial Number</th>
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| 1.            | 5/1994-Customs, dated the 18th January, 1994, G.S.R.28 (E), dated the 18th January, 1994. | In the said notification,-  
(1) in the opening paragraph, the words “or a unit working in a free trade zone” shall be omitted;  
(2) after the opening paragraph, the following proviso shall be inserted, namely:- |
Provided that no such exemption shall be applicable to such goods which-
(a) after importation in the hundred per cent. export oriented unit are cleared as such in the Domestic Tariff Area;
(b) are used for the purpose of manufacture or processing of finished goods (including rejects, waste, scrap, remnant and by products) in the hundred per cent. export oriented unit and such finished goods (including rejects, waste, scrap, remnant and by products) are cleared in the Domestic Tariff Area."

(3) after the proviso as so inserted, the following *Explanation* shall be inserted, namely:-

"Explanation- For the purpose of this notification,-
(i) "hundred per cent. export oriented unit" has the same meaning as assigned to "hundred percent. export oriented undertaking" in clause (ii) to the Explanation of sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944);
(ii) "Domestic Tariff Area" means India except Special Economic Zone and hundred per cent. export oriented undertakings.".

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| 2. | 94/96-Customs dated the 16th December, 1996, G.S.R 569 (E), dated the 16th December, 1996 | In the said notification,-
(1) in the first proviso after the Table, after clause (c), the following clause shall be inserted, namely:-
"(d) in the case of the goods falling under Serial numbers 1, 2A and 3 of the Table and where the value of exported goods was counted towards fulfillment of export obligation, the amount of customs duties leviable on the duty free inputs obtained from Nominated Agencies but for the exemption availed under the Ministry of Finance (Department of Revenue) notification No. 56/2000-Customs dated the 5th May, 2000 [vide G.S.R. 399 (E), dated the 5th May, 2000] and notification No. 57/2000-Customs dated the 8th May, 2000 [vide G.S.R. 413 (E), dated the 8th May, 2000] shall also be paid in addition to amount of duty specified in column (3) of the Table;"
(2) in the *Explanation*, after clause (b), the following clause shall be inserted, namely:-
"(c) "Nominated agencies" means the Metals and Minerals Trading Corporation limited (MMTC), the Handicraft and Handloom Corporation (HHEC), the State Trading Corporation (STC), the Project and Equipment Corporation of India Ltd. (PEC) and any other agency authorised by Reserve Bank of India (RBI).". |

| 3. | 56/2000-Customs dated the 5th May, 2000, G.S.R. 399 (E), dated the 5th May, 2000 | In the said notification,-
(1) in the opening paragraph, for the words and figures ‘paragraph 4.4.8’, the words, letter and figures ‘Paragraph 4A.8’ shall be substituted;
(2) in the *Explanation*, for clause (d), the following clause shall be substituted, namely:-
"(d) “Status holder” means the importer recognized as Export House (EH), Star Export House (SEH), Trading House (TH), Star Trading House (STH) and Premier Trading House (PTH) in terms of Paragraph 3.5.2 of the Foreign Trade Policy.”. |
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| 4. | 57/2000-Customs dated the 8th May, 2000, G.S.R. 413 (E), dated the 8th May, 2000 | In the said notification,-  
(1) in the clause (a) to opening paragraph, for the words and figures “paragraph 4.4.9”, the words, letter and figures “Paragraph 4A.15” shall be substituted;  
(2) in the clause (b) to opening paragraph, for the words and figures “Paragraph 4.4.10”, the words, letter and figures “Paragraph 4A.9” shall be substituted. |
| 5. | 52/2003-Customs dated the 31st March, 2003, G.S.R. 274 (E), dated the 31st March, 2003 | In the said notification,-  
(1) in the condition (3) of opening paragraph, in sub-condition (d), in clause (I), for sub-clause (ii), the following sub-clause shall be substituted, namely:-  
“(ii) in the case of goods other than capital goods, such goods as are not proved to the satisfaction of the said officer to have been used in connection with the production or packaging of goods in accordance with SION for export out of India or cleared for home consumption within a period of three years from the date of import or procurement thereof or within such extended period as the said officer may, on being satisfied that there is sufficient cause for not using them as above within the said period, allow:  
Provided that-  
(a) where no SION have been notified, the generation of waste, scrap and remnants upto 2% of the import quantity shall be allowed;  
(b) where additional items other than those given in the SION are required as input or where the unit considers the existing SION as inadequate or where generation of waste, scrap and remnants is beyond 2% of the import quantity, use of such goods shall be allowed on the basis of self-declared norms till such norms are fixed on ad hoc basis by the jurisdictional Development Commissioner within a period of three months from the date of self declared norms and the unit undertakes to adjust the self-declared/ad hoc norms in accordance with norms as finally fixed by the Board of Approval within a six months of fixation of ad hoc norms;”;  
(2) in the paragraph 3, for the words “appropriate duty”, the words “applicable duty” shall be substituted;  
(3) in the ANNEXURE-I, after Serial number 15 and the entries relating thereto, the following Serial number and entries shall be inserted, namely:-  
“15A. Goods re-imported within 60 days of close of exhibition for which these goods were exported.”;  
(4) in the Explanation occurring after paragraph 13,-  
(a) for serial number (xi) and the entry relating thereto, the following serial number and entry shall be substituted, namely:-  
“(xi) “Status holder” means importer recognized as Export House (EH), Star Export House (SEH), Trading House (TH), Star Trading House (STH) and Premier Trading House (PTH) in terms of Paragraph 3.5.2 of the Foreign Trade Policy”;  
(b) after serial number (xii) and the entry relating thereto, the following serial number and entry shall be inserted, namely:-  
(F.No: DGEP/FTP/69/2007-EQU & G & J)

(Aseem Kumar)
Under Secretary to the Government of India

Note:-

1. The principal notification No. 5/1994-Customs, dated the 18th January, 1994 was published in the Gazette of India Extraordinary, Part II, Section 3 (i) vide G.S.R. 28 (E), dated the 18th January, 1994;

2. The principal notification No. 94/96-Cus dated the 16th December, 1996 was published in the Gazette of India Extraordinary, Part II, Section 3 (i) vide G.S.R. No. 569 (E), dated the 16th December, 1996 and was last amended by notification No. 44/2006-Customs, dated the 17th May, 2006 published vide G.S.R. 291 (E), dated the 17th May, 2006;

3. The principal notification No. 56/2000-Customs, dated the 5th May, 2000 was published in the Gazette of India Extraordinary, Part II, Section 3 (i) vide G.S.R 399 (E), dated the 5th May, 2000 and last amended by notification No. 87/2004-Cus, dated the 6th September, 2004 published vide G.S.R. 566 (E), dated the 6th September, 2004;

4. The principal notification No. 57/2000-Customs, dated the 8th May, 2000 was published in the Gazette of India Extraordinary, Part II, Section 3 (i) vide G.S.R 413 (E), dated the 8th May, 2000 and last amended by notification No. 87/2004-Cus dated the 6th September, 2004 published vide G.S.R. 566 (E), dated the 6th September, 2004;


[TO BE PUBLISHED IN GAZETTE OF INDIA, EXTRAORDINARY, PART-II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 6th July, 2007

NOTIFICATION No. 29/2007-CENTRAL EXCISE

G.S.R.------- (E).- In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and sub-section (3) of section 3 of Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby directs that each of the notifications of the Government of India, Ministry of Finance (Department of Revenue), specified in column (2) of the Table hereto annexed shall be amended or further amended, as the case may be, in the manner specified in the corresponding entry in column (3) of the said Table, namely:-

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In the said notification,-

(1) in the condition (4) of opening paragraph, in clause (a), for sub-clause (ii), the following sub-clause shall be substituted, namely:-

(ii) in the case of goods other than capital goods, such goods as are not proved to the satisfaction of the said officer to have been used in connection with the production or packaging of goods in accordance with SION for export out of India or cleared for home consumption within a period of three years from the date of procurement thereof or within such extended period as the said officer may, on being satisfied that there is sufficient cause for not using them as above within the said period, allow:

Provided that-

(a) where no SION norms have been notified, the generation of waste, scrap and remnants upto 2% of quantity of the inputs procured shall be allowed;

(b) where additional items other than those given in the SION are required as inputs or where the user industry considers the existing SION as inadequate or where generation of waste, scrap and remnants is beyond 2% of the inputs procured, use of such goods shall be allowed on the basis of self-declared norms till such norms are fixed on *ad hoc* basis by the jurisdictional Development Commissioner within a period of three months from the date of self declared norms and the unit undertakes to adjust the self-declared/ *ad hoc* norms in accordance with norms as finally fixed by the Board of Approval within six months of fixation of *ad hoc* norms;

(2) the condition (6) of opening paragraph and entries relating thereto shall be omitted;

(3) in the paragraph 6,-

(i) for the words “article in an user industry and such articles”, the words “article or services in an user industry and such articles or services” shall be substituted;

(ii) for the words “appropriate duty”, the words “applicable duty” shall be substituted;

(4) in the *Explanation* occurring after paragraph 13,-

(a) for serial number (x) and entry relating thereto, the following serial number and entry shall be substituted, namely:-

“(x) “Status holder” means importer recognized as Export House (EH), Star Export House (SEH), Trading House (TH), Star Trading House (STH) and Premier Trading House (PTH) in terms of Paragraph 3.5.2 of the Foreign Trade Policy.”;

(b) after serial number (xi) and entry relating thereto, the following serial number and entry shall be inserted, namely:-

“(xii) “SION” means Standard Input Output Norms notified by Director General of Foreign Trade in Handbook of Procedures, Vol. 2, 2004-09/approved by Board of Approval.”.

In the said notification, for the *Explanation II* occurring after paragraph 3, the following *Explanation* shall be substituted, namely:

"Explanation II. - For the purposes of this notification, following supplies shall be treated as imported goods:

(i) goods received from any export oriented undertaking or Software Technology Park unit or Electronic Hardware Technology Park unit, as the case may be;

(ii) goods received from Domestic Tariff Area under benefits of deemed exports under Paragraph 8.3 (a) and (b) of the Foreign Trade Policy.”.

(F.No: DGEP/FTP/69/2007-EOU & G&J)

(Aseem Kumar)

Under secretary to the Government of India

Note:-