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SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

NOTIFICATION No. 22/2023 - Customs

New Delhi, the 1st April, 2023.

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 exempts materials required for the manufacture of the final goods when imported into India, from whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as Customs Tariff Act) and from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A of the said Customs Tariff Act, except specified in para 2 to this notification, subject to the following conditions, namely:-

(i) that the importer has been granted Advance Authorisation for deemed export by the Regional Authority in terms of paragraph 4.05(c)(iii) of the Foreign Trade Policy permitting import of the said materials (hereinafter referred to as the said authorisation);

(ii) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit;

(iii) that the said authorisation contains endorsements specifying, *inter alia* ,-

(a) the description, quantity and value of materials allowed to be imported under the said authorisation; and

(b) the description and quantity of final goods to be manufactured out of, or with, the imported materials:

Provided that in respect of inputs referred in paragraphs 4.12(i) and 4.12(ii) of the Foreign Trade Policy, the material permitted to be imported in the said authorisation shall be of the specific name or description or quantity, respectively, as the material used in the manufacture of the final goods supplied. The said authorisation holder shall declare these particulars on the documents like ARE-3 and Central Excise Certified Invoice;

(iv) that in respect of imports made before the discharge of export obligation, the importer at the time of clearance of the imported materials executes a bond with such surety or security, in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen per cent per annum from the date of clearance of the said materials;

(v) that in respect of imports made after the discharge of export obligation, if facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2017 or of the CENVAT Credit under CENVAT Credit Rules, 2017 has been availed, then the importer shall, at the time of clearance of the imported materials furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2017;

(vi) that in respect of imports made after the discharge of export obligation, and if facility under rule 18 or sub-rule 2 of rule 19 of the Central Excise Rules, 2017 or of the CENVAT credit under CENVAT Credit Rules, 2017 has not been availed and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (v);

(vii) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations as mentioned in the Table 2 annexed to the Notification No. 26/2023-Customs dated 1st April, 2023 or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other seaport, airport, inland container depot or through a land customs station within his jurisdiction;

(viii) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by supplying final goods manufactured in India which are specified in the said authorisation;

(ix) that the importer produces evidence of having discharged obligation to supply final goods to the satisfaction of the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days from the expiry of the period allowed for fulfillment of obligation or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow;

(x) that the said authorisation shall not be transferred and the said materials shall not be transferred or sold:

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions specified in the relevant goods and services tax provisions permitting transfer of materials for job work:

(xi) that components and parts, required for manufacture of final goods which are wholly exempted from payment of excise duty when removed from the factory of production, may be taken directly from the port of import to the project site as per the procedures and limitations, if any, laid down by the Board in this regard subject to the condition that description and quantity of such components and parts and the address of the site have been specified in the said authorisation.

2. The exemption from safeguard duty, transitional product specific safeguard duty, countervailing duty and anti-dumping duty shall not be available in respect of material required for final goods which are covered under sub-clauses (a), (c), (d) and (i) of clause (III) of the Explanation to this notification.

Explanation. - For the purposes of this notification,-

(I) "dutiable goods" means excisable goods which are not exempt from central excise duty and which are not chargeable to 'nil' rate of central excise duty;

(II) "Export Oriented Units" has the same meaning as assigned to it in paragraph 9.18 of the Foreign Trade Policy;

(III) "Final goods" means -

(a) supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation Scheme;

(b) supply of goods to Export Oriented Units or Software Technology Parks or Electronic Hardware Technology Parks or Biotechnology Parks;

(c) supply of capital goods against Export Promotion Capital Goods Authorisation;

(d) supply of marine freight containers by 100% Export Oriented Units (domestic freight container manufacturers) where such containers are exported out of India within a period of six months or such further period as may be permitted by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be;

(e) supply of goods to projects financed by multilateral or bilateral agencies or funds as notified by Department of Economic Affairs, Ministry of Finance under International Competitive Bidding (ICB) in accordance with the procedures of those agencies or funds, where legal agreements provide for tender evaluation without including customs duty;

(f) supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or funds as notified by Department of Economic Affairs, Ministry of Finance under ICB in accordance with the procedures of those agencies or funds, where bids may have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;

(g) supply of goods to any project or purpose in respect of which the Ministry of Finance, by notification No. 50/2017- Customs dated the 30th June, 2017, as amended from time to time, permits import of such goods at zero customs duty subject to conditions specified in the said notification and the supply is made under ICB procedure;

(h) supply of goods required for setting up of any of the mega power projects specified in the list 31 at Sl. No. 598 of notification No. 50/2017-Customs dated the 30th June, 2017, as amended from time to time, provided the mega power project conforms to the threshold generation capacity specified in the said Notification. The supply should be made under ICB procedure. The ICB condition shall not be mandatory if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding;

(i) for supply for official use or to the projects funded by UN or International Organisation in terms of Notification No. 84/97-Customs dated the 11th November, 1997;

(j) Supply of goods to nuclear power projects through National Competitive Bidding (NCB) or through International

Competitive Bidding (ICB) as provided in clause(g) of para 7.02 of Foreign Trade Policy;

(IV) "Foreign Trade Policy" means the Foreign Trade Policy, 2023, published by the Government of India in the Ministry of Commerce and Industry, *vide* notification No. 01/2023, dated the 31st March, 2023;

(V) "Materials" means -

(a) raw materials, components, intermediates, consumables, catalysts and parts which are required for manufacture of final goods;

(b) mandatory spares within a value limit of ten per cent of the value of the authorisation which are required to be exported along with the final goods;

(c) fuel required for manufacture of final goods;

(d) packaging materials required for packing of final goods;

(VI) "Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorised by him to grant an authorisation under the said Act; and

(VII) "Specified Chartered Accountant" means a statutory auditor or a Chartered Accountant who certifies the importer's financial records under the Companies Act, 2013 (18 of 2013) or the Income Tax Act, 1961 (43 of 1961) or the Central/State Goods and Services Tax Act.

(VIII) "Supply of taxable goods" means a supply of goods which is leviable to tax under relevant Goods and Services Tax law.

[F.No.605/10/2022-DBK]

(Dhananjay Singh)
Under Secretary.