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DIRECTORATE GENERAL OF EXPORT PROMOTION
Deptt. of Revenue, Ministry of Finance, Govt. of India
HOTEL JANPATH, NEW DELHI -110 001
EPABX No.:-23344616, 23344622, Fax No:-23344614/ 560.

F. No. DGEP/EOU/29/2012 / 1019

July 27, 2012

To:

All Chief Commissioners of Central Excise & Service Tax
All Chief Commissioners of Customs, Central Excise & Service Tax,
All Chief Commissioners of Customs,
All Chief Commissioners of LTU,

Sir/Madam,



Sub: Stock Transfer by an EOU to DTA, whether Additional Duty of Customs leviable under Sub-section (5) of Section 3 of the Customs Tariff Act, 1975 is applicable - reg.

C&AG had raised an objection regarding leviability of Special additional Duty of Customs in case of stock transfer by an EOU. The gist of the audit objection is as under:

"According to the proviso to serial no. 2 of the notification no. 23/2003-CE dated 31 March, 2003 as amended, it is stipulated that while calculating the aggregate of the Customs Duties, Additional Duty of Customs leviable under sub section (5) of section 3 of the Customs Tariff Act shall be included, if the goods cleared into Domestic Tariff Area (DTA) are exempt from payment of Sales Tax or Value Added Tax (VAT). Further, in terms of Notification No, 19/2006-Cus dated 1 March 2006, an Additional Duty of Customs shall be levied at the rate of four percent ad valorem on all the imported goods. Thus in the case of finished goods cleared in DTA which are exempt from payment of Sale Tax or VAT, the Special Additional Duty of Customs at the rate of four percent becomes leviable."

2. The objection has been accepted by the department.

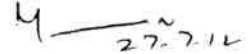
3. S. No. 1 of the table to the Notification No. 23/03-CE dated 31.03.2003 as amended, exempts Duty of Excise leviable thereon as is equivalent to the Additional Duty of Customs leviable on such goods under Sub-section (5) of Section 3 of the Customs Tariff Act, 1975 (51 of 1975), read with the proviso to Sub-section (1) of Section (3) of the said Central Excise Act, subject to the condition that such goods are not exempted by the State Government from payment of Sales Tax or Value Added Tax (VAT). Further, Circular No. 38/2003-Cus dated 06.05.2003 has categorically clarified that stock transfers of goods by an EOU Unit to another division / unit of the same company tantamounts to DTA sale. However, since Sales Tax /VAT is not leviable on stock transfer, such clearances get covered

under the "not exempted" category in the condition specified at S.No. 1 of the Table annexed to Notification No. 23/2003-CE dated 31.03.2003.

4. In view of the above, it is clarified that in the case of finished goods cleared in DTA as stock transfer, if exempt from payment of Sale Tax or VAT, the Additional Duty of Customs shall be leviable at the prescribed rate.

5. The above clarification may please be circulated to all the field formations and Trade for necessary compliance.

Yours faithfully,

 27.7.12

(Manoj K Arora)
Additional Director General

ACT)