Circular No.61/2004Cus.
28th October, 2004

F.No.528/9/2004-CUS(TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Subject: - Importability of Boric Acid. - regarding.

I am directed to say that references have been received from the trade bodies and field formations regarding the importability of Boric Acid. One view is that boric acid being a separately chemically defined compound falls under sub- heading 28100020 of the Customs Tariff and is freely importable as per the ITC (HS) Policy. The other view is that boric acid being an insecticide, falls under sub-heading 38081099 of the Custom Tariff and therefore as per the ITC (HS) Policy requires importers to be registered under the Insecticides Act, 1968.

2. The matter was accordingly referred for clarification to the Department of Agriculture & Cooperation in the Ministry of Agriculture, under whom the Insecticides Board functions. The Ministry of Agriculture has clarified as under:-

(i)	Registration of the importers of Boric acid with the Central Committee (CIB & RC) Insecticides Bo Registration under the provisions of the Insecticides Act, 1968 should be a precondition for import if i is insecticidal.
(ii)	In case Boric Acid is proposed to be imported for an identified non-insecticidal use, then such in would be exempted from the requirements of registration under the Act on the basis of a certificate use issued by the concerned Administrative Ministry/ Department of the Government of India.

3. Since the end use of the Boric Acid in respect of imports by traders, cannot be verified, such cases would be covered by point

(i)	above i.e. they would require registration with CIB & RC.

4. Attention in this regard is invited to Board's Circular No. 727/43/2003-CX dated 29.7.2003, wherein the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Pesticides Manufacturing & Formulators' Association of India [2002 (146) ELT 19 (SC)], was communicated to the field formations. The Apex Court has held that even in respect of a separately chemically defined compound, if it is a pesticide/insecticide it will be classified under heading 3808 of the Central Excise Tariff (which is identical to the corresponding heading of the Customs Tariff) and not under Chapters 28 or 29. Accordingly Boric Acid being an 'Insecticide' mentioned in the Schedule to the Insecticide Act, 1968, would also be classified under leading 3808 (item No. 38081099) of the Custom Tariff.

5. Pending assessments may be finalised accordingly. Past final assessments need not to be re-opened.

6. Field formations may be suitably informed.

7. Suitable Public Notices may be issued for the benefit of the Trade.

8. Hindi version will follow.

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