CIRCULAR No.39/2005-Cus
3rd October, 2005

F.No. 528/117/2003-Cus(TU)
GOVERNEMNT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
TARIFF UNIT

Subject:- Extension of benefit of Notification 21/2002-Cus., dated 1.3.2002, Sl.No. 276, to Computer Casing and Power Supply Unit imported together-reg.

I am directed to say that a dispute regarding the extension of benefit of Notification 21/2002-Cus., dated 1.3.2002, Sl.No. 276 to computer casing and power supply unit imported together, has been brought to the notice of the Board.

2. Under Sl. No. 276 (which has subsequently been withdrawn w.e.f. 1.3.2005) of the CN.21/2002-Cus., dated 1.3.2002, all parts of the machines of heading 8471, other than PPCB's, motherboards and power supply units attracted a concessional rate of duty @ 5%. In case the computer casing/chassis is pre-fitted with the power supply unit, it was not eligible for the benefit of the said entry of the notification and the rate of basic customs duty on the same use to be 15%. However, some importers had imported the chassis and the power supply as separate units in the same consignment. These units were meant to be fitted together after the clearance thereof, but in the form as presented, these were not assembled. The point of dispute is whether in cases where computer casing/chassis and power supply unit were imported in a form not fitted together as an assembly, but separately in the same consignment, the benefit of Notification No. 21/2002-Cus., dated 1.3.2002, (vide S.No. 276) can be denied by applying rule 2(a) of the General Rules for the Interpretation of the First Schedule (GIR).

3. This matter was discussed in the Tariff Conference of Chief Commissioners of Customs held at Visakhapatnam on 25th and 26thSeptember, 2003[Agenda Item A-17].

4. The Conference noted that there are several rulings of CESTAT that for the sake of denial of the benefit of a notification, Rule 2 (a) cannot be invoked.

5. The Board had accepted the decision of the Conference. Accordingly, it is clarified that the goods have to be classified in the form as presented and rule 2 (a) of the GIR cannot be applied for the sake of allowing/disallowing the benefit of a notification, unless the exemption notification is based on classification of the item under a particular heading of the Customs Tariff. For the purpose of classification, Rule 2(a) of the General Rules of Interpretation could be applied.

6. The field formations may finalize the pending assessments, if any, accordingly.

7. Please acknowledge receipt of this circular.

8. Hindi version will follow.

Yours faithfully,
(H.K. Sharma)
S.T.O. (TU)

IndiaCode