F.No.528/73/99-Cus.(T.U.)

Circular No. 49/99-Cus
dated 10/8/1999

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs, New Delhi

Subject : Urea imported for the production of complex fertilizers-levy of concessional customs duty - Reg.

I am directed to invite your attention on the above subject and to say that a doubt has arisen whether urea imported for the production of complex fertilizers should qualify for concessional duty of 5% or should it be charged to duty at the tariff rate of 35%. The doubt has arisen particularly because, the entry against S.No. 54 of the Table annexed to Notification No. 20/99-Cus. dated 28/2/99 reads "urea, for use as manure". A view has, therefore, been expressed that concessional duty will not ba available when urea is imported for the production of complex fertilizers. This view draws support from entry at S.No. 56 of the Table annexed to the said notification which prescribes concessional duty of 5% for muriate of potash, when imported for use as manure or for the production of complex fertilizers. The contrary view is that complex fertilizers are also manure and, therefore, urea imported for the production of complex fertilizers should also quality for concessional duty of 5% for muriate of potash, when imported for use as manure or for the production of complex fertilizers. The contrary view is that complex fertilizers are also manure and, therefore, urea imported for the production of complex fertilizers should also quality for concessional duty of 5%.

2. The matter has been examined by Board. It is seen that the word "manure" has not been defined in the notification referred to above. Therefore, reliance has to be placed on the dictionary meaning. In the Concise Oxford Dictionary, manure has been defined as "animal dung used for fertilizing land" and "any compost or artificial fertilizer". Fertilizer has been defined as a "chemical or natural substance added to the soil to make it more fertile". In the Webster"s Encyclopedic Abridged Dictionary, manure has been defined as "any substance used to fertilize the soil esp. a commercial or chemical manure". In the fashion the words "manure" and "fertilizers" have been described in the Dictionaries, it is clear that both manure and complex fertilizers more or less refer to the same thing and both are used for fertilizing the soil. It, therefore, follows that urea imported for the production of complex fertilizers would get the same treatment i.e. concessional duty of 5% as urea imported for being used as manure.

3. In case of Gujarat State Fertilizers Company vs. Collector of Central Excise [1997 (91) ELT 3], the hon"ble Supreme Court had examined the scope of notification Nos. 75/84-CE dated 01.03.84 and 40/85-CE dated 17/3/85 and had held that raw naptha and ammonia used for the manufacture of molten urea would qualify for concessional rate of excise duty though the final product in which molten urea was used is melamine, a non-fertilzer. In the present case, the issue pertains to urea imported for the production of complex fertilizers which is nothing but a kind of manure as described above. After examination of the issue in all its aspects, Board has felt that concessional duty of 5% cannot be denied to urea when it is imported for the production of complex fertilizers.

4. Pending consignments lying at the ports/ICDs, if any, may be cleared on the basis of the above instructions. In case there is any difficulty in implementing the aforesaid instructions, the same may please be brought to the notice of the Board at an early date.

Sd/-
(C.P.Goyal)
Sr. Technical Officer (TU)