Circular No. 48/2002-Cus.

F.No.438/8/2002-Cus.IV

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

9th August, 2002.

Subject: Interest on Delayed Payment of Duty - Clarification - reg.

It has been brought to the notice of the Board that various practices are being followed in Custom Houses regarding calculation of interest for delayed payment of duty. It has been stated that while some Custom Houses/Central Excise Commissionerates are including the date of payment in the period for calculating the interest, others are not doing so. It has been pointed out that the banks charge interest only up to the date of payment excluding the date of payment. Therefore, clarification has been sought as to whether the date of payment is to be included in the period for calculating interest under section 28AA/28AB or any other section of the Customs Act, 1962 or as the case may be, under section 11AA/11AB of the Central Excise Act, 1944 and rules made thereunder.

2. The matter has been examined in consultation with the Ministry of Law (Department of Legal Affairs). The views of the Ministry of Law are as follows:

"So far as the day on which duty is being paid for calculating of interest, the word 'till' has been used in the Section. The meaning of the word 'till' as given in Law Lexicon Dictionary, Second Edition is 'to the time of'. In Stroud's Judicial Dictionary of Words and Phrases, Sixth Edition, p.2664, the meaning of the word 'till' is 'until'. The word 'until' has been analysed in the same dictionary on p.2788 as 'it is generally inclusive'.

The Courts have evolved a general principle of a strict construction of taxing statues. It has to be strictly interpreted, if the language of the statute is plain and simple. When the intention of the Parliament is clearly visible from the words used by Parliament, it is not open to speculate on what would be most fair and equitable mode of interpretation of a tax law. The meaning of the word given in dictionary is 'to the time of' which makes it clear that whole of the period to the time of payment is to be counted for the purpose of calculating of interest".

3. In view of the above, it is clarified that the date on which the payment of duty is made is to be included in the period for calculating the interest on delayed payment under Section 28AA/28AB or any other section of the Customs Act, 1962 or as the case may be, under

section 11AA/11AB or any other section of the Central Excise Act, 1944 and rules made thereunder.

4. Difficulties, if any, in implementation of above instructions, may be brought to the notice of the Board. Kindly acknowledge receipt of the Circular.

Yours faithfully,

(Rajendra Singh)
OSD (Cus.IV)

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