Circular No. 61/95
dated 6/6/95

F.No. 435/3/95- Cus. IV - (Pt)

Government of India
Ministry of Finance
Department of Revenue, New Delhi

Subject :- Amendment to section 20 of the Customs Act, 1962 vide Finance Act, 1962 - Regarding

I am directed to say that with the enactment of the Finance Bill, 1995 on 26.5.1995 section 20 of the customs Act, 1962 stands amended so as to provide for the levy of customs duty on all re- imported goods in the same manner as goods being imported for the first time. As may be seen this is a substantial change from the hitherto existing position wherein section 20 provided for the charging of duty on specified categories of goods at the rate of duties indicated in the section itself.

2. With a view to exempt certain goods when re-imported into India from the levy of Customs duty otherwise applicable in terms of section 20 of Act, two notifications namely Notification No. 97/95-Cus and No. 98/95-Cus. both dated 26.5.95 have been issued.

3. In terms of Notification No. 97/95-Customs dated 16.5.95, the goods in respect of which any benefit of drawback of customs or excise duties or rebate of excise duty was claimed at the time of their export or which had been exported under bond, can be imported on payment of duty equal to the amount of drawback claimed/ excise duty not paid at the time of their export.

4. Further, the goods which had been sent for repairs abroad, would on their re- importation, be subjected to a customs duty calculated on the fair cost of repairs including the cost of materials used in repairs, insurance and freight charges, both ways. (This provision is in line with the hitherto existing Notification No. 204/ 76-Cus. dated 2.8.1976).

5. The goods other than the aforesaid two categories are eligible to be imported without payment of any duty. This category would include such of the goods which bad not claimed any benefit at the time of their export. In this class would fall good which had been sent for demonstration or exhibition aboard or as samples. The aforesaid exemptions are, however, subject to certain conditions such as establishment of the identity of the goods and re-importwithin three years, etc. The duty exemption, however, does not apply in the case of re-imports effected by the 100% EOU/ EPZ units or those which had been exported in fulfillment of export obligation under the Advance License Scheme or the EPCG Scheme or which had been exported from a bonded warehouse. These type of goods would have to pay full customs duties under section 12 as if imported as such unless there are special exemption for these in other notifications.

6. Notification No. 98/95-Cus. dated 26.5.1995 is a specific notification for exempting goods manufactured in India and parts of such goods when re- imported into India for repairs from the duty of customs. Here also, similar conditions such as identity of goods being established; re- importation taking place within a period of three year etc. is provided. Importantly another condition is that the re-imported goods are re-exported after repairs within a period of six months or such extended period not exceeding one year as the Commissioners of Customs may allow. For this purpose, the importer has to execute a bond undertaking to re-export the goods within the specified period after satisfying the customs regarding the identity of the goods. In the event of failure of re-export the duty will have to be paid. It is desired by the Board that such Bond should be supported by a security of 25% of the duty amount so exempted as bank guarantee. The security is considered necessary for monitoring the adherence to the condition of the notification. This notification basically re-intorduces the exemption in terms of Notification No. 132/ 61.

7. The aforesaid notifications with their implications may be immediately brought to the attention of the Department officers and also the trade by issue of suitable standing orders/ public notices. In case of any difficulty in implementation the notification the Board may be suitably informed.

Sd/-
(S.M. Bhatnagar)
Under secretary of the Government of India