Circular No. 31/2013-Cus.

F. No. 528/43/2013-STO (TU)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise and Customs

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New Delhi, the 6th August, 2013

All Chief Commissioner of Customs

All Chief Commissioner of Customs and Central Excise

All Commissioners of Customs

All Commissioners of Customs and Central Excise

Sir/Madam,

References have been received in the Board to clarify whether or not a **purchase order** can be considered as a contract in terms of provisions contained in the Project Import Regulations, 1986. It is also reported that in this regard varying practices are being followed in different Customs Houses.

2. The matter has been examined. Regulation 5 of Project Import Regulations, 1986 mandates that amongst other requirements, every importer claiming assessment of the goods under the heading No. 98.01 shall apply to the proper officer at the port where the goods are to be imported or where the duty is to be paid, for registration of the contract or contracts, as the case may be. Such application shall be accompanied by the original "deed of contract" together with a true copy thereof. In regard to the scope of the terms "deed of contract" it is seen that as per Section 10 of the Indian Contract Act, 1872 a valid contract is one that contains the following ingredients:-

(i) it is entered into by free consent of parties competent to contract;

(ii) there should be lawful consideration;

(iii) there should be a lawful object; and

(iv) it is not expressly declared to be void (i.e. void under the statute).

3. In view of the aforementioned legal position it is evident that a purchase order that contains all the essential ingredients of a valid contract must be treated as one under the Indian Contract Act, 1872. The implication is that such a purchase order can be accepted as a "deed of contract" for the purpose of Regulation 5 of Project Import Regulations, 1986. Board desires that pending cases, if any, may be finalized accordingly.

Yours faithfully

(Alok Agarwal)

OSD (Tariff Unit)