Circular No. 44/98-Customs

dated 26/6/1998

F.No. 450/92/98- Cus. IV

Government of India

Ministry of Finance, Department of Revenue

Central Board of Excise & Customs, New Delhi

Subject : Clearance of Capital Goods under project Imports etc., in the case of imports under leasing arrangements with leasing companies - reg.

I am directed to refer to representation dated 5th May, 1998 from M/s All India Association of Industries on the above subject. They have informed that their members are setting up various industrial projects and availing the facility of import of capital goods under leasing agreements. In case of import by different projects, the Bills of Entry are not being allowed to be filed in joint name of the lessor and the lessee. They are finding difficulties to comply with other laws on account of finance, taxation, depreciation, remittance of foreign exchange etc. They have informed that Central Board of Excise & Customs wide Circular No. 23/94-Cus. has already allowed filing of Bill of Entry in joint name of the Lessor another Lessee under EPCG Scheme. They have requested to allow filing of Bills of Entry in all cases in the joint name of the Lessor and the Lessee.

2. The matter was examined by Board and it has been observed that the Bills of Entry are required to be filed in terms of Section 46 of the Customs Act, 1962 on format prescribed under Bill of Entry (Forms) Regulations, 1976.

3. In case of imports under Project Import, the goods at concessional rate are allowed only in case of initial setting up of a unit or the substantial expansion of an existing unit of specific project and subject to the condition laid down under the Project Imports Regulations, 1986. The contracts are required to be registered. The benefit is allowed only for the specified purpose.

4. Goods imported under project imports and other Notification prescribing concessional rates are meant for specific purposes. The diversion of goods cleared under that or resale would be violation of provisions laid down under Section 111(O) of the Customs Act 1962, and therefore liable to pay differential duty and penalty. The importation by leasing Co. in their own name would not be eligible for exemption under Project Imports Regulations or for other concessional rates.

5. While the need for filing the Bills of Entry in joint name is being examined, in view of import of capital goods under leasing arrangement and to keep the flow of trade uninterrupted, it has been decided to allow filing of Bills of Entry in name of the importers and the Lessor company, as follows in the Bills of Entry:-

Importer's name and Address

M/s_____

_____

_____

_____(Lessee)

Financed by M/s _____

_____

_____ (Lessor), under leasing arrangement.

6. Such filing will be subject to the following conditions:-

(a) There is a contractual agreement between the company who is importing the goods and the Lessor of the goods in respect of goods sought to be cleared at the concessional rate of duty.

(b) The Bill of Entry is filed is filed in the name of the importer and the Lessor as mentioned above.

(c) The Bill of Entry is signed both by the importer and the leasing company.

Similarly goods imported under 100% EOUs, EPZ/ STP/ EHTP schemes may also be allowed with joint filing of Bills of Entry by the unit and the lessor with similar conditions.

Sd/-
(Vijay Kumar)
Under Secretary to the Government of India

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