Circular No.66 /2003
July 28, 2003

F.No.405/2/2001-Cus.III
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

Subject: Disposal of Hazardous Waste - Public Interest Litigation in WP No.675/1995 in the matter of Research Foundation for Science, Technology & Natural Research Policy Vs Union of India and Others - Reg.

I am directed to invite your attention to the above mentioned subject and to state that a Public Interest Litigation, WP No. 675/95, on import of Hazardous Waste into the country, was filed in 1995 by Research Foundation for Science, Technology & Natural Research Policy before the Supreme Court which is still pending for final decision. As a respondent , Ministry of Environment & Forests has filed affidavit in October, 2002, before the Supreme Court praying for directions for appropriate disposal of the hazardous wastes lying at the various ports/ICDs/CFSs in the country.

2. In this regard references have been received from the field formation for clarification on following issues:-

(i) Whether disposal of hazardous cargo should be kept in abeyance till the final judgement of Supreme Court; and

(ii) Whether the Customs should proceed with the adjudication and confiscation of hazardous cargo as per the provisions of Customs Act, 1962 without waiting for the final decision of the Hon'ble Supreme Court.

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3. The matter has been examined by the Board in consultation with the Ministry of Environment & Forests . As regards disposal of the hazardous waste the Ministry of Environment and Forests has clarified that hazardous waste lying in the ports/ICDs/CFSs could be disposed of only after the matter is finally heard and disposed of by the Court and till such time the status- quo has to be maintained. Hence, the disposal of hazardous waste lying in ports/ICDs/CFSs should not be done till the outcome of writ petition.

4. As regards the adjudication proceedings, since some major issues, such as manner of disposal of hazardous waste, sale to actual user etc. are yet to be decided by Hon'ble Court, confiscation of the goods at this stage will not be advisable . Moreover, in the case of confiscation of goods , the ownership along with the attendant responsibilities will rest with the Central Government. Therefore, adjudicating proceedings in the case of hazardous waste , should be kept in abeyance till the outcome of the writ petition filed before Hon'ble Supreme Court.

5. Hindi version will follow.

6. Kindly acknowledge receipt.

Mohan Lal
Under Secretary to the Government of India.
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