Circular No. 44/2001-CUSTOMS
6th August, 2001.

F.NO.528/16/2000-CUS (TU)

Government of India

Ministry of Finance

Department of Revenue
(Tariff Unit)

Sub: Classification of certain inorganic chemicals such as, monopotassium phosphate, calcium nitrate, potassium magnesium phosphate as `fertiliser". - Reg.

I am directed to invite your attention to the subject mentioned above. It has been brought to the notice of the Board that chemical compounds like monopotassium phosphate, calcium nitrate and potassium magnesium phosphate are being classified as fertilisers under Chapter 31 of the Customs Tariff and levied to duty at a concessional rate as applicable to a fertilisers.

2. The matter has been examined. Chapter 31 of the Customs Tariff covers fertilisers. Note 1(b) of Chapter 31 states that this Chapter does not cover separate chemically defined compounds other than those answering to the descriptions in Note 2(A), 3(A), 4(A) and 5 of the said Chapter. As monopotassium phosphate, calcium nitrate and potassium magnesium phosphate do not figure in the above Chapter notes, they have to be excluded from Chapter 31 and are to be classified as a separate chemically defined compounds. Further, Chapter note 5 to Chapter 31 states that for the purposes of heading 31.05, the term `other fertilisers" applies only to products of a kind used as fertilisers and containing, as an essential constituent, at least one of the fertilising elements, namely, nitrogen, phosphorus or potassium.

3. Keeping in view the provisions explained above and the HS Explanatory Notes to concerned headings, the chemical compounds, viz., calcium nitrate, monopotassium phosphate and potassium magnesium phosphate will merit classification under Chapter 28 of the Customs Tariff, and not under Chapter 31 as fertilisers. Such compounds will, therefore, not be eligible for benefit of concessional duty prescribed for fertilisers under the relevant exemption notification. It may be noted that calcium nitrate specifically figures in the Explanatory Notes to heading 28.34 and potassium phosphate finds a mention in heading 28.35 itself.

4. The Custom Houses may kindly take note of the above clarification while classifying the aforementioned chemical compounds. If such goods have been assessed as fertiliser in the past, appropriate demands will have to be issued immediately and differential duty realised. Difficulties, if any faced, in the implementation of above clarification may be brought to the notice of the Board.

Please acknowledge receipt of this circular.