Circular No.8/2010-Customs

F. No.450/182/2009-Cus.IV

Government of India

Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

North Block, New Delhi
26th March, 2010

To

All Chief Commissioners of Customs / Customs (Prev.).

All Chief Commissioners of Customs & Central Excise.

All Commissioners of Customs / Customs (Prev.).

All Commissioners of Customs (Appeals).

All Commissioners of Customs & Central Excise.

All Commissioners of Customs & Central Excise (Appeals).

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Subject: Import of Cosmetics under the Drugs and Cosmetics Act, 1940 and Rules made thereunder - regarding.

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Sir/ Madam,

I am directed to invite your attention to the Board's Instructions vide F.No. 450/08/2007-Cus.IV dated 22nd January, 2007 regarding import of drugs under Chemical or generic name and permitting its clearance through specified places under the Drugs and Cosmetics Rules, 1945.

2. In terms of Rule 133 of the Drugs and Cosmetics Rules, 1945, no cosmetics shall be imported into India except through the points of entry specified in Rule 43A of the said Rules. Further, under Schedule "D" to the said Rules read with Rule 43, an exemption has been provided to certain categories of substances from the restrictions under Chapter III of the Drugs and Cosmetics Act, 1940 relating to import of Drugs and Cosmetics. Therefore, a doubt has arisen as to whether import of cosmetics could be permitted through any port in the country under the Drugs and Cosmetics Rules, 1945. The matter was taken up with the Drugs Controller General of India (DCGI) for obtaining necessary clarification.

3. The DCGI has clarified the aforesaid issue. It is stated by them that Rule 133 of the Drugs and Cosmetics Rules limits the import of cosmetics through the points of entry specified under Rule 43A. However, under Schedule "D" to the said Rules, an exemption has been provided for substances not intended for medical use from the provisions of Chapter III of the Drugs and Cosmetics Act and Rules made thereunder. The Act provides for separate definition for 'cosmetic' and 'drug' under Sub-Section 3(aaa) and 3(b), respectively. Hence, they have stated that the phrase 'substances not intended for medical use' would only relate to substances which would otherwise fall under the definition of the term 'drug' under section 3(b) of the Act, but are being imported not for medicinal use or for some other purposes or are of commercial quality and are being labelled indicating that they are not for medicinal use. Accordingly, they had clarified that this exemption does not extend to other categories of products defined under the Act including cosmetics. For the purpose of import of cosmetics, provision of Rule 133 therefore remains applicable.

4. Accordingly, import of cosmetics at points of entry / places other than those specified under Rule 43A may not be permitted as per the provisions of the Drugs and Cosmetics Rules, 1945. The points of entry have been specifically mentioned in Rule 43A such as Chennai, Kolkata, Mumbai, Nhava Sheva, Cochin, Kandla, Delhi, Ahmedabad, Hyderabad and Ferozepur Cantonment, Amritsar, Ranaghat, Bongaon and Mohiassan Railways Stations. If the imports are noticed through Customs stations, other than the one notified as mentioned

above, then necessary action may be taken for non-compliance of the Drugs and Cosmetics Rules in respect of such imports.

5. Board's Instructions vide F.No.450/08/2007-Cus.IV dated 22.1.2007 shall apply for import of drugs. In case of import of drugs noticed at places other than those that have been notified under the above Rules, the instruction communicated by Drugs Controller General of India, Directorate General of Health Services vide No.16/6-DC dated 15.6.2007 *(click here for the copy)* may be followed.

6. These instructions may be brought to the notice of all concerned by way of issuance of suitable Public Notice / Standing Order.

7. Difficulties, if any, in implementation of the Circular may be brought immediately to the notice of the Board.

Yours faithfully,

(Navraj Goyal)
Under Secretary (Cus.IV)

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