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F.No.528/101/2001-CUS (TU)
Government of India
Ministry of Finance
Department of Revenue
(Tariff Unit)

Sub: Classification of Technology Transfer Agreements (TTA) and their eligibility under Customs exemption notification as `printed books". - Reg.

I am directed to invite your attention to the following judgement of hon`ble Supreme Court in the case of Commissioner of Customs Vs. M/s. Parasampuria Synthetics Ltd., reported in 2001(133) ELT 9 (SC). In this case, the hon`ble Apex Court was seized with the matter regarding interpretation of notification No.25/95-Cus., (Sl.No.10 and Sl.No.15) in respect of technical knowhow imported in the form of plans, drawings and other literature.

2. Notification No.25/95-Cus., (Sl.No.10) exempted `printed books/printed manuals) from customs duty whereas Sl.No.15 of the same notification prescribed a basic duty of 10% on `plans, designs and drawings". The importer contended that the technical knowhow in the form of drawing, design, plans and other literatures are `printed books/manuals" and therefore, fully exempted from customs duty.

3. While, interpreting the term `printed books/manuals", the hon`ble Court held that the term `book" in the general trade parlance is known by features like (i) a book has an author, (ii) a book has a publisher, (iii) a book is a priced publication, (iv) book is available to all and sundry who pay for it, (v) a book does not have an MOU, (vi) there is no confidentiality about the book, (vii) a book has a subject to deal with, (viii) the pages are serially numbered and neatly bound and (ix) a book should have an ISBN code. Since the imported goods did not fulfil the above conditions, the hon`ble Court held that such goods cannot be considered to be `books". The hon`ble Court also held that such articles cannot be termed as `printed manuals" in `loose leaf form with binder" as it contains specification in terms of a technology transfer agreement. It is also not a collection of various articles in trade journals but a definite importation of `technology transfer" which obviously was not intended to be the meaning of the word `manual". The hon`ble Court held that such goods are to be assessed as `plan, design and drawings" leviable to a concessional duty @ 10% (basic) under notification No.25/95-Cus. The judgement may be perused for details.

4. Pending assessments may be finalised in accordance with the above Supreme Court judgement. Difficulties, if any, may be brought to the notice of the Board.

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