Circular No. 70/2003-Cus
6th August, 2003

F.No. 528/109/1999-Cus (TU)
Government of India
Ministry of Finance
Department of Revenue
Tariff Unit

Sub : Eligibility of BOPP films under notification no/. 25/99-Cus. dated 28.2.99 sl. nos. 52 and 44- reg.

I am directed to refer to the subject mentioned above and to say that

Notification No. 25/99-Cus. (Sl. No. 52), dated 28.2.99 provides for concessional rate of duty on `plain plastic film (other than polysterene film) of thickness 12 microns or below" when imported for manufacture of electronic capacitor grade metallised dielectric plastic film. On a question whether Biaxially Oriented Polypropylene (BOPP) film could be considered as plain plastic films and given benefit of the notification, a Circular No.66/2000, dated 11.8.2000 was issued clarifying that BOPP film are not plain plastic film and do not qualify for the said exemption.

However, subsequently, notification No.20/2001-Cus. dated 1.3.2001, was issued amending notification No.25/99-Cus. Notification No.20/2001-Cus., added an explanation under sl. no. 52 of the said notification that for the removal of doubt, plain plastic film includes Biaxically Oriented Polypropylene (BOPP) film.

2. The same notification, at Sl.No.44, provides for concessional rate of customs duty on similar plain plastic films when imported for manufacture of plastic film capacitors, etc. However, the explanation inserted under Sl.No.52 of the said notification is not there under Sl.No.44. Such an explanation under Sl. No. 44 of the notification has been inserted only in the recent budget (2003) i.e. on 1.3.2003.

3. A doubt has been raised whether notification No.20/2001-Cus., which inserted the explanation under Sl.No.52 of the notification No.25/99-Cus. is applicable retrospectively or only prospectively and whether the explanation inserted under Sl.No.52 of the notification vide notification no. 20/2001-Cus., also applied to Sl.No.44 of the notification prior to 1.3.2003.

4. The matter has been examined. It has been held in a number of judgments that the explanation inserted in a notification will have prospective effect only.

Further, the explanation would apply to entry at sl. no. 52 only and not to sl. no. 44 of notf. No. 25/99-Cus dated 28.2.99. The BOPP films would be eligible for exemption under notification no.25/99-Cus. sl. no. 44 only w.e.f. 1.3.2003, i.e. the date on which the requisite explanation was inserted vide notification 28/2003-Cus. dated 1.3.2003.

5. This may be brought to notice of all concerned.

6. Please acknowledge receipt of this circular.

7. Hindi version will follow.

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