Circular No.49/2011

F.No.528/14/2008-Cus (TU)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

229-A, North Block,
New Delhi-110001.

4th November,2011

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)
All Directors General under CBEC

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Subject: Eligibility of assessment of construction equipments under Project Imports Regulations (PIR), 1986 - Instructions - regarding.

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Sir / Madam,

References have been received that divergent practice are being followed by field formations regarding assessment of import of construction equipments required for the initial setting up of a unit, for a specified project under Customs Tariff Heading No. 98 01 (Project Imports).

2. The issue has been examined by Board in view of decision of Hon'ble Supreme Court in the case of Commissioner of Customs, Mumbai vs. M/s. Toyo Engineering India Ltd., 2006(201) ELT 513 SC where in the it has been observed; *"The goods imported by the respondent such as hydle truck cranes, excavator, shovel loader, truck, forklift truck, power generators, diesel welder, welding rectifier, containers tools and tackles instruments, level Nako with tripod and theodlite Nako with accessories & tripod would certainly be auxiliary equipments which would help in the initial setting up of the industrial plant."* It is also observed by Hon'ble Apex Court in Punjab Power State Electricity Board [1997(91) ELT 247(SC), *"that the vehicles, which are used in the shifting of the transformers would not constitute integral activity of the project".*

3. In view of above said decisions it is clarified that the scope of the items eligible for import under the Project Import Regulations 1986, shall cover construction equipments as auxiliary equipment; if **essentially required** for initial setting up or substantial expansion of registered projects.

4. Further it is clarified that the construction equipments may be permitted to be transferred to other registered project under CTH 9801, after completion of its intended use, on recommendations of sponsoring authority.

5. It is also clarified that 'Plant Site Verification Certificate' (PSVC) required to be submitted for finalization of project as per Circular No. 14/2006-Cus F.No. 528/9/2006-Cus (TU) shall also incorporate the details of construction equipments imported and used for the project, to ensure proper utilization of goods imported.

6. These instructions should be brought to the notice of all the concerned by way of issuance of instructions /trade notice.

7. Difficulty faced if any, may be brought to the notice of the Board.

Yours faithfully,

(Alok Agarwal)
OSD (Tariff Unit)

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