

DIRECTORATE GENERAL OF EXPORT PROMOTION
(CBEC, Department of Revenue, Ministry of Finance, Govt. of India)
First Floor, Hotel Janpath, New Delhi – 110001
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F. No. DGEP/EOU/03/2007/879

Date: 02.04.2008

To
The Chief Commissioner of Central Excise,
Mumbai-I zone,
115, New Central Excise Building,
M.K. Road, Church Gate,
Mumbai - 400020

Sir,

Sub: Benefits of exemption notification issued under section 5A of Central Excise Act on the on the goods cleared into DTA by EOUs – Clarification in respect of representation of M/s. A.R. Sulphonates Pvt. Ltd., Thane – reg.

Please refer to F.No. IV/16-Tech-16/MCX/CCO-I/2008 dated 21.02.2008 on the above cited subject.

2. The issue has been examined. EOUs are required to pay duties on their clearance to DTA equating such clearance at par with imports in terms of proviso to Section 3 of the Central Excise Act, 1944. For the purpose of calculating additional duty (CVD) on imported goods under Section 3 of the Custom Tariff Act, 1975, any general excise exemption as well as conditional excise exemption, if conditions are satisfied, would be applicable for determining the CVD liability. Thus, there is no bar in applying an exemption notification issued under section 5A of the Central Excise Act for the purpose of computation of CVD to be paid by EOUs on the goods cleared into DTA. The restriction on EOUs for applying exemptions issued under section 5A of the Central Excise Act is for the purpose that EOUs should not pay excise duty only as in the case of clearances from DTA units, unless so intended. This would render section 3 of the Central Excise Act redundant which require EOUs to pay central excise duty equivalent to the aggregate of customs duties. However, as in the case of import, wherein CVD is paid equal to excise duty as applicable, exemptions of central excise duty shall also be applicable to EOUs for computation of duty on DTA clearances.

It is, thus, viewed that there is no bar under the proviso to Section 5A ibid for considering excise exemption while calculating the additional customs duty component payable by an EOU on DTA clearances. Hence, the unit would be liable to pay duties based on applicable basic custom duty and applicable additional customs (CVD) in terms of the exemption vide Sl. No. 32 of notification No. 4/2006-CE dated 01.03.2006 on Sulphuric Acid subject to the condition 2 of the Annexure to this notification.

4. In the light of the above, a suitable clarification may please be issued to the field formation having jurisdiction over this unit. The unit has been advised to contact your office.

5. This issues with approval of the Member (Cus & EP), CBEC.

Yours faithfully

(M. Vinod Kumar)
Addl. Director General (EP)