

Staying Updated

Customs, FTP and WTO newsletter

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In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

In the issue

Customs

Notifications and circulars

- Online payment of EDD in relation to import of goods allowed

Case law

Valuation

- No Customs duty on electronic download of Software though internet; licence fee to be included in the value of goods imported to the extent it is charged from customers
- Risograph machine held to be a screen printing machine; not a duplicating machine

Other

- The burden to claim benefit of exemption notification is on importer.
- There is no restriction under law for filing of multiple refund claims against one Bill of Entry.

Foreign trade policy

Notifications and circulars

- Import of certain 'Controlled Substances' falling under Chapter 28

and 29 of Customs Tariff Act shall be permitted subject to NOC from Narcotics Commissioner of India, Gwalior

Case law

- Where DGFT held that export obligation was fulfilled by exporter for the exempted goods, the same was not binding on Customs Authorities.
- In case Customs duty was exempt, then Education Cess to be collected on the Customs duty would also be nil

Anti-dumping duty

Notifications and circulars

- Levy of Anti-dumping duty extended on imports of Viscose Staple Fibre, excluding Bamboo Fibre, from the People's Republic of China
- Levy of Anti-dumping duty extended on imports of Vitamin C originating in or exported from the People's Republic of China
- Levy of Anti-dumping duty extended on imports of PVC Flex Films, originating in or exported from the People's Republic of China, up to 29 July, 2016

Customs

Notifications and circulars

- The Central Government has allowed online payment of Extra Duty Deposit (EDD) in relation to import of goods
(Public Notice No. 12/2015-20, dated 28 July, 2015)

Case law

Valuation

- The Tribunal, in Oracle India Pvt. Ltd. v CC (2015-TIOL-1766-CESTAT), held that no Customs duty was chargeable on electronic download of Software, though internet and licence fee could only be included in the value of goods physically imported to the extent they were charged from customers and paid to the overseas company, on account of it being a condition of sale.

Classification

- In HCL Limited v CC. (2015-TIOL-152-SC), the Supreme Court of India held that Risograph machine was a screen printing machine classifiable under Customs Tariff Heading (CTH) 84.43 and not a duplicating machine classifiable under CTH 84.72.

- The Supreme Court of India, in Venkataraya Power Ltd. v CC. (2015-TIOL-168-SC), held that the Project Import benefits were not available to equipment imported for 1 MW power plant for own consumption by a company, since it will not qualify as “Power Generation Project” defined under Project Import scheme which produced electricity for consumption by the general public.
- In CC v Multi Screen Media Pvt. Ltd. (2015-TIOL-169-SC), the Supreme Court of India held that business satellite receivers with both functions of transmission and reception of signals was classifiable under CTH 8525.20 as “Transmission Apparatus incorporating Reception Apparatus” and not under CTH 8528 as “Reception Apparatus”.

Others

- The Supreme Court of India, in D R Enterprises Ltd. v CC. (2015-TIOL-179-SC), held that the burden to prove eligibility to claim benefit of exemption notification was on importer.

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

- In *CC. v Cummins India Ltd.* (2015-(321)-ELT-575), the High Court held that substantial benefit of reimbursement of duty drawback could not be denied merely of ground of procedural irregularities.
- The Tribunal, in *Zarhak Steels Ltd. v CC.* (2015-(322)-ELT-545), held that stamp affixed on invoice on which no credit of additional duty was admissible was sufficient compliance with the condition of notification for claiming SAD refund.
- In *Mitutoyo South Asia Pvt. Ltd. v CC.* (2015-(322)-ELT-523), the Tribunal held that there was no restriction under law for filing of multiple refund claims against one Bill of Entry.

Foreign trade policy

Notifications and circulars

- The Central Government has allowed the import of certain ‘Controlled Substances’ falling under Chapter 28 & 29 of the Customs Tariff Act (CTA), which would be permitted subject to a ‘No Objection Certificate (NOC)’ obtained from the Narcotics Commissioner of India, Gwalior

(Notification No. 15/2015-20, dated 21 July, 2015)

- The Central Government has provided the facility for exporters to continue to file applications for benefits under chapter 3 schemes of the earlier FTP, in the application form and manner prescribed in the earlier FTP (2009-14)

(Public Notice No. 29/2015-20, dated 4 August, 2015)

Case law

- The Supreme Court of India, in *CC v Pennar Industries Ltd and Anr* (2015-TIOL-162-SC-CUS), held that even if DGFT held that export obligation was fulfilled by the exporter for the exempted goods, it was not binding on Customs Authorities.
- The High Court, in *CC v Reliance Industries Ltd.* (2015 (322) ELT 121), held that in case Customs duty was exempted on import under Duty

Entitlement Pass Book (DEPB) Scheme, then the Education Cess to be collected on the Customs duty would also be Nil.

- The Supreme Court of India, in *Parisons Agrotech (P) Ltd & Anr v UoI & Ors* (2015-TIOL-189-SC-CUS), held that import of palm oil, banned in India through the ports of Kerala keeping in view the welfare of lakhs of farmers in the State, was a policy decision of the Government with complete rationale, so could not be interfered by the Court. Further, the Court observed that the Government had two alternatives to overcome this problem, either to increase Customs duty on import of crude oil, which would have all-India ramifications, or to issue the impugned notification, which dealt with the Kerala-specific problem. Hence, the impugned notification provided a complete rationale to achieve the objective.
- In *CCE v Meera and Company* (2015-TIOL-1572-CESTAT-DEL), the Tribunal, held that in case the assessee was located in area-based exemption and had supplied goods against invalidated EPCG licence, the assessee should not claim the refund of terminal excise duty from Directorate General of Foreign Trade (DGFT); and since they have claimed the refund, DGFT could impose penalty on them, but benefits of area based exemption could not be denied.

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

- The High Court, in *Union of India & Ors v Alstom India Ltd.* (2015-TIOL-1709-HC-DEL-CUS), held that the Court could not direct the statutory authority to exercise the discretionary power in a particular manner.
- In *K G Denim Ltd v CC* (2015-TIOL-1510-CESTAT-MAD), the Tribunal held that the drawback could not be denied even if duty-free inputs were used in small quantity in the manufacture of exportable goods since, while determining the industry rate of drawback, Governments also considered the usage of the duty-free materials.
- The High Court, in *CC v Sayonara Exports Pvt. Ltd.* (2015 (322) ELT 121), held that the refund of EDD arising out of finalisation of provisional assessment made prior to 12 July, 2006 was eligible even without filing an application for refund.

Anti-dumping duty

Notifications

- The Central Government has extended the levy of anti-dumping duty on imports of Viscose Staple Fibre excluding Bamboo Fibre falling under CTH 5504 10 00 of CTA, originating in or exported from the People's Republic of China and Indonesia, up to 25 July, 2016

(Notification No. 37/2015- Customs (ADD) dated 06 August, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Vitamin C, falling under CTH 2936 27 00 of CTA, originating in or exported from the People's Republic of China, for a period of five years from 06 August, 2015

(Notification No. 38/2015- Customs (ADD) dated 06 August, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Flax or Linen Fabric having flax content of more than 50%, falling under chapter 53 of CTA, originating in or exported from the People's Republic of China and Hong Kong, for a period of five years from 12 August, 2015

(Notification No. 39/2015- Customs (ADD) dated 12 August, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Potassium Carbonate falling under CTH 2836 40 00 of CTA, originating in or exported from the European Union, People's Republic of China, Korea RP and Taiwan, for a period of five years from 12 August, 2015

(Notification No. 40/2015- Customs (ADD) dated 12 August, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of Caustic Soda, falling under chapter 28 of CTA, originating in or exported from the People's Republic of China, for a period of five years from 18 August, 2015

(Notification No. 42/2015- Customs (ADD) dated 18 August, 2015)

- The Central Government has extended the levy of anti-dumping duty on imports of PVC Flex Films falling under chapter 39 of CTA, originating in or exported from the People's Republic of China, up to 29 July, 2016

(Notification No. 43/2015- Customs (ADD) dated 18 August, 2015)

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

Contacts

In the issue

Customs

Foreign trade policy (FTP)

Anti-dumping duty

Contacts

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