

## CHAPTER III GENERAL EXEMPTION NOTIFICATIONS

The Government under section 25 (1) of the Customs Act, 1962 is empowered to exempt either absolutely or subject to such conditions as may be specified in the notification, goods of any specified description from the whole or any part of duty of customs leviable thereon. Some illustrative cases of non-levy/short levy of duties aggregating ₹ 4.06 crore due to incorrect grant of exemptions are discussed in the following paragraphs. These observations were communicated to the Ministry through four draft audit paragraphs.

### **3.1 Jute bags**

In terms of central excise notification no. 30/2004-CE dated 9 July 2004, textiles and textile articles (Chapter 50 to 63) are exempt from central excise duty provided Cenvat credit is not taken for duty paid on inputs. Circular no. 37/2001-cus date 18 June 2001 provided that imported goods will not be eligible for benefits of exemption of part of countervailing duty (equivalent to excise duty) as they are not produced from duty paid inputs.

M/s RDB Textiles Ltd. and 17 others had imported 176 consignments of ‘Jute bags’ through Petrapole Land customs station under the Commissionerate of customs (Preventive), West Bengal between December 2008 and August 2009. The department extended the benefit of aforesaid notification and allowed clearance of the goods without levy of countervailing duty. Incorrect grant of exemption resulted in non-levy of duty of ₹ 3.01 crore.

When we pointed this out (October 2009), the department stated (March 2010) that CVD exemption was granted as per Board’s clarification dated 20 January 2006 (F. No. 552/16/2005-LC) after ascertaining the practice being followed in West Bengal (Preventive) and Patna Commissionerates where CVD on Jute products was exempt since Indian manufacturers did not pay central excise duty on similar goods in terms of notification no. 30/2004-CE.

In our opinion, an incorrect practice was being followed by allowing exemption to imported goods which did not fulfill the condition of being manufactured from duty paid inputs as required in central excise notification no. 30/2004-CE.

We reported (October 2010) the matter to the Ministry; its response had not been received (December 2010).

### **Recommendation**

*It is recommended that the Government may examine the issue and clarify the exact position on admissibility of exemption of countervailing duty in view of the requirement “provided Cenvat credit is not taken for duty paid inputs”.*

### **3.2 Necktie and other miscellaneous items**

As per notification no.19/06-cus dated 1 March 2006, an additional duty of customs was imposed at the rate of 4 per cent ad valorem under section 3 (5) of the Customs Tariff Act, 1975 on all goods imported into India other than specified under notification no.20/06-cus dated 1 March 2006.

M/s Krish International Pvt. Ltd. and 27 other importers imported (between October 2006 to July 2008) 'Necktie' and other miscellaneous items through ICD, Tughlakabad, Delhi at total assessable value of ₹ 12.70 crore. We found that the department cleared these consignments without levy of additional duty of 4 per cent by extending the benefit available to goods specified in the first schedule to the additional duty of excise (Goods of Special importance) Act, 1957 under serial no.50 of notification 20/06. However, these goods were not covered under the aforesaid Act of 1957. This resulted in non levy of additional duty of ₹ 63.92 lakh.

When we reported (October 2010) the matter to the Ministry, it intimated recovery of ₹ 17.05 lakh including interest. Recovery particulars of the remaining amount were awaited (December 2010).

### **3.3 Silk yarn and woven fabrics of silk**

Silk yarn (other than yarn spun from silk waste) and woven fabrics of silk or of silk waste are classifiable under Customs tariff heading (CTH) 5004 and 5007 respectively.

M/s Enterprise International Ltd. imported (July to December 2009) 13 consignments of 'Silk fabrics' and 'Thrown silk yarn' through Chennai (Sea), Commissionerate. The goods were classified under CTH 50072090 and 50040090 respectively and exempted from levy of CVD under notifications no.4/2006-CE dated 1 March 2006 (serial no.3) and 6/2006-CE dated 1 March 2006 (serial no.1 & 8). It was found in audit that the imported goods were not covered under any of these Central excise notifications. The incorrect grant of exemption resulted in short levy of ₹ 28.16 lakh.

This was reported (November 2009, January 2010 and February 2010) to the department, its reply had not been received (December 2010).

We reported (October 2010) the matter to the Ministry; its response had not been received (December 2010).

### **3.4 Disposable spinal needles**

As per Customs notification no.21/2002-cus (serial no.370) dated 1 March 2002, read with notification no.6/2006-CE dated 1 March 2006, import of specified goods including 'spinal instruments' (serial no.68) intended for use as 'assistive devices, rehabilitation aids and other goods for disabled' are exempt from duty.

M/s Healthcare Associates Pvt. Ltd. imported (July 2006/January 2007), two consignments of 'Spinocan Disposable Spinal Needle' through the Kolkata (Port) Commissionerate. The department allowed clearance of the goods at

‘nil’ rate of duty by extending the benefit under the aforesaid notifications. We observed that the goods were in the nature of general surgical instruments for enabling smooth penetration for spinal anesthesia and cerebrospinal fluid collection. They were not spinal instruments meant exclusively for use as ‘assistive devices/rehabilitation aids’ by the disabled/handicapped. Hence the exemption was irregular. Thus, incorrect grant of exemption resulted in non-levy of duty of ₹ 13.28 lakh.

When we pointed this out (December 2007), the department justified (February 2008) the grant of duty exemption on the basis that the importers of similar goods in earlier cases had submitted certificates from renowned hospitals to the effect that the imported needles were ‘spinal instruments’ used for operation procedure.

The contention was not acceptable. While the needles in question were certified as ‘spinal instruments used for operations,’ they were not certified as intended for the assistance of the disabled, as required for getting benefit of the notification.

We reported (October 2010) the matter to the Ministry; its response had not been received (December 2010).