

## **CHAPTER IV INCORRECT APPLICATION OF GENERAL EXEMPTION NOTIFICATIONS**

**4.1** 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 ₹ 2.85 crore due to incorrect grant of exemptions noticed (July 2011 to June 2012) from scrutiny of records for the period April 2011 to January 2012 are discussed in the following paragraphs.

**Assessing officer allowed incorrect exemption from Additional duty of excise on textiles articles and Embroidery fabrics.**

**4.2** In the Finance Act, 2011, effective from 8 April 2011, all the goods specified in the First Schedule of the Additional duty of excise (Goods of Special Importance) Act, 1957 were deleted from the purview of said Act. Consequently, these goods which were exempted under serial no. 50 of notification no. 20/2006-cus dated 1 March 2006 from the levy of special additional duty of customs will be liable to duty at four percent in terms of notification no. 19/2006-cus dated 1 March 2006.

**4.3** M/s ARC Enterprises and various others imported (April to November 2011) several consignments of 'Textiles fabrics/Nylon tyre cord fabrics through Chennai (Sea/Air) and Tuticorin Ports. The assessing officer classified imported items under Chapter 50 to 60 of the Customs Tariff and incorrectly allowed exemption from additional duty of customs under serial no. 50 of the aforesaid notification, even though were deleted from the aforesaid First schedule w.e.f. April 2011. This resulted in short levy of duty totaling ₹ 2.33 crore (Chennai-Sea/Air Commissionerate-₹ 1.20 crore and Tuticorin Commissionerate-₹ 1.13 crore).

**4.4** The Tuticorin and Chennai (Sea/Air) Commissionerates reported (November 2011 to July 2012) recovery of ₹ 82.63 lakh and ₹ 28.25 lakh respectively which includes interest of ₹ 8.79 lakh and ₹ 2.79 lakh respectively. Ministry response had not been received (March 2013).

**Assessing officer incorrectly allowed exemption to PVC coated fabrics, Processed Embroidery fabrics and Jacquard curtain fabrics.**

**4.5** M/s Ambicalmpex and 96 others imported 214 consignments of 'PVC coated fabrics, Processed Embroidery fabrics, Jacquard curtain fabrics' etc', worth ₹ 8.32 crore through Mumbai Air Cargo Complex, Mumbai New Customs House, and Mumbai ICD Commissionerate during April to November 2011. These goods were classified under the CTH specified in the first schedule of the AED (GSI) Act, 1957.

**4.6** We found from scrutiny of ICES dump data that the assessing officers incorrectly allowed exemption from additional duty of customs under serial no. 50 of notification no. 20/2006-cus dated 1 March 2006 though these items were deleted from the aforesaid First schedule w.e.f. April 2011. This resulted in non levy of additional duty of ₹ 40.61 lakh.

**4.7** Ministry reported (December 2012) recovery of ₹ 19.24 lakh from five importers (M/s Padmavati Textiles, M/s D Decor Exports, M/s Pizza Impex, M/s Zodiac clothing Co. Ltd., and M/s Plastic Cottage Trading Co.).

**Assessing officer incorrectly allowed exemption to PVC coated fabric considering them as goods made of cotton.**

**4.8** As per notification No. 29/2004-CE dated 9 July 2004(as amended), all goods of cotton not containing any other Textile material classifiable under Customs Tariff Act, 1975 chapters 56/59 are assessable to countervailing duty (CVD) at the rate of concessional rate of 5 percent .

**4.9** We found from scrutiny of Dump data that M/s Padmini Industries Ltd. and ten others imported (April to November 2011) 15 consignments of PVC coated fabric, synthetic fibres, bed sheets of polyester etc. through ICD, Tughlakabad, New Delhi. The assessing officer classified imported goods under Customs Tariff Act, 1975 chapters 56/59 and levied CVD at the concessional rate of 5 percent under aforesaid notification. As the imported goods were not made of 100 percent cotton they were not eligible for notification benefit and leviable to CVD at the rate of 10 percent . This resulted in short levy of duty of ₹ 11.40 lakh.

**4.10** Ministry reported (February 2013) recovery of ₹ 3.32 lakh and interest of ₹ 0.47 lakh in 11 consignments. Adjudication proceedings are under progress in remaining four consignments.