Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhavan, New Delhi.

Policy Circular No. 6/2004–2009 Dated, the 26th October, 2004

To,

All Licensing Authorities,

Subject : Deemed export benefits on supplies made to Projects financed by multilateral or bilateral agencies / funds covered under Para 8.2 (d) of Foreign Trade Policy other than World Bank and Asian Development Bank.

Attention is invited to the provisions contained in para 8.2(d) of Foreign Trade Policy read with para 8.2.3 of Handbook of Procedures (Vol.I). **According to these provisions supply of goods to projects financed by multi-lateral or bilateral agencies / funds as notified by the Deptt. of Economic Affairs, Ministry of Finance under International Competitive Bidding in accordance with the procedures of these agencies / funds, where the legal agreements provide for tender evaluation without including the customs duty are entitled to the deemed export benefits listed in paragraph 8.3 (a), (b) and (c) of Foreign Trade Policy, whichever is applicable.** The corresponding Customs Notification No. 84/97 dated 11.11.1997 also allows exemption from payment of additional customs duty on import of goods required for use in a project financed by the World Bank, the Asian Development Bank or any other International organization **as defined in the said notification.** Similarly, in terms of Central Excise Notification No. 108/95 –CE dated 28.8.1995, goods supplied to such projects are exempt from payment of excise duty.

2. An issue has been raised whether supply of goods to projects financed by agencies / funds like Japan Bank for International Cooperation (JBIC) covered by the Department of Economic Affairs, Ministry of Finance Notification as per Appendix 33 of Handbook of Procedures would be eligible for all the deemed export benefits covered under para 8.3 (a), (b) and (c) of Foreign Trade Policy. Supplies to JBIC are not covered under Customs Notification No. 84/97 dated 11.11.1997 and Central Excise Notification No. 108-CE dated 28.8.1995, as amended. The matter has been considered in consultation with all the concerned deparments.

3. It is, accordingly clarified that (i) supply of goods made to projects financed by agencies / funds notified by the Department of Economic Affairs and covered under Appendix 33 of Handbook of Procedures would continue to be eligible for deemed export benefits covered under para 8.3 (a) & (b), viz., (a) advance license for deemed exports, and / or (b) deemed export drawback, as the case may be. Such supplies would, however, not be eligible for exemption from payment of excise duty as the agencies / funds are not covered under Excise Notification No. 108/95 dated 28.8.1995, and (ii) **In so far as refund of terminal excise duty is concerned, it is clarified that as a general rule such refund is available only in those cases where no CVD is payable on import.** Refund of excise duty would, therefore, be available if both conditions are fulfilled, namely, supplies are made to projects financed by agencies / funds which are covered under Appendix 33 of Handbook of Procedures and Additional Custom Duty (CVD) is zero on import of such goods. Other conditions / requirements for availing of deemed export benefits in the category referred to above remain the same and continue to be applicable.

This issues with the approval of Director General of Foreign Trade.

(P.K. Santra)
Dy. Director General of Foreign Trade
For Director General of Foreign Trade

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