

Circular No. 09/2014 -Customs

F. No. 460/04/2014 - Cus-V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

Dated 19th August, 2014

OFFICE MEMORANDUM

Subject: Guidelines for considering request for exemption from payment of Customs Duty under Section 25(2) of Customs Act, 1962.

The Central Government has provided exemptions from payment of duty of customs for import of specified goods for charitable purposes and for specified organizations engaged in relief & rehabilitation under notification no. 148/94 - Cus. dated 13.7.1994. Import of goods to meet specific needs relating to the country's defense have been exempted from customs duty under notification no. 39/96-Cus dated 23.7.96 and 50/96-Cus dated 23.7.96. The Central Government also considers specific requests for exemption from customs duty under section 25(2) of the Customs Act, 1962 in cases involving circumstances of an exceptional nature. For this purpose, guidelines have been laid down in Circular no. 49/2003-Customs dated 10th June, 2003 and Circular no. 10/2007-Customs dated 13th February, 2007. In view of the requests received seeking grant of exemption from time to time and after due consideration to the existing general exemptions, the following revised guidelines are issued for considering the pending and future requests for exemption under Section 25(2) of the Customs Act, 1962, in supersession of the guidelines under Circular no. 49/2003-Customs dated 10th June, 2003 and Circular no. 10/2007-Customs dated 13th February, 2007.

2. Imports made by Central/State Governments, Municipalities, public sector undertakings and autonomous bodies will not be considered for ad-hoc exemption. All such agencies are expected to make budgetary provisions for payment of customs duty along with the cost of the imported goods. However, an exception could be considered in

cases where such agencies are recipients of imported goods as grants from foreign Governments/foreign organizations. Such requests should be forwarded with the approval of the Secretary to Government of India in the administrative Ministry concerned, stating the circumstances under which the imports are taking place and the public interest sought to be served for which duty exemption should be considered.

3. Exemptions could also be considered in respect of cases recommended by the Secretary, Ministry of External Affairs for reasons of furthering India's foreign relations. While recommending any such case, Ministry of External Affairs shall state why the exemption is in national interest.

4. Cases of re-import of artefacts and memorabilia representing India's historical, cultural and art heritage intended for public exhibition, could also be considered for exemption, subject to recommendation for duty exemption by the Secretary, Ministry of Culture, Government of India.

5. Cases of import required for treatment of individuals, who are suffering from life threatening diseases, could be considered on case-to-case basis. Such cases will be examined from the point of view of the nature of the medical condition and financial circumstances of the applicant.

6. Import of goods meant for relief and rehabilitation of people affected by natural disasters and epidemics could be considered for exemption subject to fulfilling the following conditions:

- a. The goods imported for charitable use should be distributed free of cost in a manner so as not to restrict access to their benefits on the basis of factors like caste, creed, language, race or religion.
- b. The goods should not be in the nature of or tend to promote/propagate any religious or spiritual activity.
- c. The distribution of the goods to the affected people shall be certified by the authorities of the State Government concerned not below the rank of the District Magistrate/Collector.

6.1 Applications for ad-hoc exemption on import of goods meant for relief and rehabilitation must contain the information/ documents listed below, along with self-certified copies of supporting documents:-

- a. Details of goods sought to be imported, the Customs Station(s) at which they are to be imported and the location(s) where they are intended to be used/distributed. The description, quantity and value of goods shall be evidenced through a commercial document such as an invoice, contract, etc.
 - b. The applicant should furnish copies of last 3 years' audited balance sheets.
 - c. If the applicant had been granted any ad-hoc exemptions in the past, details of the same, along with proof of fulfilment of the conditions of such orders must be submitted.
 - d. The applicant should furnish an undertaking to the effect that he/she would fulfill the conditions prescribed for grant of exemption.
 - e. In cases where exemption is sought for goods where a Bill of Entry has been filed with Indian Customs, a copy of the Bill of Entry must be provided.
 - f. A certificate in the proforma at Annex A must be submitted, issued by any of the authorities specified therein.
7. Import of medical or surgical instruments and apparatus by charitable hospitals could be considered for exemption of duty subject to fulfilling the following conditions:
- a) The hospital should not charge any fee for medical services from any class of patients.
 - b) The goods should be used in a manner so as not to restrict access to their benefits on the basis of factors like caste, creed, language, race or religion.
 - c) The hospital should be registered with the Income Tax authorities as a charitable organization/institution.
- 7.1 Import of goods for free distribution by charitable institutions/organizations could also be considered for exemption of duty subject to fulfilling the following conditions:
- a) The import should be received as donation or gift by the institution/organization.
 - b) The institution/organization should not be engaged in any commercial activity.
 - c) The goods should be for distribution, free of cost, in a manner so as not to restrict access to their benefits on the basis of factors like caste, creed, language, race or religion.

- d) The goods should not be in the nature of or tend to promote/propagate any religious or spiritual activity.
- e) The Institution/organization should be registered with the Income Tax authorities as a charitable organization/institution.

APPLICATION FOR AD-HOC EXEMPTION

8. Requests for ad-hoc exemption by charitable institutions / Organizations must contain the information/ documents listed below, along with self-certified copies of supporting documents:-

- a. Details of goods sought to be imported, the Customs Station(s) at which they are to be imported and the location(s) where they are intended to be used/distributed. The description, quantity and value of goods must be evidenced through a commercial document such as an invoice, contract, etc.
- b. A certificate from the donor of the goods must be furnished evidencing the fact of donation and the absence of payment for the goods.
- c. The applicant should furnish copies of last 3 years' audited balance sheets, income and expenditure statement, income tax returns and details of exemption granted by the Income-tax authorities etc.
- d. If the applicant had been granted any ad-hoc exemptions in the past, details of the same, along with proof of fulfilment of the conditions of such orders must be submitted.
- e. Where applicable, a copy of the memorandum of association, trust deed, certificate of registration or other similar document evidencing the setting up and the overall objectives and activities of the applicant institution must be submitted.
- f. The applicant should furnish an undertaking to the effect that they would fulfill the conditions prescribed for grant of exemption.
- g. In cases where exemption is sought for goods where a Bill of Entry has been filed with Indian Customs, a copy of the Bill of Entry must be provided.
- h. A certificate in the proforma in the Annex B must be submitted, issued by any of the authorities specified therein.

8.1 Applicants may submit the application for ad-hoc exemption, complete in all respects, addressed to Member (Customs), Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, North Block, New Delhi.

EXAMINATION OF REQUESTS FOR AD-HOC EXEMPTION

9. Ad-hoc exemption orders will be issued subject to the conditions that the imported goods will not be put to any commercial use and will not be sold, gifted, disposed of or used in any manner other than that specified in order granting exemption, without prior permission of the Central Board of Excise and Customs. The imported goods should be available for inspection by jurisdictional Customs/Central Excise officers as and when required.

10. If any other conditions are considered necessary to ensure that goods are used in public interest, or if any of the above conditions are modified in a given case, the same shall be specified in the Ad-Hoc Exemption Order for compliance.

MONITORING OF AD-HOC EXEMPTION ORDERS (AEO)

11. An undertaking to comply with the conditions mentioned in the AEO shall be given by the applicant before the Commissioner of Customs at the port of import for claiming benefit of exemption under the order at the time of clearance. The said Commissioner of Customs shall send copies of documents pertaining to the import, such as the Bills of Entry, Invoices, etc. along with a copy of the said undertaking to the Commissioner of Central Excise having jurisdiction over the site of utilization of the goods or the location of the applicant, as specified in the AEO, within fifteen days of the clearance of the items exempted by the order.

12. The applicant shall intimate the said jurisdictional Commissioner of Central Excise, as soon as possible, and not later than seven days from the date of Customs clearance of the goods, of the site of utilization of the exempted items, and also furnish any other information that the said Commissioner may require for verifying the compliance of the conditions of the order. The Commissioner of Central Excise shall, within three months of the clearance of the items exempted by the order, verify the compliance with the conditions of the

order and send a report to the Commissioner of Customs of the port of import. The verification report shall be sent so as to reach the Commissioner of Customs not later than six months of the issuance of the order.

13. Since the conditions of the AEO are binding on the importer in perpetuity, any infringement of conditions of the AEO should be brought to the notice of the Commissioner of Customs of the port of import by the concerned Commissioner of Central Excise for taking further necessary action such as realization of Customs duty on the subject goods, penal action for such violations, etc. The action taken as indicated above by the Commissioner of Customs of the port of import should be immediately brought to the notice of the Central Board of Excise & Customs.

14. The importation of goods exempted by an Order issued under Section 25 (2) of the Customs Act 1962 shall be completed within six months of the date of the said order. Under exceptional circumstances if the applicant requests in writing for extending the validity of the order, the Central Board of Excise and Customs may extend the said period of six months by a further period not exceeding six months. The AEO will be void and no exemption will be granted to that quantity of goods covered in the AEO but not imported within the expiration of the permitted period.

15. These guidelines may be given wide publicity.

(Satyajit Mohanty)
Director (ICD)

- 1. All Ministries/Departments of the Government of India.
- 2. All Sections of C.B.E.C./C.B.D.T. & attached and subordinate offices of Ministry of Finance, Department of Revenue.
- 3. All Chief Commissioners under CBEC.
- 4. All Directors General under CBEC

Annex A

C E R T I F I C A T E

(In terms of para 6 of the Circular 09/2014-Customs dated 19th August, 2014)

This is to certify that
(applicant) proposes to
undertake free distribution of goods to the people of _____
(name of District and State) in wake of _____
(event)

It is further certified that the organization enjoys a good reputation.

(Signature)

(Official Seal)

Place:

Date:

N.B.: The following officers alone are entitled to issue this certificate, namely,

1. Concerned Secretary of the State Government.
2. Concerned Joint Secretary of the Central Government.

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Annex B

C E R T I F I C A T E

(In terms of para 7 and 7.1 of the Circular 09/2014-Customs dated 19th August, 2014)

This is to certify that
(applicant) has been
engaged in activities in the field of
_____ for the last
_____ years.

2. The charitable nature of the organization and its having been in existence for not less than three years has been duly verified and found to be correct. It is further certified that the organization enjoys a good reputation.

(Signature)

(Official Seal)

Place:

Date:

N.B.: The following officers alone are entitled to issue this certificate, namely,

1. Concerned Secretary of the State Government.
2. Concerned Joint Secretary of the Central Government.
3. Concerned Jurisdictional Commissioner of Central Excise/Customs.