

F No 06 / 06/2010-CX.1
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi the,16th August 2010

To,

All the Chief Commissioners of Central Excise

All the Chief Commissioners (LTU)

All the Director Generals

All the Commissioners & Commissioner (Appeals) of Central Excise.

Subject: Valuation of Goods cleared in DTA by EOU's.

Board has received references seeking clarification with regard to the valuation of goods cleared from an EOU for sale in DTA, when actual sale transaction does not take place at the time of clearance but on a subsequent date. In such cases 100% of the goods are cleared from the EOU to depot from where the sale is effected through consignment agents. CBEC has earlier issued Circular No 268/85-CX.8 dated 29.09.1994, clarifying that valuation of goods in such situations will have to be done in accordance with the Rule 8 of the Customs Valuation Rule (Determination of Price of Imported Goods), 1988 as it existed then.

2. The issue has been re-examined. As per the proviso to Section 3(1) of the Central Excise Act, 1944, the value of such goods need to be determined in terms of section 14 of the Customs Act, 1962, read with Customs Valuation Rules (Determination of Price of Imported Goods), 2007.

3. In terms of the said rules the value will have to be determined by sequential application of Rules 3 to 9. The same view has been expressed by the CESTAT in following cases

- Endress Hauser Flowtec (I) Pvt Ltd. [2009 (237) ELT 598 (T)]
- Morarjee Brembana Ltd. [2003 (154) ELT 500 (T)]
- Uniworth Textile Ltd. [2009 (244) ELT 401 (T)]

5.0 In view of the position prevailing under Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, and the decisions of tribunal on the subject earlier Board Circular No 268/85- CX.8 dated 29.09.1994 on the subject is withdrawn. The field formations may follow the provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 in such situations

6. Trade and field formations may be informed accordingly.

7. Hindi version will follow.

Yours faithfully

Sanjiv Srivastava
Director (CX.1)