



सीमा शुल्क आयुक्त का कार्यालय
नव सीमा शुल्क गृह, पणंबूर, मंगलूर - 10
OFFICE OF THE COMMISSIONER OF CUSTOMS
New Custom House, Panambur, Mangalore - 10

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NO. 11 /2006

विषय / Sub :Scheme of Advance Rulings under Customs,
Central Excise and Service Tax Laws-
Complete update- reg.

<<◇◇>>

The Scheme of Advance Rulings for Non-Resident & Specified Resident Investors, Under the Indian Customs, Central Excise and Service Tax Provisions issued by the Authority for Advance Rulings (Central Excise, Customs & Service Tax), Ministry of Finance, Department of Revenue, New Delhi are enclosed herewith for information of the Trade, Public and others concerned.

जसदीप सिंह
19/6/06
जसदीप वी सिंह
आयुक्त

o/c

Encl : as above.

(Issued from file F.No.S-26/28/2006 TECH)

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The above Public Notice is available in Customs Commissionerate web-site
www.mangalorecustoms.org

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INTRODUCTION

AUTHORITY FOR ADVANCE RULINGS -CUSTOMS

Advance rulings enable foreign investors to know in advance into certainty their Customs duty liability on their proposed imports into India and proposed exports from India.

2. Relevant provisions for obtaining an advance ruling are contained in Chapter V-B in the Customs Act, 1962.
 - 2.1. The Customs (Advance Rulings) Rules, 2002 notified vide notification Nos. 55/2002-Customs (N.T.) dated 23rd August, 2002 and amended vide notification Nos. 54/2003-Customs (N.T.) dated 23rd July, 2003 provide for the format to be used for filing an application.
 - 2.2. Procedure Regulations of the Authority (AARUL CESTAT) have also been notified vide notification No. 1/2005-AAR dated 7th Jan., 2005.
3. The scheme of Advance Rulings allows a non-resident investor setting up a joint venture in India in collaboration with a non-resident or a resident; or a resident setting up a joint venture in India in collaboration with a non-resident; or a wholly owned subsidiary Indian company, of which the holding company is a foreign company; or a joint venture in India; or a resident falling within any such class or category of persons as notified by the Government of India in this behalf, to seek in advance, a ruling from the Authority for Advance Rulings.
4. The rulings can be sought in respect of -
 - (a) Classification of goods under the Customs Tariff Act, 1975;
 - (b) Principles of valuation under the Customs Act, 1962;
 - (c) Applicability, of notifications issued in respect of duties under the Customs Act, 1962, Customs Tariff Act, 1975 and any duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under the Customs Act. having a bearing on the rate of duty;
 - (d) determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975 and matters relating thereto.
5. The relevant provisions are as follows:-

PROVISIONS OF ADVANCE RULINGS IN THE CUSTOMS ACT, 1962

CHAPTER VB OF CUSTOMS ACT, 1962

ADVANCE RULINGS

SECTION 28E Definition:- In this Chapter, unless the context otherwise requires,-

- (a) "activity" means import or export;
- (b) "advance ruling" means the determination, by the authority, of a question of law or fact specified in the application regarding the liability to pay duty in relation to an activity which is proposed to be undertaken, by the applicant;

- (iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 28H or;
- (d) "application" means an application made to be Authority under sub-section (1) of section 28H;
- (e) "Authority" means the Authority for Advance Rulings (Central Excise, Customs and Service Tax) constituted under section 28F;
- (f) "Chairperson" means the Chairperson of the Authority;
- (g) "Member" means a Member of the Authority and includes the Chairperson; and
- (h) "non-resident", "Indian Company" and "foreign company" have the meanings respectively assigned to them in clause (30), (26) and (23A) of section 2 of the Income-tax Act, 1961 (43 of 1961).

SECTION 28F. Authority for Advance rulings.-

- (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority for giving advance rulings, to be called as " the Authority for Advance Rulings (Central Excise, Customs and Service Tax) ".
- (2) The Authority shall consist of the following Members appointed by the Central Government, namely:-
- a Chairperson, who is a retired judge of the Supreme Court;
 - an officer of the Indian Customs and Central Excise Service who is qualified to be a Member of the Board;
 - an officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India.
- (3) The salaries and allowances payable to, and the terms and conditions of service of, the Members shall be such as the Central Government may by rules determine
- (4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this act;
- (5) The office of the Authority shall be located in Delhi.

SECTION 28G. Vacancies, etc., not to invalidate proceedings.- No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Section 28H. Application for advance ruling.-

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.
- (2) The question on which the advance ruling is sought shall be in respect of,-
- classification of goods under the Customs Tariff Act, 1975 (51 of 1975);
 - applicability of a notification issued under sub-section (1) of section 25, having a bearing on the rate of duty;
 - the principles to be adopted for the purposes of determination of value of the goods under the provisions of this Act;
 - applicability of notifications issued in respect of duties under this Act, the Customs Tariff Act, 1975 and any duty chargeable under any other law for the time being in force in the country.

- (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Customs and, if necessary, call upon him to furnish the relevant records:
- (2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application

The Authority may, after examining the application and the records called for, by order, either allow or reject the application is-

- (a) already pending in the applicant's case before any officer of Customs, the Appellate Tribunal or any Court;
- (b) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Customs.
- (4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application
- (5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provided an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.-For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of section 146(A).

- (6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.
- (7) A copy of the advance ruling pronounced by the Authority, duly signed by the members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Customs, as soon as may be, after such pronouncement.

SECTION 28J. Applicability of advance ruling.-

- (1) The advance ruling pronounced by the Authority under section 28-I shall be binding only-
 - (a) on the applicant who had sought it ;
 - (b) in respect of any matter referred to in sub-section(2) of section 28H;on the Commissioner of Customs, and the customs authorities sub-ordinate to him, in respect of the applicant.
- (2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

SECTION 28K. Advance ruling to be void in certain circumstances.-

- (1) Where the Authority finds, on a representation made to it by the Commissioner of Customs or otherwise, that an advance ruling pronounced by it under sub-section(6) of section 28-I has been obtained by the applicant by fraud or mis-representation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

- (2) A copy of the order made under sub-section(1) shall be sent to the applicant and to the Commissioner of Customs, as soon as may be, after such pronouncement.

every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

SECTION 28M: Procedure of Authority: -

The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters rising out of the exercise of its powers under this act.

**ministry of Finance
(Department of Revenue)**

Notification No. 55/2002 - Customs (N.T.)
New Delhi, the 23rd August, 2002

CUSTOMS (ADVANCE RULINGS) RULES, 2002

G.S.R. 593 (E). - In exercise of the powers conferred by Section 156 read with sub-sections (1) and (3) of section 28H, sub-section (7) of section 28-I of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :

1. Short title, extent and commencement. -

- (1) These rules may be called the Customs (Advance Rulings) Rules, 2002.
- (2) They extend to a whole of India.
- (3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions- In these rules, unless the context otherwise requires,-

- (a) "Act" means the Customs Act, 1962 (52 of 1962).
- (b) "Authority" means the Authority for Advance Rulings constituted under section 28F of the Customs Act, 1962 (52 of 1962)
- (c) "Form-Application for Advance Rulings (Customs)" means the form annexed to these rules.
- (s) words and expressions used and not defined herein but defined in the Act, shall have the meanings respectively, assigned to them in the Act

3. Form and manner of application.

- (1) An application for obtaining an advance ruling under sub-section of section 28H of the Act shall be made in Form-Application for Advance Rulings (Customs).
- (2) The application referred to in sub-rule (1), the verification contained therein and all relevant documents accompanying such application shall be signed,-
 - (a) in the case of an individual, by the individual himself, or where the individual is absent from India, by the individual concerned or by some person duly authorized by him in this behalf; and where the individual is a minor or is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

- (f) in the case of any other person, by that the person or some person competent to act on his behalf.

4. Certification of copies of the advance rulings pronounced by the Authority

A copy of the advance ruling pronounced by the Authority for Advance Rulings and duly signed by the Members to be sent to each of the applicant and to the Commissioner of Customs under sub-section (7) of section 28-I of the Act, shall be certified to be true copy of its original by the Commissioner, Authority for Advance Rulings, or any other officer duly authorized by the Commissioner, Authority for Advance Rulings, as the case may be

"FORM – AAR (CUS)
[Application for Advance Ruling (Customs)]
 (See rule 3 of the Customs (Advance Rulings) Rules, 2002)

BEFORE THE AUTHORITY FOR ADVANCE RULINGS
(CUSTOMS, CENTRAL EXCISE AND SERVICE TAX)
NEW DELHI

(Form of application for seeking Advance Ruling under section 28H of the Customs Act, 1962.) Application No. of

1.	Full name and address along with telephone number, Fax number and e-mail address of the applicant	:	
2.	Names, addresses, telephone number, fax number and e-mail address of the resident(s)/non-resident(s) setting up the joint venture or of the wholly owned Indian subsidiary of a foreign holding company, proposing to undertake any business activity in India, as the case may be	:	
3.	Status of the applicant	:	
4.	Nature and status of the business activity proposed to be undertaken by the applicant	:	
5.	Import – Export Code No of the applicant (if any)	:	
6.	Permanent Account Number of the applicant (if any)	:	
7.	Basis of claim that the person referred to at serial number 1, is an applicant as defined under clause (c) of section 28E of the Customs Act, 1962 (52 of 1962)	:	
8.	Question(s) of law and / or fact relating to an activity proposed to be undertaken on which the advance ruling is required	:	
9.	Statement of any relevant facts having a bearing on the aforesaid question (s)	:	
10.	Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s)	:	
11.	Commissioner of Customs having jurisdiction in respect of the question referred at serial number eight above (if any)	:	

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VERIFICATION

I, _____ (name in full and in block letters), son/daughter/wife of _____ do hereby solemnly declare that to the best of my knowledge and belief what is stated above and in the annexure(s), including the documents are correct. I am making this application in my capacity as _____ (designation) and that I am competent to make this application and verify it.

2. I also declare that the question (s) on which the advance ruling is sought is/are not pending in any case before any Customs Authority, Appellate Tribunal or any Court.

3. Verified this.....day.....of.....200.....at

(Applicant's signature)

ANNEXURE I

Statement of the relevant facts having a bearing on the question(s) on which the advance ruling is required

Place

Date

(Applicant's signature)

ANNEXURE II

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the questions(s) on which advance ruling is required

Place

Date

(Applicant's signature)

Notes :

1. The application must be filled in English or Hindi in quadruplicate.
2. The application must be accompanied by an account payee demand draft of Rupees two thousand five hundred drawn in favour of Authority for Advance Rulings, payable at New Delhi. Particulars of the draft should be entered in the column pertaining to item number 13.
3. The number and year of receipt of the application will be filled in the Office of the Authority for Advance Rulings.
4. If the space provided for answering any item in the application is found insufficient, separate sheets may be used for this purpose. Each sheet must be signed at the bottom by the applicant.

be included in the statement of facts and not merely incorporated by reference.

10. For item number 10, the applicant must clearly state his interpretation of law or facts in respect of the question(s) on which the advance ruling is being sought.

11. The application, the verification appended thereto, the annexures to the application and the statements and documents accompanying the Annexures 1 and 2 must be signed on each page."

K.S.Sharma
Under Secretary to the Government of India.

F.No: 275/55/2003- CX -8A

Note: Notification no:55/2002 -Customs (NT) dated 23rd August, 2002 as amended by
Notification no:54/2003 -Customs (NT) dated 23rd July,2003.

9th July, 2005

Notification No. 69 /2005-Customs (N.T.)

In exercise of the powers conferred by sub-clause (iii) of clause(c) of Section 28E of the Customs Act, 1962 (52 of 1962), THE Central Government hereby specifies a resident as an applicant, who proposes to import any goods from Republic of Singapore under Comprehensive Economic Cooperation Agreement between Republic of India and Republic of Singapore dated 29th June 2005 and for the purpose of seeks advance ruling under sub-section (1) of Section 28H in respect of to determination of origin of goods under clause (e) of sub-section (2) of Section 28H of the Customs Act, 1962 .

2. This notification shall come into force from the 1st day of August, 2005.

F.No. 467/(53) 2005-Cus.V/ICD

S.P.RAO
Under Secretary to the Government of India