

OPINION

1. **Querist :**

M/s. J.K. Fenner (India) Limited,
Khivraj Complex II, 5th Floor,
No.480, Anna Salai, Nandanam,
Chennai – 600 035.

2. **Facts :**

The querist has imported Conex Cut Fiber from Japan and claimed concessional duty in terms of the '*Comprehensive Economic Partnership Agreement between India and Japan*' under cover of Bill of Entry No.4887505 dated 31.7.2021. At the time of assessment, the customs authorities have asked the querist to submit Form-1 containing the necessary details for examining the availability of concessional duty under the relevant Free Trade Agreement.

3. **Query :**

In this context, the querist seeks clarification on the following:

- 3.1 Under which notification / circular Form-1 has been prescribed and what is the format?
- 3.2 Form-1 as provided by the supplier and filled up is forwarded and comments on the details provided have been asked for.

4. **Opinion :**

- 4.1 Form-1 is prescribed and contained in Notification No.81/2020-Customs (N.T.) dated 21.8.2020. This notification contains the Customs (Administration of Rules of Origin under Trade Agreements) Rules 2020 along with the Form-1 mentioned above. A copy is attached as **Annexure-1** to this opinion. Following the above rules, a Circular bearing No.38/2020-Customs dated 21.8.2020 also has been issued containing the guidelines with regard to the details to be provided. A copy of the circular is attached as **Annexure-2**.

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- 4.2 In the present case the supplier has supplied Conex Cut Fiber and in the certificate of origin issued they have indicated the preference criteria as 'B', As per the **Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Rules 2011** published in terms of Notification No.55/2011-Customs (N.T.) dated 01.8.2011 the preference criteria that are to be mentioned as follows:

"2. Preference criteria :

(A) The good is wholly obtained or produced entirely in the Party, as provided for in rule 4.

(B) The good is not wholly obtained or produced in the Party, provided that the good satisfies the requirements of rule 5."

- 4.3 Once criterion preference is indicated as 'B' then the provisions contained in Rule 5 as mentioned below have to be satisfied.

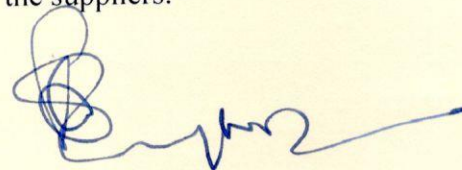
"RULE 5. Goods produced using non-originating materials. — (1) For the purposes of clause (b) of rule 3, goods shall qualify as an originating goods of a Party if,-

(a) the goods have a qualifying value content, calculated using the formula set out in rule 6, of not less than thirty-five percent; and

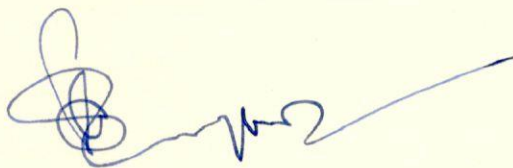
(b) all non-originating materials used in the production of the goods have undergone in the Party a change in tariff classification at the six-digit level (i.e. a change in tariff sub-heading) of the Harmonized System."

- 4.4 In the filled up form provided by the supplier it is indicated that process rule has been applied and the process undertaken is shown as 'cutting, drying and packing' in Japan. In part B the supplier has again indicated that the input i.e. fiber was not manufactured by them but procured by them locally from a third party and in case of procurement from the third party, they have taken documentary proof regarding origin of these inputs.

- 4.5 'Cutting, drying and packing' will not change the classification as required under Rule 5(b). If the material procured locally by the supplier is of Japanese origin, then, necessary information with regard to as to how that Conex Tow meets the origin requirements should be explained. In this connection, if any non-originating materials are used then the HS code of non-originating materials used in the production of Tow should be provided. If evidence is available to show that the Conex Tow is wholly manufactured in Japan, then, the criterion to be applied will be 'A'. Necessary details in this regard are not contained in the information now provided by the suppliers.



- 4.6 Hence, it may be necessary for the querist to obtain additional details as to how the origin criteria are met in terms of Rule 5 and then based on such details, provide further information to Customs to claim concessional duty.



S. MURUGAPPAN

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Disclaimer:- The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.