

9. PACKAGING MATERIALS, DURABLE CONTAINERS, PACKAGES AND SPARE BAGS

GENERAL EXEMPTION NO. 30

Exemption to containers of durable nature. — In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts containers which are of durable nature, falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), when imported into India, from, -

- (a) the whole of the duty of customs leviable thereon under the said First Schedule; and
- (b) the whole of the ¹integrated tax leviable thereon under sub-section (7) of section 3²:

Provided that the importer, by execution of a bond in such form and for such sum as may be specified by the ²[Assistant Commissioner of Customs or Deputy Commissioner of Customs] binds himself to re-export the said containers within six months from the date of their importation and to furnish documentary evidence thereof to the satisfaction of the said Assistant Commissioner and to pay the duty leviable thereon in the event of the importer's failure to do so:

Provided further that in any particular case, the aforesaid period of six months may, on sufficient cause being shown, be extended by the said Assistant Commissioner for such further period, as he may deem fit.

[Notification No. 104/94-Cus., dated 16-3-1994 as amended by Notifications No. 101/95-Cus., dated 26-5-1995 and No. 43/2017-Cus., dated 30-6-2017.]

DEPARTMENTAL CLARIFICATIONS / CASE LAW

Containers required to be re-shipped within six months of the date of importation to avail benefit of exemption under Notification No. 104/94-Cus. — *Forbes Gokak Ltd. v. Commissioner* — 2003 (156) E.L.T. 590 (Tri. - Kolkata).

Empty tank/durable containers for filling up of Mafron Gas for export were importable free of duty for the specific re-export purposes in terms of Notification No. 104/94-Cus. — *Mafatlal Fine Spg. & Mfg. Co. Ltd. v. Commissioner* — 2000 (122) E.L.T. 368 (Tribunal).

Flexitanks. - Re-export of goods imported duty free under bond by third person instead of importer. Benefit of Notification No. 104/94-Cus. not available if neither processing undertaken on imported goods nor re-exported by importer himself as per condition of bond. — *Paul Abrao Agencies Pvt. Ltd. v. Commissioner of Customs (Port-Import), Chennai* — 2017 (349) E.L.T. 676 (Tri.-Chennai).

Plastic trays (reusable) & other containers. — (1) Durable containers such as plastic trays for packaging electric motors can be cleared duty free under Notification No. 104/94-Cus., subject to conditions. To facilitate identification of container at the time of export, identification number engraved on the trays and other particulars should be declared by the importer — *Based on M.F. (D.R.) Circular 69/2002-Cus., dated 25-10-2002* — 2002 (146) E.L.T. T7.

(2) Any type of reusable packaging containers such as cases, boxes, cartons, trays, etc. made up of metals or plastics may be cleared duty free subject to fulfilment of conditions. — *Based on M.F. (D.R.) Circular No. 73/2002-Cus., dated 7-11-2002* — 2002 (146) E.L.T. T73.

1 Substituted (w.e.f. 1-7-2017) by Notification No. 43/2017-Cus., dated 30-6-2017.

2 Substituted by M.F. (D.R.) Notification No. 61/99-Cus., dated 11-5-1999.