

OFFICE OF COMMISSIONER OF CUSTOMS (IMPORT),
JAWAHARLAL NEHRU CUSTOM HOUSE,
SHEVA, TAL: URAN, DIST: RAIGAD.

F.No. S/22-Gen-36/2005 A(M) JCH

DT. 04 /04/2005

STANDING ORDER NO: 20/2005

Subject: Implementation of the Central Excise (Amendment) Act, 2004 clarification regarding.

Notification No. 6/2005 CE (NT) dated 24.02.2005, issued from F.NO. S/3/2002-CX.I (Part II) notifies that the Central Excise Tariff (Amendment) Act, 2004 will come into force with effect from 28th February 2005. The said Act has been uploaded on the CBEC website, (www.cbec.gov.in).

2. Notification No. 3/2005-CE dated 24th February 2005 has been issued to preserve the existing duty rates on specified commodities where effective rates were built into the six-digit tariff, but are now subject to different tariff rates in the 8 digit code. This is subject to any subsequent changes.

3. General Notification No. 1/2005-CE, 5/2005-CE(NT), 7 to 10/2005-CE (NT) all dated 24.02.2005 have been issued so as to substitute any

reference to the Chapter, heading or sub-heading of the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), as the case may be, relating to any goods or class of goods, wherever occurring in the existing notifications/ rules/ ad-hoc exemption orders, by corresponding reference to the Chapter, heading or sub-heading or tariff item, of the First Schedule or the Second Schedule to the Central excise Tariff Act, 1985 (5 of 1986), as amended by the Central Excise Tariff (Amendment) Act, 2004 (5 of 2005). These notifications intend to take care of the technical changes adopted in the numbering scheme for Central Excise classification through the Central Excise Tariff (Amendment) Act, 2004 (5 of 2005).

4. The following four Schedules continue to be according to 6-digit classification being earlier followed for the Central Excise. Therefore, a question about the impact of amended Tariff Act on the said four Schedules may arise :

i. Seventh Schedule to the Finance Act, 2001 (NCCD);

ii. Schedule to Additional Duties of Excise (Goods of Special Importance) Act, 1957;

iii. Schedule to Additional Duties of Excise (Textile and Textile Articles) Act, 1978; and

iv. Third Schedule to Central Excise Act, 1944.

5. The issue has been examined by the Board in consultation with the Ministry of Law. Law Ministry has opined that once the Amendment Act comes into force, by application of Section 8 of the General Clauses Act, 1987, the references to the Schedule in the Central Excise Tariff Act, 1985 as given in the relevant note in the

four Schedule mentioned above, will be read as referring to the said Amendment. The Central Excise Tariff (Amendment) Act, 2004 seeks to amend the Central Excise Act, 1985 whereby it also fully substitutes the First and Second Schedules to the said principal Act of 1985. Section 8(1) of General Clauses Act reads as under:-

Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals and re-enacts with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

6. The Central Excise Tariff (Amendment) Act, 2004 inserts certain new provisions (i.e. new section 5) comprising of two sub-sections. It also entirely substitutes the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985. Therefore, the provisions of the original Act, as contained in the first and the second Schedules, can be regarded as a being re-enacted, in addition to certain new provisions/modifications in the main Act itself. Note 1 in all the four schedules under reference invariably provides that Heading, Sub-Heading, and Chapter therein mean respectively the Heading, Sub-Heading, and Chapter in the Schedule to the Central Excise Tariff Act, 1985. By virtue of such a note, the substituted provisions of the Central Excise Tariff Act would also become applicable to all the said four Schedules.

7. All the officers shall follow above instructions scrupulously.

