

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORTS)

JAWAHARLAL NEHRU CUSTOM HOUSE,

NHAVA SHEVA

F.No. S/16-Gen-DFRC-93/2006-VII R

Date: 08.08.2006

PUBLIC NOTICE NO. 51/2006

Sub: Levy of special additional duty of Customs (CVD)@ 4% UNDER Duty Free Credit Entitlement (DFCE) :- regarding.

Attention of all the importers Exporters CHAs and Members of the Trade is invited to [Public Notice No. 40/2006](#) dated 13.06.2006 wherein Ministrys [Circular No. 18/2006-Cus.](#) Dated 05.06.2006 was notified.

2. Ministry has since issued [Circular No. 20/2006-Cus](#) dated 21.07.2006 vide F.No. 605/44/2006-DBK in partial modification of the above Circular which is enclosed herewith.
3. The contents of this notice may be brought to the notice of members of your Association / Organization for guidance.
4. Any difficulty faced by the trade may be brought to the notice of the undersigned.

(H.O. TEWARI)

COMMISSIONER OF CUSTOMS (EXPORTS)

NHAVA SHEVA.

Encl: As Above

F.No. 605/44/2006-DBK

Government of India

Ministry of Finance

Department of Revenue

5th June, 2006

Sub: Levy of special additional duty of customs (CVD) @ 4% under Export Promotion Scheme reg.

I am directed to invite your attention to the above mentioned subject and to say that references have been received from the trade about different practices being followed by the Custom Houses regarding the levy of special CVD of 4% in respect of goods imported under various export promotion schemes like DFRC, DEPB, Target Plus and DFCE. A doubt has also been raised on the issue of levy of 4% special CVD on imports made against duty credit scrips issued under Vishesh Krishi & Gram Udyog Yojana. Further, a clarification has been sought whether the 4% special CVD debited in DEPB, DFCE, Target Plus and other such licences is eligible for cenvat credit or drawback.

2. The issues raised have been examined by the Ministry. In terms of [notification No. 19/2006-Cus](#), dated 1.3.2006 a special additional duty of 4% (leviable under Section 3(5) of the Customs Tariff Act, 1975) is chargeable on all imported goods. In terms of [notification No. 20/2006-Cus](#), dated 1.3.2006 (vide Sr. No. 1 of the table to the said notification), all goods which are exempt from the 4% special CVD. In view of this, it is clarified that the special CVD of 4% is not leviable in case of imports under advance licence, EOU and SEZ schemes. In the case of imports under EPCG Scheme it may be noted that [notification No. 97/2004-Customs](#) dated 17.9.2004 governing imports under the said scheme itself provides for exemption from additional duty whether the levy is under section 3(1) or 3(5) of the Customs Tariff Act, 1975. The special additional duty of 4% is, therefore, not leviable on imports under EPCG Scheme.

3. In so far as export promotion schemes like DEPB, Target Plus, Served from India, DFCE and Vishesh Krishi and Gram Udyog Yojana are concerned, the exemption from basic customs duty and additional duty (CVD) is available subject to a condition that the element of these duties is debited in the Duty Scrips/Entitlement Certificates issued under these Schemes. Further, there is no specific exemption of the said 4% special CVD allowed either in the foreign Trade Policy or in the customs notification issued under all these schemes. Therefore, when goods are imported under promotion schemes like DEPB, Target Plus, Served from India, DFCE and Vishesh Krishi and Gram Udyog Yojana are concerned, the exemption from basic customs duty and additional duty (CVD) is available subject to a condition that the element of these duties is debited in the Duty Scrips/Entitlement Certificates issued under these Schemes. Further, there is no specific exemption of the said 4% special CVD allowed either in the foreign Trade Policy or in the customs notification issued under all these schemes. Therefore, when goods are imported under any of these schemes, the exemption from duties in terms of the respective customs notification shall only be available if the element of 4% special CD is debited in the duty scrips / entitlement certificates. In this connection, attention is invited to Ministry's Circular No. 5/2005-Cus. dated 31.01.2005 whereunder it was clarified that even through imports under these schemes are governed by an exemption notification, the fact remains that in case of such imports, the customs duties are required to be debited in the duty entitlement certificates issued under these schemes. In the case of import of goods under DFRC Schemes, the element of 4% CVD shall be payable because, the notification grants exemption from basic duty only.

4. As regards the issue raised as to whether the duty debited through DEPB, DFCE, Target Plus etc. schemes would be eligible for cenvat benefit or drawback facility by the licence holder, it has been made clear in the Finance Ministers Budget Speech that full credit of the 4% special CVD will be allowed to manufacturers of excusable goods. Therefore, it is clarified that the 4% CVD duty debited in DEPB, DFCE, Target Plus etc. certificates may be allowed to be taken back as drawback (brand rate). It may be mentioned here that under the Foreign Trade Policy, additional customs duty (CVD) debited in DEPB scrips/certificates issued under reward schemes is allowed to be taken as cenvat / drawback.

5. A suitable Public Notice and Standing Order may be issued for the guidance of the trade and staff. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board.