

OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)

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F. No. S/26-Misc-96/06 Gr IIB Date : 26.09.08

PUBLIC NOTICE- NO : 70 / 2008

Sub : MRP based CVD on radial / non radial tyres- reg.

It has been represented by trade and industry associations about difficulties faced in MRP based CVD assessment on radial/non radial tyres. The matter was taken up with CBEC for clarification. CBEC vide letter F No 341/2/2007-TRU dated 29th August 2007 had clarified the issue as follows :-

2. Under section 4A of Central Excise Act 1944, excisable goods are chargeable to MRP based duty only when :
 - (i) it is required to carry a declaration of MRP on the package in accordance with the provisions of Standard Weight & Measures Act, 1976 (60 of 1976) (SWMA) or the rules made thereunder and
 - (ii) Such goods are specified by the Central Government by notification in the official gazette in this behalf under the said section 4 A(1).

3. The Standards of Weights & Measures (Packaged Commodities) Rules, 1977(SWMR) apply to all commodities that are pre-packed except in respect of grains and pulses of a quantity more than 15kgs, tyres and tubes mentioned in schedule V of SWMR under SI No 23. When tyres and tubes are cleared in unpacked condition, it is not mandatory under SWMR to specify MRP. But when they are cleared in pre-packed/packed form and are intended for a retail sale, the declaration of the package must indicate the number of such tyres and tubes in the said package.
4. The above position makes it clear that only when the commodities are offered for sale under pre-packed /packed condition it becomes mandatory to furnish the retail sale price on the package attracting the provisions of valuation under section 4A.of Central Excise Act 1944. In other words if the commodities are not in pre-packed / packed condition the same will not attract the provisions of valuation under Section 4A of Central Excise 1944.
5. Ministry of Consumer Affairs Food and Public Distributions, Department of Consumer Affairs, Weight and Measures Unit, has also clarified vide their letter dated 20/07/2007, that the Standards of Weights & Measures (Package Commodities) Rules, 1977 are applicable to tyres and tubes, if they are sold in pre- packed form.
6. TRU view on legal position is clear in respect of this issue as below:
 - i) Assessment under section 4A of the Central Excise Act,1944 is applicable for tyres and tubes, as part of automobiles, cleared in pre-packed /packed form only.

- ii) Additional duty of Customs on import of tyres and tubes is leviable as per section 4A of Central Excise Act, 1944 when they are imported in pre-packed / packed form only. Import on unpacked tyres and tubes is to be assessed under section 4 of the Central Excise Act, 1944 for the purpose of calculating the Additional Duty of Customs. When such imported tyres and tubes are subsequently pre-packed or packed for the purpose of retail sale, they are leviable to Central Excise Duty under section 4A, at the time of clearance as packing amounts to manufacture.
- iii) When MRP is indicated and a set is made by putting tyres and tubes together, the intention and purpose become clear. It may be appropriate to treat such case for levy under section 4A of Central Excise Act,1944.
- iv) All Trade and the Industrial Associations are requested to bring the contents of this Public Notice to the knowledge of their members, and submit the necessary documentation to finalize the provisional assessments done in the past, and to aid in assessment of future imports.

Sd/-26.9.2008

(SANJEEV BEHARI)

COMMISSIONER OF CUSTOMS

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