

INSTRUCTION No. - 09/2017-Customs

F. No. 528/41/2017-STO (TU)
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Custom)
(Tariff Unit)

North Block, New Delhi
Dated: 5th July, 2017

To

All Pr. Chief Commissioners/Chief Commissioners of Customs/Customs (Preventive)
All Pr. Chief Commissioners /Chief Commissioners of Customs and Central Excise
All Pr. Commissioners/Commissioners of Customs/Customs (Preventive)

Madam/Sir,

Subject: Import of gifts and other goods for personal use through Courier -regarding

Kind attention is drawn to Notification No. 50/2017-Customs dated 30.06.2017 wherein under Sl. No. 608, a concessional rate of 10% BCD has been provided on all goods classified under heading 9804 subject to the conditions prescribed in the notification. Attention is also invited to ITC (HS) Classification of Export & Import Items, of DGFT, wherein, under sub-heading 98049000, it is prescribed that all dutiable articles intended for personal use are restricted with condition that their import is subject to value limit of Rs. 2000/- (CIF) and other conditions as specified in clause 3(1) (i) of Foreign Trade (Exemption from Application of Rules in Certain Cases) Order, 1993.


2. Reference has been received in the Board that seeking clarification as to whether the above concessional duty @ 10% is applicable to goods imported through courier (heading 9804) where the value of the said goods is above Rs. 2000/-. It has been further mentioned that there is no uniformity of practice in the field formations on this issue as different airports are following different practices.

3. Board has examined the issue in detail. It is observed that:

- a) ITC(HS) and First Schedule of the Customs Tariff Act are generally harmonized. However, due to recent changes in the First Schedule of the Customs Tariff Act vide Finance Act, 2017, the scope of the heading 9804 in the Tariff has been changed. As a result, heading 9804 of ITC (HS) and Customs Tariff are not fully aligned.
- b) Note 4 of Chapter 98 of the ITC (HS) provides that heading 9804 is taken not to apply to goods imported through courier, however such Note does not exist in Customs Tariff Act for the Chapter 98.

- c) In such situations in the light of Hon'ble Apex Court Judgment in the case of Commissioner v. M.K. Shipping & Allied Industries Pvt. Ltd. - 2015 (322) E.L.T. A326 (S.C.), for the policy condition classification under ITC (HS) should prevail and for the duty purpose classification under Customs Tariff Act should be taken into account.
- d) In view of the principle enunciated at c) above and keeping in mind the Note 4 of Chapter 98 of the ITC (HS), the policy restrictions against heading 9804 in ITC (HS) therefore become otiose as far as imports through courier are concerned. In other words, import policy for imports through courier have to be examined in conjunction with the policy conditions prescribed against individual headings where the said goods are likely to be classified.
4. Therefore, in view of the above discussion and to have uniformity, it is clarified that:
- a) Policy conditions in heading 9804 ITC (HS) will not be applicable to imports through courier; and
 - b) imports through courier will be eligible to concessional rate of 10% Basic Customs Duty [Sl. No. 608 notification No. 50/2017-Customs] provided that the goods are intended for personal use, and are exempted from any prohibition in respect of the imports thereof under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992).

Yours faithfully,


(Piyush Bhardwaj)
STO (TU)