



GOVT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
OFFICE OF THE JOINT COMMISSIONER OF CUSTOMS, SURAT.
Custom House, Althan Bhimrad Road, Althan, Surat, Gujarat-395007

DIN-20201071MN00005V6A20

SHOW CAUSE NOTICE

M/s Hansa Shivial Kapopara, No.33, Maninagar Society, A.K.Road, Surat, Gujarat-395008 (hereinafter referred as "the importer"), holder of Import Export Code No.5210009734 have imported 08 sets of Capital goods viz. Computerized Embroidery Machine under EPCG Licence No. 5230007458 dated 01/09/2010 having assessable value of **Rs. 33,82,353/-** by saving duty of **Rs. 8,66,411/-** (Actual Duty Utilized of Rs **6,03,785/-**). The importer cleared Computerized Embroidery Machine vide following Bill of Entry at a concessional rate of duty @ 3% while availing the benefit of exemption available under Notification No. 103/2009 dated 11.09.2009. The details of import are as under:

Sr. No	B/E No. & Date	Number of machinery cleared	Duty Saved available as per EPCG Licence	Total Duty Foregone/Debited at the time of clearance	Amount
1	739/10-11 dated 18.10.2010	08	8,66,411/-	6,03,785/-	Rs.1,00,000/-
		08		Rs.6,03,785/-	

2. The importer executed Bond dated 21/10/2010 for Rs. 23,82,650/- (Rupees Twenty Three Lakhs Eighty Two Thousand Six Hundred Fifty only) along with Bank Guarantee No. 54610GL0001710 dated 14.10.2010 amounting to Rs. 1,00,000/- issued by the Union Bank of India, Varachha Road Branch, Shantaba Complex, Near J.K.Petrol Pump, Varachha Road, Surat - 395008, for EPCG License No. 5230007458 dated 01/09/2010. They had also given an undertaking to fulfill the conditions of the Bond, EPCG License and the relevant Customs Notification at the time of registration of the EPCG License No. 5230007458 dated 01/09/2010 at ICD-Sachin, Surat.

3. The 08 sets of Computerized Embroidery Machines were to be installed at Plot No.343, Paikee-2, 1st Floor, Kalathiya Corporation, Village Kholvad, Kamrej, Surat, Gujarat - 394185 and as the importer was not registered with the Central Excise Department, they produced a copy of Installation Certificate dated 25.11.2010 issued by Chartered Engineer Dr. P.J. Gandhi, Surat who certified the receipt of the goods vide B/E No.739/10-11 dated 18.10.2010 on 04.11.2010 and their complete installation on 15.11.2010.

4. As per Notification No. 103/2009-Cus dated 11.09.2009 the importer was required to fulfill the export obligation on FOB basis equivalent to 8 times the duty saved on the goods imported as may be specified on the licence or authorization. The relevant portion of the said notification is produced herein below for reference:

Notification No. 103 /2009-CUSTOMS

New Delhi, the 11 September, 2009.

G.S.R. 669 (E) - 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 goods specified in the Table annexed hereto, from,-

(i) so much of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is in excess of the amount calculated at the rate of three percent ad-valorem, and

(ii) the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following conditions, namely :-

(1) that the goods imported are covered by a valid authorization issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at the rate of three percent duty and the said authorization is produced for debit by the proper officer of customs at the time of clearance :

Provided that for import of spare parts specified at Sr.No.4 of the said Table, the validity period of the authorization shall be deemed to be the period permitted for fulfillment of the export obligation in full :

Provided further that the import of motor cars, sports utility vehicles or all purpose vehicles shall be allowed only to hotels, travel agents, tour operators or tour transport operators and companies owning or operating golf resorts, subject to the condition that,-

(i) the total foreign exchange earning from hotel, travel and tourism and golf tourism sectors in current and preceding three licensing years is rupees one crore fifty lakhs or more;

(ii) the duty saved amount on all EPCG authorizations issued in a licensing year for import of motor cars, sports utility vehicles or all purpose vehicles shall not exceed 50% of average foreign exchange earnings from hotel, travel and tourism and golf tourism sectors in preceding three licensing years; and

(iii) the vehicles imported shall be so registered that the vehicle is used for tourist purpose only and a copy of the registration certificate shall be submitted to the concerned Customs authorities as a confirmation of import of vehicle within six months from the date of import:

Provided also that the benefit of import of capital goods at concessional duty under this notification for creation of modern infrastructure shall be extended only to such retailers who have a minimum area of 1000 square metres.

(2) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is completed.