



GOVERNMENT 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-20201071MN00008C927A

SHOW CAUSE NOTICE

M/s Kivva Impex, P.No.58, 5th Floor, Krishna Chambers, Mohan ni Chal, Varachha Road, Surat, Gujarat-395006 (hereinafter referred as "the importer"), holder of Import Export Code No.5208008793 have imported 14 sets of Capital goods viz. Computerized Embroidery Machine under EPCG Licence No. 5230007666 dated 22/10/2010 (having assessable value of Rs. 75,54,625/-) and by saving duty of **Rs.12,34,481/-** (Actual Duty Utilized of Rs **13,48,576/-**). The importer cleared Computerized Embroidery Machine vide various Bills 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	796/10-11 dated 27.10.2010	02	12,34,481/-	2,51,577/-	Rs.2,07,000/-
2	801/10-11 dated 30.10.2010	04	9,82,904/-	3,69,447/-	
3	823/10-11 dated 15.11.2010	04	6,13,457/-	3,63,776/-	
4	829/10-11 dated 18.11.2010	04	2,49,681/-	3,63,776/-	
		14	As per para 5.10 of Hand Book of Procedure 2009-14	Rs.13,48,576/-	

2. The importer executed Bond dated 27/10/2010 for Rs. 30,87,000/- (Rupees Thirty Lakhs Eighty Seven Thousand only) along with Bank Guarantee No. 10726BG000011 dated 16.11.2010 for Rs.17,000/- & 10726BG000008 dated 25.10.2010 for Rs.1,90,000/- (totally amounting to Rs.2,07,000/-) issued by the Karnataka Bank, K.G. Chambers, Udhna Darwaja, Ring Road, Surat - 395002, for EPCG License No. 5230007666 dated 22/10/2010. 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. 5230007666 dated 22/10/2010 at ICD-Sachin, Surat.

3. The 14 sets of Computerized Embroidery Machines were to be installed at P.No.8, 5th Floor, Krishna Chambers, Mohan ni Chal, Varachha Road, Surat, Gujarat-395006 and as the importer was not registered with the Central Excise Department, they produced a copy of Installation Certificate dated 15.01.2011 issued by Chartered Engineer Shri B.K. Goel, Surat who certified the receipt of the goods vide B.E No. 796/10-11 dated 27.10.2010, 801/10-11 dated 30.10.2010, 823/10-11 dated 15.11.2010, 829/10-11 dated 18.11.10 on 08.11.2010, 10.11.2010, 22.11.2010 and 26.11.2010 respectively and their complete installation on 12.11.2010, 15.11.2010, 16.11.2010, 02.12.2010, 07.12.2010, 05.12.2010 and 10.12.2010 respectively.

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.