



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-20201071MN00003T1151

SHOW CAUSE NOTICE

M/s Sahara Export, F-2378-79, 1st Floor, Radha Krishna Textile Market, Ring Road, Surat, Gujarat-395002 (hereinafter referred as "the importer"), holder of Import Export Code No. 5205001089 have imported 30 sets of Capital goods viz. Cocoon Bobbin Winder Machines under EPCG Licence No. 5230007624 dated 13.10.2010 having assessable value of Rs. 24,17,940/- and by saving duty of **Rs. 5,05,226/-** (Actual Duty Utilized Rs **5,03,050/-**). The importer cleared Cocoon Bobbin Winder Machines 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	742/10-11 dated 18.10.2010	30 sets	5,05,226/-	5,03,050/-	Rs. 80,000/-
TOTAL		30 sets		Rs. 5,03,050/-	

2. The importer executed Bond dated 21.10.2010 for Rs.12,70,000/- (Rupees Twelve Lakhs Seventy Thousand Only) along with Bank Guarantee No. 16531GFIN000410 dated 15.10.2010 amounting to Rs. 80,000/- issued by the Bank of Baroda, Mandarwaja Branch, Ring Road, Surat, for EPCG License No. 5230007624 dated 13.10.2010. 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. 5230007624 dated 13.10.2010 at ICD-Sachin, Surat.

3. The 30 sets of Cocoon Bobbin Winder Machines were to be installed at M/s Sahara Export, Shed No, C-1, Plot No. 4313/1, G.I.D.C, Taluka : Choryasi, Sachin, Surat, Gujarat-394230 and as the importer was not registered with the Central Excise Department, they produced copy of Installation Certificate dated 22.02.2011 issued by Chartered Engineer Dr. P. J. Gandhi, Surat who certified the receipt of the goods received vide the aforesaid Bill of Entry on 27.10.2010 and its complete installation on 22.11.2010.

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.

(3) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this