

F. No: 451/04/2020-Cus.V
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs

North Block, New Delhi
Date 21st January 2020

To,
All Principal Chief Commissioners/Chief Commissioners of Customs.
Principal Commissioners/Commissioner of Customs.

Sub: Clarification relating to import of gifts-reg.

Madam/ Sir,

Please refer to the Notification 35/2015-2020 dated 12.12.2019 issued by the Directorate General of Foreign Trade, Department of Commerce, Ministry of Commerce and Industry.

2. Clarifications have been sought by the field formations as regards the application of the said notification of DGFT and how the same has to be read with Notification 50/2017-Customs dated 30th June 2017, especially in relation to the exemption available for imports of bonafide gifts up to a c.i.f. value of Rs. 5000.00.

2.1 References have also been made to Instruction 9/2017-customs dated 5th July 2017 raising the issue of difficulty in implementing the DGFT notification due to the said instruction.

3. The issue has been examined.

4. DGFT Notification states as follows:

“import of goods, including those purchased from e –commerce portals, through post or courier, where customs clearance is sought as gifts, is prohibited except for life saving drugs/ medicines and Rakhi (but not gifts related to Rakhi).”

-Explanation:

1. *Rakhi (but not gifts related to Rakhi) will be covered under Section 25(6) of Customs Act, 1962 that reads “...no duty shall be collected if the amount of duty leviable is equal to or less than Rs. 100/-.*
2. *Import of goods as gifts with payment of full applicable duties is allowed.”.*

4.1 DGFT Notification effectively means that if goods imported through courier or post (be it e- commerce imports or otherwise) as gifts seek the exemption available for imports of bonafide gifts up to a c.i.f. value of Rs. 5000.00 *vide* Sl. No 608A of Notification 50/2017-Customs dated 30th June 2017, then the imports will be prohibited. However, the goods imported as gifts can be allowed import free (i.e. without prohibition) on payment of full applicable duties. Since the goods imported as gifts would be personal imports, the full applicable duties will be as follows:

- (a) Basic Customs Duty at the applicable tariff rate as per the First schedule of the Customs Tariff Act for the heading 9804 which is 35% at present.
- (b) IGST at the rate specified for the heading 9804 (Sl. No. 227 schedule IV) in Notification No. 1/2017 -Integrated Tax (rate) dated 28th June 2017 for IGST which is at present 28%.

4.2 However, lifesaving drugs/ medicines can continue to avail exemption available under Sl. No. 607A as well as Sl. No. 608A of Notification 50/2017-Customs dated 30th June 2017.

5. Section 25 (6) of the Customs Act states that, "*Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees.*". Thus, it goes without saying that if the duty on any goods is less than one hundred rupees, same will not be collected.

6. As regards Instruction 9/2017 -Customs dated 5th July 2017 it is to state that the said instructions were issued to clarify the application of clause 3(1)(i) of Foreign Trade (Exemption from application of Rules in certain cases) Order 1993 which put a restriction on personal imports above a c.i.f value of 2000.00.

6.1 The FTO 1993 has since been amended *vide* issue of Foreign Trade (Exemption from application of Rules in certain cases) Amendment Order, 2017 and clause 3(1) (i) of the FTO, 1993 now reads as under:

3. Exemption from the application of rules. -

- (1) Nothing contained in the Rules shall apply to the import of any goods,
 - (i) by any person through the post or otherwise for his personal use subject to compliance of other Laws/Rules/ Orders/Regulations in force.

6.2 Further, vide notification 16/2015-20 dated 12th July 2017, DGFT has removed the value cap of Rs 2000 w.r.t to personal imports, as well as, fully aligned the chapter notes in ITC (HS) with those enacted under Chapter 98 of the Customs Tariff Act.

7. In view of the above, the instruction 9/2017 -Customs dated 5th July 2017 has become obsolete and is rescinded.

8. To ensure that there is no undervaluation by unscrupulous importers, officers may be advised to strictly follow the provisions of Section 14 of the Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2017 for valuation of imports through courier and posts.

9. Difficulties if any, may be brought to the notice of the Board.

10. Hindi version follows.



51/11/20

(Temsunaro Jamir)
Additional Commissioner (ICD)