

Detailed Study
Report on
Project Imports

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Introduction:

What is Project Imports?

Project Imports Scheme is a concept, unique to Indian Customs, wherein all the goods imported for the purpose of setting up of Industrial Project or substantial expansion of existing industrial projects is subjected to single classification under heading 98.01 of Custom Tariff Act, 1975 and subjected to single rate of duty instead of merit assessment of imported goods.

Why Project Imports?

Normally, imported goods are classified separately under different tariff headings and assessed to applicable Customs duty, but as a variety of goods are imported for setting up an industrial project their separate classification and valuation for assessment to duty becomes cumbersome. Further, the suppliers of a contracted project, do not value each and every item or parts of machinery which are supplied in stages. Hence, ascertaining values for different items delays assessment leading to demurrage and time and cost overruns for the project.

Therefore, to facilitate smooth and quick assessment by a simplified process of classification and valuation, the goods imported under Project Import Scheme are placed under a single Tariff in the Customs Tariff Act, 1975. This facilitates assessment and ensures faster clearances of goods.

Classification of Goods under Project Imports

Under Project Imports, the goods are classified under Custom Tariff Heading No. 98.01.

Goods allowed under Project Imports

Under Projects Imports, the goods allowed to be imported at concessional rate of duty include:

All items of machinery including,-

- (i) prime movers,
- (ii) instruments,
- (iii) apparatus and appliances,
- (iv) control gear and transmission equipment,

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- (v) auxiliary equipment (including those required for research and development purposes, testing and quality control), as well as
- (vi) all components (whether finished or not) or raw materials for the manufacture of the aforesaid items and their components, required for the initial setting up of a unit, or the substantial expansion of an existing unit.

It also includes spare parts, other raw materials. (including semi-finished material) or consumable stores not exceeding 10% of the value of the goods specified above provided that such spare parts, raw materials or consumable stores are essential for the maintenance of the plant or project.

The 'unit' is any self-contained portion of the project having an independent function in the project. A project would fall under the category of 'substantial expansion' **if the installed capacity of the unit is increased by not less than 25%**, as per the Project Import Regulations.

Projects Eligible under Project Imports

Under the Scheme of Project Import, the following projects are covered:-

- (1) Industrial Plant,
- (2) Irrigation Project,
- (3) Power Project,
- (4) Mining Project,
- (5) Project for the exploration for oil or other minerals, and
- (6) Such other projects as the central government may, having regard to the economic development of the country notify in the Official Gazette.

Thus, a number of notifications have been issued notifying a large number of projects for assessment under Tariff Heading 9801.

Projects/goods not eligible for benefit under Project Imports

Benefit under the Scheme is not available to hotels, hospitals, photographic studios, photographic film processing laboratories, photocopying studios, laundries, garages and workshops. This benefit is also not available to a single or composite machine.

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Meaning of Term “Industrial Plant” under Project Import.

The term “Industrial Plant” has been defined in the Project Import Regulations, 1986 (Ref: Regulation 3(a) of PIR, 86] For sake of convenience, it is reproduced below:-

"industrial plant" means an industrial system designed to be employed directly in the performance of any process or series of processes necessary for manufacture, production or extraction of a commodity, but does not include –

- (i) establishments designed to offer services of any description such as hotels, hospitals, photographic studios, photographic film processing laboratories, photocopying studios, laundries, garages and workshops; or*
- (ii) a single machine or a composite machine, within the meaning assigned to it, in Notes 3 and 4 to Section XVI of the said First Schedule;*

Explanation :- For the purposes of sub-clause (i) the expression "establishments designed to offer services of any description" shall not include video recording or editing units, cinematographic studios, cinematographic film processing laboratories, and sound recording, processing, mixing or editing studios;

Import of Construction Equipment under Project Imports

The Hon'ble Supreme Court in the case of Commissioner of Customs, Mumbai vs. M/s. Toyo Engineering India Ltd., 2006(201) ELT 513 SC held that the scope of the items eligible for import under the Project Import Regulations 1986, shall cover construction equipment as auxiliary equipment; if essentially required for initial setting up or substantial expansion of registered projects. The construction equipment may be permitted to be transferred to other registered project under CTH 9801, after completion of its intended use, on recommendations of sponsoring authority.

The 'Plant Site Verification Certificate' (PSVC) required to be submitted for finalization of project as per Circular No. 14/2006-Cus dated 17.04.2006 shall also incorporate the details of construction equipment imported and used for the project, to ensure proper utilization of goods imported.

Legal Provisions:-

The Scheme of Project imports is governed by the following Chapter Heading No. /Chapter Notes of CTA, 1975 /exemption notification/ regulation/ Circulars:

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A. Customs Tariff Heading CTH 98.01

Table 1

CTH	Description	Units	Rate of duty	
			Stan- dard	Pref- erenti- al
98.01	<p>All items of machinery including (i) prime movers, (ii) instruments, (iii) apparatus and appliances, (iv) control gear and transmission equipment, (v) auxiliary equipment (including those required for research and development purposes, testing and quality control), as well as all components (whether finished or not) or raw materials for the manufacture of the aforesaid items and their components, required for the initial setting up of a unit, or the substantial expansion of an existing unit, of a specified:</p> <p style="padding-left: 40px;">(1) Industrial Plant, (2) Irrigation Project, (3) Power Project, (4) Mining Project, (5) Project for the exploration for oil or other minerals, and (6) Such other projects as the central government may, having regard to the economic development of the country notify in the Official Gazette in this behalf; and spare parts, other raw materials. (including semi-finished material) or consumable stores not exceeding 10% of the value of the goods specified above provided that such spare parts, raw materials or consumable stores are essential for the maintenance of the plant or project mentioned in (1) to (6) above.</p>			
98010011	For industrial Plant	Kg.	10%	-
98010012	For irrigation plant	Kg.	10%	-
98010013	For Power Project	Kg.	10%	-
98010014	For mining project	Kg.	10%	-
98010015	Project for exploration of oil or other minerals	Kg.	10%	-

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98010019	For other projects	Kg.	10%	-
98010020	Components (whether or not finished or not) or raw materials for the manufacture of aforesaid items required for the initial setting up of a unit or the substantial expansion of a unit.	Kg.	10%	-
98010030	Spare parts and other raw materials (including semi-finished materials or consumable stores for the maintenance of plant or projects	Kg.	10%	-

B. Chapter Note to Chapter 98 of the Customs Tariff Act, 1975

The Chapter notes 1 and 2 to the Chapter 98 of CTA, 1975 relate to project imports and the same reads as under:

- 1. This Chapter is to be taken to apply to all goods which satisfy the conditions prescribed therein, even though they may be covered by a more specific heading elsewhere in this Schedule.*
- 2. Heading 9801 is to be taken to apply to all goods which are imported in accordance with the regulations made under section 157 of the Customs Act, 1962 (52 of 1962) and expressions used in this heading shall have the meaning assigned to them in the said regulations.*

C. Project Import Regulations, 1986 [PIR, 86]

The Project Import Regulations, 1986 has been notified *vide* notification No. 230/86-Customs (NT), dated 03.04.1986] effective from 3.4.1986 and has been amended *vide* notification No. 17/1992 – Customs, dated 07.01.1992; 142/1992 – Customs, dated 10.03.1992; 153/1995-Customs, dated 27.10.1995; 54/1997– Customs, dated 05.06.1997; 92/2002– Customs, dated 06.09.2002; 37/2003– Customs, dated 01.03.2003; 16/2004-Cus., dated 08.01.2004, 17/2006– Customs, dated 01.03.2006; 30/2007- Customs, dated 01.03.2007; 15/2010 - Customs, dated 27.02.2010; 18/2012- Customs, dated 17.03.2012 and was last amended *vide* notification No. 25/2014-Customs, dated 11.7.2014.]

D. (a) General Exemption Notification No. 12/2012-Customs, dated 01-05-2012

Vide exemption notification No. 12/2012-Customs, dated 01-05-2012, the basic customs duty / Additional duty of Customs (CVD) on imports has been fully/partially exempted (subject to with/without conditions as specified against each

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entry) on the goods falling under CTH 98.01. The effective rate of duty applicable to such projects is **BCD: Nil / 2.5% / 5% ad valorem** and CVD at rate of **12% / Nil ad valorem, as the case may be**. This exemption has been given at Entries at Sr. Nos. 506 to 515 of the said notification. The above said entries read as under:-

Table 2

S. No.	Chapter or Heading or sub-heading or tariff item	Description of goods	Standard rate	Additional duty rate	Condition No.
506.	9801	Goods required for- (i) fertiliser projects; (ii) coal mining projects; (iii) iron ore pellet plants/projects and iron ore beneficiation plants/projects (iv) power generation projects including gas turbine power projects (excluding captive power plants set up by projects engaged in activities other than in power generation); (v) barge mounted power plants; (vi) power transmission, sub-transmission or distribution projects;	Nil Nil 2.5% 5% 5%	- - - - -	- - - - -
507.	9801	Goods required for setting up of any Mega Power Project, so certified by an officer not below the rank of a Joint Secretary to the Government of India in the Ministry of Power, that is to say, (a) a thermal power plant of a capacity of 700MW or more, located in the States of Jammu and Kashmir, Sikkim, Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland and Tripura; or (b) a thermal power plant of a capacity of 1000MW or more, located in States other than those specified in (a); or (c) a hydel power plant of a capacity of 350MW or more, located in the States of Jammu and Kashmir, Sikkim, Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland and Tripura; or (d) a hydel power plant of a capacity of 500MW or more, located in States other than those specified in clause (c)	Nil	Nil	93
508.	9801	Goods required for the expansion of any existing Mega Power project so certified by an officer not below the rank of a Joint Secretary to the Government of India in the Ministry of Power. Explanation.- For the purposes of this entry, Mega	2.5%	Nil	93

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		Power Project means a project as defined in S. No. 507			
509.	9801	Goods required for- (a) Project for LNG Re-gasification Plant (b) Aerial passenger ropeway project	5% 5%	- -	- -
510.	510. 9801	All goods	5%	-	-
511.	9801	Goods required for setting up of any Nuclear Power Project specified in List 33, having a capacity of 440 MW or more, as certified by an officer not below the rank of a Joint Secretary to the Government of India in the Department of Atomic Energy	Nil	Nil	94
512.	9801	Drinking Water Supply Projects for supply of water for human or animal consumption Explanation.- For the purposes of this entry, "Drinking Water Supply Project" includes a plant for desalination, demineralization or purification of water or for carrying out any similar process or processes intended to make the water fit for human or animal consumption, but does not include a plant supplying water for industrial purposes.	Nil	Nil	-
513.	9801	Liquefied natural gas (LNG) facility project of M/s Ratnagiri Gas and Power Private Limited for their power project at Dabhol. Explanation.- For the purpose of this exemption, Liquefied natural gas (LNG) facility project includes goods for any or all series of operations starting with unloading of LNG from specialized vessels, their subsequent transfer to LNG storage tanks and finishing with re-gasification of the LNG before feeding the natural gas to the Ratnagiri Gas and Power Private Limited for the purpose of generating power at their power project at Dabhol	Nil	Nil	95
514.	9801	All items of equipment for National Automotive Testing and Research and Development Infrastructure Project (NATRIP)	Nil	Nil	96
515.	9801	Goods required for installation of mechanized handling systems and pallet racking systems in 'mandis' and warehouses for food grains, sugar and horticultural produce	5%	Nil	-

(b) Conditions Specified for the above-mentioned Exemption:

Table 3

93.	If an officer not below the rank of a Joint Secretary to the Government of India in the Ministry of Power certifies that:- (i) the power purchasing State has constituted the Regulatory Commission with full powers to fix tariffs;
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	<p>(ii) the power purchasing states shall undertake to carry out distribution reforms as laid down by Ministry of Power.</p> <p>(a) in case of imports for a project for which certificate regarding Mega Power Project status issued by an officer not below the rank of Joint Secretary to the Government of India in the Ministry of Power is provisional, the importer furnishes a security in the form of a Fixed deposit Receipt from any Scheduled Bank for a term of thirty six months or more in the name of the President of India for an amount equal to the duty of customs payable on such imports but for this exemption, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, at the time of importation and if the importer fails to furnish the final mega power status certificate within a period of thirty six months from the date of importation, the said security shall be appropriated towards duty of customs payable on such imports but for this exemption.</p> <p>(b) In the case of imports by a Central Public Sector Undertaking, the quantity, total value, description and specifications of the imported goods are certified by the Chairman and Managing Director of the said Central Public Sector Undertaking; and</p> <p>(c) In the case of imports by a Private Sector Project, the quantity, total value, description and specifications of the imported goods are certified by the Chief Executive Officer of such project.</p>
94.	<p>(a) In the case of imports by the constituent units of the Department of Atomic Energy, the quantity, total value, description and specifications of the imported goods are certified by an officer not below the rank of a Joint Secretary to the Government of India in the Department of Atomic Energy;</p> <p>(b) In the case of imports by a Central Public Sector Undertaking, the quantity, total value, description and specifications of the imported goods are certified by the Chairman and Managing Director of the said Central Public Sector Undertaking;</p>
95.	The LNG facility is certified by an officer not below the rank of a Joint Secretary to the Government of India in the Ministry of Power as being an integral part of the said power project of M/s Ratnagiri Gas and Power Private Limited at Dabhol.
96.	If the importer, at the time of import, produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, a certificate from an officer not below the rank of Deputy Secretary to the Government of India in the Ministry of Heavy Industries and Public Enterprises (Department of Heavy Industry), certifying that the imported goods (having regard to their description, quantity and technical specifications) are intended for use in the National Automotive Testing and Research and Development Infrastructure Project (NATRIP).

(c) Exemption from Payment of SAD for Certain specified Project Imports:

Under notification No. 21/2012-Customs, dated 17/3/2012, the following imports made under projects imports have been exempted from payment of Special Additional Duty of Customs (SAD) also:

Table 4

Sr. No.	CTH	Description	SAD applicable

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99.	9801	Goods specified against S. No. 508 of the Table annexed to the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 - Customs, dated the 17th March, 2012: Provided that the exemption under this notification shall be subject to the conditions, if any, specified under S. No. 508 of the Table annexed to the notification No. 12/2012 - Customs, dated the 17th March, 2012.	Nil
100	9801	Goods for the project specified against S. No. 39 of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 42/96 - Customs, dated the 23rd July, 1996 [G .S.R. 294(E), dated the 23rd July, 1996]	Nil
101	9801	Goods specified against S. No. 515 of the Table annexed to the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012 - Customs, dated the 17th March, 2012.	Nil

E. Project notified by Government to be eligible for benefit under the Scheme by issuing specific notifications

Table 5

Sr. No.	Notification No. and date	Project notified
1.	Notification No. 42/96-Customs, dated 23.7.1996 as amended from time to time and was last amended vide notification No. 17/2012-Customs, dated 17/3/2012	Projects notified for Assessment under Heading 98.01 of CTA, 75 in terms of entry against CTH 98.01 which provides that the central government may, having regard to the economic development of the country notify projects eligible for assessment under CTH 98.01 by issuing a notification in this behalf. In exercise of this power, the Government has notified large number of projects vide notification No. 42/96-Customs, dated 23.7.1996 as amended from time to time.
2.	Notification No. 14/04-Customs, dated 08.01.2004	Vide this notification, the government has fully exempted water supply project including a plant for desalination, demineralization, or purification of water or for carrying out similar process or processes intended to make the water fit for agricultural or industrial use, from payment of BCD and CVD.

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F. Board's Circular Issued from time to time.

Table 6

Sr. No.	Board's Circular No.	Remarks
1.	Board's Circular No. 89/95-Customs, dated 9/8/1995	<p>Provide for cash security equivalent to 2% of the CIF value of goods imported under project import (subject to a maximum of 50 lakhs) would only be taken in place of 5% earlier.</p> <p>The government department and PSUs exempted from furnishing cash security.</p> <p>In case of fertilizer projects, which are liable to zero rate of duty, only a nominal cash security not exceeding 0.5% was prescribed</p>
2.	Circular No. 14/2006-Cus dated 17.04.2006	<p>Specific requirement to be fulfilled by the importer to submit a statement indicating the details of goods imported together with necessary documents of proof for checking on value, quantity, installation or any other document required by proper officer for finalization of contract.</p> <p>Requirement for plant site verification for actual installation of goods under project import can be fulfilled by means of a certification from the head of the PSU/ Government undertaking in the rank of Chairman/ Executive Director</p>
3.	Board's Circular No. 12/2011-Customs, dated 01/03/2011	<p>Requirement of Cash security was replaced with bank guarantee, equivalent to 2% of the CIF value goods sought to be imported subject to a maximum of Rs. 1 Crore. It is to be taken at the time of registration of the project contract under Project Import Regulations, 1986.</p>
4.	Circular No. 22/2011-Customs, dated 04/05/2011	<p>Board directed that finalization of assessments under project import should be completed within 60 days from date of submission of required documents by the importer.</p> <p>Further, directed that jurisdictional Central Excise Commissionerate should ensure that Plant Site Verification, wherever applicable, is completed within 15 days of submission of relevant documents by the importers.</p>

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5.	Instructions TRU F. No. 354/94/2011-TRU, dated 29/12/2011	Clarification regarding eligibility of Ash Handling System and Seamless pipes as parts/ components of Ash Handling System under Project Import (CTH 98.01).
6.	Circular No. 49/2011-Cusoms, dated 4/11/2011	Clarified that the scope of items eligible for import under Project Import Regulations 1986, shall cover construction equipment as auxiliary equipment; if essentially required for setting up or substantial expansion of registered projects.
7.	Circular No. 33/2013-Customs dated 23/08/2013	Clarified availability of duty exemption to the import of Ash Handling Systems, Water Treatment Plant and Coal Transportation facilities etc. required for Ultra-Mega/ Mega Power Projects under Heading 9801.

Concept of Sponsoring Authority under Project Imports

The primary requirement for being eligible for concessional rate of duty under Project Import Scheme is that Chapter Tariff Heading 9801 of the First Schedule to the Customs Tariff Act, applies only to specified projects sponsored by specified sponsoring authorities with a detailed itemized list of goods to be imported duly attested by the sponsoring authority and imported under specific contracts registered prior to the import of the goods.

The concept of Sponsoring Authority has been mentioned under Project Import Regulation, 1986 and depending upon the nature of the project, different Ministry/ Department have been specified as sponsoring authority. The list of projects and sponsoring authorities specified under PIR, 86 are as under:-

Table 7

Sr. No.	Name of the Plant or Project	Sponsoring Authority
1.	All plants and projects under SSI Units	Director of Industries of the Concerned State
2.	All Power Plants and Transmission projects under :-	
	(a) National Thermal Power Corporation Ltd.	National Thermal Power Corporation Ltd., NTPC Bhawan, SCOPE Complex, 7, Lodi Road, Institutional Area, New Delhi -110 003

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	(b) Tehri Hydro Development Corporation Ltd.	Tehri Hydro Development Corporation Limited Bhagirathi Bhawan (Top Terrace), Bhagirathipuram, Tehri Tehri (Garhwal) 249 001(UP).
	(c) Nathpa Jhakri Power Corporation Ltd.	Nathpa Jhakri Power Corporation Limited Himfed Building Khalini, Shimla (HP).
	d) North Eastern Electric Power Corporation Ltd.	North Eastern Electric Power Corporation Limited Brookland Compound Lower New Colony Shillong – 793 001.
	(e) National Hydroelectric Power Corporation Ltd.	National Hydroelectric Power Corporation Limited NHPC Office Complex Sector-33, Faridabad Faridabad (Haryana).
	(f) Bhakra Beas Management Board.	Bhakra Beas Management Board Madhya Marg, Sector-19/B Chandigarh - 160 019.
	(g) Central Power Research Institute.	Central Power Research Institute, Prof. C.V. Raman Road, Raj Mahal Vilas Extn. II, Stage P.O., P.B. No. 9401, Bangalore - 560 094.
	(h) National Power Training Institute.	National Power Training Institute Sector 33, Faridabad Haryana - 121 003.
	(i) Power Grid Corporation of India Ltd.	Power Grid Corporation of India Ltd. Hemkunt Chambers, 6th Floor, 87, Nehru Place, New Delhi - 110 019.
3.	Power Plants & Transmission Projects other than those mentioned at Sl. No. 2 above.	Secretary to the State Government or Union Territory concerned dealing with the subject of power or electricity.
3A.	Drinking Water Supply Projects for supply of water for human or animal consumption	Collector/District Magistrate/Deputy Commissioner of the District in which the project is located.
3B.	Aerial Passenger Ropeway Project	Joint Secretary to the Government of India in the Ministry of Tourism or the Secretary to a State Government dealing with subject of tourism
3C.	Water Supply Projects	Collector/District Magistrate/ Deputy Commissioner of the District in which the project is located.
3D.	Pipeline projects for the transportation of crude oil, petroleum products or natural gas	Ministry of Petroleum and Natural Gas.

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3E.	(a) Digital cinema development projects (b) Digital head end project	Ministry of Information and Broadcasting.
3F	Metro Rail or Monorail projects for urban public transport	Concerned State Government
3G	Project for installation of mechanized handling systems and pallet racking systems in mandis and warehouses for food grains, sugar and horticulture produce	Ministry of Agriculture
3H	Cold storage, cold room (including farm level pre-cooling) or industrial projects for preservation, storage or processing of agricultural, apiary, horticultural, dairy, poultry, aquatic and marine produce and meat	Ministry of Food Processing Industries
3-I	Green house set up for protected cultivation of horticulture and floriculture produce	Ministry of Agriculture
4.	Any other Plant and Project.	Concerned Administrative Ministry or Department.

Goods Eligible for Assessment under CTH 98.01 [Ref: Regulation 4 of PIR, 86]:

The Project Import regulations apply only for assessment and clearance of the goods falling under heading No. 98.01 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

The assessment under the said heading No. 98.01 is available only to those goods which are imported (whether in one or more than one consignment) against one or more specific contracts, which have been registered with the appropriate Custom House in the manner specified in regulation 5 and such contracts or contracts has or have been so registered,

- i. Before any order is made by the proper officer of customs permitting the clearance of the goods for home consumption;
- ii. In the case of goods cleared for home consumption without payment of duty subject to re-export in respect of fairs, exhibitions, demonstrations,

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seminars, congresses and conferences, duly sponsored or approved by the Government of India or Trade Fair Authority of India, as the case may be, before the - Customs payment of duty.

Registration of Contracts [Ref: Regulation 5 of PIR, 86] :

(i) In terms of Regulation 4 of the Project Import Regulations, 1986 (PIR) the basic requirement for availing the benefit of assessment under Tariff Heading No. 98.01 is that the importer should have entered into one or more contracts with the suppliers of the goods for setting up a project. Such contracts should be registered prior to clearance in the Custom House through which the goods are expected to be imported. The importer is required to apply for such registration in writing to the proper officer of Customs.

(ii) Regulation 5 provides in the manner of registering contracts, as follows:

- (a) Before any order is made by the proper officer of Customs permitting the clearance of the goods for home consumption;
- (b) In the case of goods cleared for home consumption without payment of duty subject to re-export in respect of fairs, exhibitions, demonstrations, seminars, congresses and conferences, duly sponsored or approved by the Government Of India or Trade fair Authority of India , as the case may be, before the date of payment of duty.

(iii) To expedite registration, the importers are advised to submit the following documents along with the application for registration:

- (a) Original deed of contract together with true copy thereof.
- (b) Industrial Licence and letter of intent, SSI Certificate granted by the appropriate authority with a copy thereof.
- (c) Original Import licence, if any, with a list of items showing the dimensions, specifications, quantity, quality, value of each item duly attested by the Licensing Authority and a copy thereof.
- (d) Recommendatory letter for duty concession from the **concerned Sponsoring Authority**, showing the description, quantity, specification, quality, dimension of each item and indicating whether the recommendatory letter is for initial set-up or substantial expansion, giving the installed capacity and proposed addition thereto.

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- (e) Continuity Bond with specified security. The said continuity Bond should be made out for an amount equal to the CIF value of the contract sought to be registered.
- (f) Process flow chart, plant layout, drawings showing the arrangement of imported machines along with an attested copy of the Project Report submitted to the Sponsoring authorities, Financial Institution, etc.
- (g) Write up, drawings, catalogues and literature of the items under import.
- (h) Two attested copies of foreign collaboration agreement, technical agreement, know-how, basic/detailed engineering agreement, equipment supply agreement, service agreement, or any other agreement with foreign collaborators/suppliers/ persons including the details of payment actually made or to be made.
- (i) Such other particulars, as may be considered necessary by proper officer for the purpose of assessment under Heading No. 9801.

(iv) After satisfying that goods are eligible for project imports benefit and importer has submitted all the required documents, the contract is registered by the Custom House and as a token of registration, the provisional duty bond is accepted by the Assistant/ Deputy Commissioner of Customs, Project Import Group. The details of the contracts are entered in the register kept for the purpose and a Project Contract Registration Number is assigned and communicated to the importer. The importer is required to refer to this number in all subsequent correspondence.

Note: The Government has prescribed that a security in the form of bank guarantee, equivalent to 2% of the CIF value goods sought to be imported subject to a maximum of Rs. 1 Crore has to be given at the time of registration of Contract under PI. The Government department and PSUs are exempted from furnishing security. Further, in case of fertilizer projects, which are liable to zero rate of duty, only a nominal security not exceeding 0.5% of the CIF value has been prescribed. For details, the Circular mentioned in the Table 6 may be referred.

(b) Amendment of Contract [Ref: Regulation 6 of PIR, 86] :

- (i) If any contract, whether before or after registration is amended, then the importer is required to make an application for registration of the amendments to the said contract to the proper officer.
- (ii) The application is required to be accompanied by the original deed of contract relating to the amendments together with a true copy thereof. Further, the

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documents such as consequential amendments to the import trade control license, wherever required or clearance from the concerned sponsoring authority, and duty attested list of articles to be imported are also required to be submitted.

- (iii) On being satisfied that the application is in order, the proper office is required to make a note of the amendments in the register.

(c) Clearance of Goods after Registration:

On every Bill of Entry filed for clearance of goods under the Project Import Scheme, the importer/CHA is required to indicate the Project Contract Registration Number allotted to it. After noting, the Bill of Entry is sent to the Project import Group, which is required to check the description, value and quantity of the goods imported *vis-a-vis* the description, value and quantity registered. In case these particulars are found in order, the Bill of Entry is assessed provisionally and handed over to the importer or his agent for payment of duty. The Project Import Group keeps a note of the description of the goods and their value in the Project Contract Register and in the file maintained in the Group for each project.

(d) Finalisation of Contract [Ref: Regulation 7 of PIR, 86]:

(1) Under Regulation 7 of the PIR, 1986, the importer is required to submit, within three months from the date of clearance of the last consignment or within such extended time as the proper officer may allow, the following documents for the purpose of finalization of the assessment:

- (i) A reconciliation statement i.e. a statement showing the description, quantity and value of goods imported along with a certificate from a registered Chartered Engineer certifying the installation of each of the imported items of machinery;
- (ii) Copies of the Bills of Entry, invoices, and the final payment certificate are insisted upon only in cases where the contract provides that the amount of the transaction will be finally settled after completion of the supplies.

(e) Plant Site Verification

To ensure that the imported goods have actually been used for the projects for which these were imported, plant site verification may be done in cases where value of the project contract exceeds Rs.1 crore. In other cases, plant site verification is normally done selectively.

Project Imports

(f) Finalisation of Provisional Assessment and Recovery of differential duty, if any

In the normal course, after submission of the reconciliation statement and other documents by the importers, the provisional assessments are finalized within a period of three months where plant site verification is not required and within six months where plant site verification is required. In cases where a demand has been issued and confirmed on such finalization and importer has not paid the duty demanded, steps are taken as per law to realise the amount.

Important Case Laws relating to Scheme of Project Imports

The essential requirements to be fulfilled for being eligible for concessional rate of duty under project import scheme are as under:-

- (1) Goods should have been imported against a specified contract registered with the appropriate Customs House;
- (2) Such registration should have been made in the manner prescribed by the regulations;
- (3) Registration of the contract should have been obtained before the order (granting permission for clearance of the goods) was passed.

[laid down by Hon'ble Supreme Court in the case of Mihir Textile Limited Vs Collector of Customs]

- Assessment under 98.01 cannot be forced on importer-[Citation: Commissioner v. Maxxon (I) Ltd.-2001(137) ELT 590 (Tri.-Del.)]
- Auxiliary Equipment- Any equipment which helps or aids in setting up of an industrial plant would be covered Under CTH 98.01-[Citation: Commissioner v. Toyo Engineering India Limited- 2006 (201) ELT 513(SC)];
- Exemption under different Tariff heading not claimable when imported under Project Import – [Citation: Tamil Nadu Newsprint& Papers Ltd v. Appraiser- 2000(116)ELT3(SC)]
- Initial setting up of a unit is includes setting up a unit in stages for the first time. This phrase is not inconsistent with phased implementation.-[Citation: Asiatic Oxygen Ltd. v. Assistant Collector-1992(57) ELT563(Cal.)]

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