

GOVERNMENT OF PAKISTAN  
COLLECTORATE OF CUSTOMS (Appraisalment)  
CUSTOM HOUSE, KARACHI

No.SI/MISC/85/89-VI

Dated 31.03.1990

PUBLIC NOTICE NO.11/90-(APPRAISEMENT)

SUBJECT: ASSESSMENT AND CLASSIFICATION OF ACCESSORIES/SPARE PARTS IMPORTED WITH MACHINERY.

A dispute has arisen about the PCT classification of accessories, spare parts and auxiliary machinery imported with the main machinery and assessment of duties thereon. The importers and the Clearing Agents claim that the auxiliary machinery, accessories and spare parts imported with the main machinery shall be classified under the same heading under which the main plant and machinery is to be classified and the same rate of duty should be applied on auxiliary machinery, accessories and spare parts which is leviable on the main machinery under PCT heading or under any concessionary SRO notification. In their support, they quote CGO 12/81 dated 4<sup>th</sup> September 1981 and the Central Board of Revenue letter C.No.1(9) March/78 dated 23<sup>rd</sup> October, 1988.

As per Customs General Order No. 12/81, Central Board of Revenue has directed that spare parts imported as part of original sanction for initial installation, expansion or BMR for a project should be given the same concession as is admissible to the main plant and machinery. Similarly, in the above referred letter, the CBR has ruled that sliver cans forming part of the original sanction for exclusive use in conjunction with textile machinery for the purpose of extension of the existing unit are entitled to benefits envisaged in SRO No 458(I)/88 dated 20<sup>th</sup> June, 1988.

The importers and Clearing Agents, also claim that it is an established practice in the Custom House that auxiliary machines, accessories and spare parts are classified under the same heading in which the machinery is classified and release after granting concession of duties as is granted to the machinery.

The entire issue has been examined in detail and it is noted with concern that the importers, Clearing Agents and the Customs staff posted in the concerned group are not following the instructions laid down in Public Notice No.17/84 dated 1<sup>st</sup> July, 1987. The Clearing Agents are producing invoices supported with Packing List which do not indicate the details of the auxiliary machines, accessories and spares and the declaration on the Bill of Entry is also not comprehensive and clear. The number of accessories, spare parts and auxiliary machines are not indicated in the invoices, packing lists and are not be cleared in the bills of Entry. Similarly, the Customs officers posted in the concerned group and in the sheds fail to point out these camouflaged declarations made on the Bills of Entry, invoices and packing lists by the Clearing Agents on behalf of the importers. As a result, a few bills of entry have been passed by the concerned staff accepting the classification of auxiliary machine, accessories and spare parts in the same \*\*\*\*\* of main machinery and allowing the benefit under various SROs. It will, therefore, not be appropriate to accept this evidence as a practice based on law or approved procedure.

The factual position in respect of correct classification of these spares is explained in the Pakistan Customs Tariff \*\* itself. Note 2 to Section XVI, which covers Chapters 84 and 85, says as under:-

Subject to Note 1 to this Section Note 1 to Chapter 84 and Note 1 to Chapter 85, parts of machines (not being parts of the articles of heading No. 84.84, 44, 85, 85.46 or 85.47) are to be classified according to the following ruels:-

Parts which are \*\*\*\*\* included in any of the headings of Chapter 84 or 85 (other than heading No. 84.85 & 85.48) are in all cases to be classified in their respective headings.

Other parts, if suitable for use solely or principally with a particular kind of machine or with a number of machines of the same heading (including a machine of heading No.84.79 or 85.43) are to be classified with the machines of that kind. However, parts which are equally suitable for use principally with the goods of headings No. 85.17 and 85.25 are to be classified in heading No. 85.17.

All other parts are to be classified in heading No. 84.85 or 85.48

The above rules have been elaborated in the Explanatory, Notes to the Harmonized System as pages 1130, 1231 and 1253 thereof according to which cans, cards, bobbins and feels are to be classified according to their constituent material. Similarly, pumps, fitters, compressors, fibre/revving or sliver can and such other items are to be classified in their respective specific headings in the PCT. For this very reason the VBR has issued SRO 488(I)/88 dated 26<sup>th</sup> June, 1988, which provides that components, parts of machinery falling under chapter 84 and 85, although assessable in their respective headings of the PCT, are chargeable to 20% customs duty as leviable on the main machinery. The above mentioned notification issued by the Board makes it quite clear that the components, parts, accessories and spare would fall for classification in their respective headings and gives strength to the views of this Custom House. It is, therefore, established that auxiliary machines, accessories and spares are required to be classified under their, respective appropriate PCT headings.

As for the question for grant of concessions of Customs duties under various SROs is concerned, ... is noted that the Customs General Order No. 12/81 dated 14<sup>th</sup> September, 1981 and CBR's letter No (9) March/78 dated 23<sup>rd</sup> October, 1988 allow the benefit under different SROs only if the accessories, auxiliary machines and spare are imported for BMR, initial installation or ..... as per the original sanction given by the respective department of the Government of Pakistan. It is observed that most of the machinery is now being imported without any formal sanction by the Ministry of Industries or by any other concerned department of the Government of Pakistan due to liberalization of industrial or by any other concerned department of the CBR are of no help in such cases. Further more, the Customs General Order and the letter of the Central Board of Revenue are specific in their nature and do not provide an umbrella for release of spares, accessories and auxiliary machines with the main machines. The under-lying idea in these communication of the Central Board of Revenue is that only reasonable quantity, essential for running the main machinery at given point of time, is intended to be released either benefit under different concessionary SRCs. Thus the auxiliary machines, accessories and spares required for replacement or for maintenance of these machines for a longer period are not covered under the above referred communications of the Central Board of Revenue vide its letter No.1(78) March/88 dated 31<sup>st</sup> August, 1988, in which it has been ruled that the current spares used for maintenance are not entitled to the concession of duties envisaged in the concessionary notification. Similarly, CBR has revised the definition of machinery in the Budget of 1988-89 and now the definition of machinery excludes the current spares from the purview of the concessionary rate duty.

In view of the foregoing elucidation, it is ruled that:-

- i) all the auxiliary machines, accessories and parts which are classifiable under any other heading/sub-headings of the PCT shall be classified separately irrespective of the classification of the main plant and machinery.
- ii) Only auxiliary machines, accessories and spares which are reasonable in quantity required for initial running of the machines will be allowed concession of duty under various SROs on case to case basis by an officer not below the rank of Assistant Collector.

In order to avoid disputes of classification and to ensure proper levy of customs duties on import of accessories, spare parts and auxiliary machinery imported alongwith main plant and machinery, the importers / clearing agents and concerned customs officer are directed to strictly follow the instructions contained in Public Notice No. 17/87, dated 12<sup>th</sup> October, 1987. In future, a comprehensive and detailed declaration of accessories, spares parts and auxiliary machinery and their corresponding PCT headings shall be made on the Bills of Entry without any exception.

Sd/-  
(RIAZ AHMED MALIK)  
Collector