



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण
(पोल्ट परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय)
National Highways Authority of India

(Ministry of Shipping, Road Transport & Highways)
G-5 & 6, Sector-10, Dwarka, New Delhi-110075

Phone : 91-11-25074100/25074200
Fax : 91-11-25093507/25093514
Extn. : 2223/2318/2468/2553

No. 11041/21/2002-Admn.

February 14, 2005

POLICY MATTER – ADMINISTRATION/FINANCE (98/2005)

(Decision taken on Manager (F)-II's File No. NHA1/F&A/Policy/Excise duty/2004/11/8 dated 03.01.2005)

Sub: Price escalation of Bitumen in respect of Externally Aided Projects (EAP) where certificate to avail either 'excise duty exemption' or 'deemed export benefit' is issued by NHAI in favour of the contractors.

In respect of the Externally Aided Projects (EAPs) [like World Bank, Asian Development Bank etc], exemption from payment of excise duty is admissible under notification no. 108/95-CE dt. 28.5.1995. In addition, the Deptt. of Economic Affairs, M/o Finance, vide Public notice number 1(FT) /DEA/2000 dated 9.8.2000 has notified some agencies for the purpose of grant of 'deemed export benefits'. Accordingly, the contractors avail the benefit either under notification no. 108/95-CE and thereby do not pay excise duty at the time of procurement or avail duty drawback under the 'deemed export' benefits.

2. In view of the above, the matter regarding payment of price escalation on bitumen has been examined and it has been decided that:

- (i) In either of the above two cases, the component of excise duty shall not be included for the purpose of payment of price escalation in respect of the materials. (i.e. it shall not be included in the base rate as prescribed in the contract as well as the current price).
- (ii) Where no certificate is issued to the contractor to avail either of the benefits, the escalation payment may include the excise duty component.

3. The payment of escalation, subject to (2) above, shall be governed in accordance with the provision contained in the contract. The Contract generally prescribes for payment of escalation by applying the difference between the base rate (as mentioned in the contract) and the current price. Unless otherwise prescribed in the contract, the current price shall be the ex-refinery price, which would include only the basic price and excise duty (also educational cess @ 2% of the excise duty) {as ascertained from Indian Oil Company Ltd, Mathura Refinery}. The component of the base rate (as mentioned in the contract) i.e., whether it includes excise duty, sales tax etc. shall be ascertained and matched with the base rate mentioned in the contract before making any payment on account of price escalation.


Contd... 2/-

4. Since a contract prescribes for payment of escalation on the basis of current price prevailing at the nearest refinery; all the procurement should necessarily be made from the nearest refinery. If the procurement is made from any other source, the contractor should first obtain the approval of the Engineer/Employer for procurement of bitumen from any other source. In any case, the payment of escalation shall be the minimum of:

- (a) Escalation based on the rates of nearest refinery (i.e., the difference between the base rate and the current price prevailing at the nearest refinery); or
- (b) Escalation based on the source of procurement (i.e., the difference between the base rate and the current price prevailing at the source refinery).

It shall be the responsibility of the contractor to provide the information as per (b) above to the Engineer/Employer.

This issues with the approval of the Chairman.


(G.P. Chand)
General Manager (Admn)

To,

1. All Members
2. All CGMs/GMs
3. All DGMs/Managers
4. All PIUs / CMUs/SPVs
5. Librarian

Copy to:

1. PS to Chairman
2. Director of Audit, Govt. Audit Office, NHA
3. Library/Hindi Officer

Goods supplied to UN or an International Organisation

Notification No. 108/95-C.E., dated 28-8-1995

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excises and Salt Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts all goods falling under the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the said goods) when supplied to the United Nations or an international organization for their official use or supplied to the projects financed by the said United Nations or an international organization and approved by the Government of India, from the whole of -

- (i) the duty of excise leviable thereon under section 3 of the Central Excise Act, 1944 (1 of 1944); and
- (ii) the additional duty of excise leviable thereon under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957):

Provided that before clearance of the said goods, the manufacturer produces before the Assistant Commissioner of Central Excise having jurisdiction over his factory,-

- (a) in case the said goods are intended for the official use by the United Nations or an international organization, a certificate from the United Nations or that international organization that the said goods are intended for such use;
- (b) in case the said goods are -
 - (i) supplied to an international organisation listed in the Annexure appended to this notification for use in a project that has been approved by the Government of India and financed (whether by a loan or a grant) by such an organisation, a certificate from such an organisation that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India; or
 - (ii) supplied to a project that has been approved by the Government of India and financed (whether by a loan or a grant) by an international organization listed in the said Annexure, a certificate from an officer not below the rank of Deputy Secretary to the Government of India, in the Ministry of Finance (Department of Economic Affairs) that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India.
- (c) in case the said goods are intended to be supplied to a project financed (whether by a loan or a grant) by the World Bank, the Asian Development Bank or any international organization other than those listed in the Annexure, and
 - (i) if the said project has been approved by the Government of India, a certificate from the executive head of the Project Implementing Authority and countersigned by an officer not below the rank of a Joint Secretary to the Government of India, in the concerned Line Ministry in the Government of India, that the said goods are required for the execution of the said project and that the said project has duly been approved by the Government of India, and
 - (ii) if the said project has been approved by the Government of India for implementation by the Government of a State or a Union Territory, a certificate from the executive head of the Project Implementing Authority and countersigned by the Principal Secretary or the Secretary (Finance), as the case

may be, in the concerned State Government or the Union Territory, that the said goods are required for the execution of the said project, and that the said project has duly been approved by the Government of India for implementation by the concerned State Government.

Explanation. - For the purposes of this notification,-

- (a) "international organization" means an international organization to which the Central Government has declared, in pursuance of section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), that the provisions of the Schedule to the said Act shall apply;
- (b) "Line Ministry" means a Ministry in the Government of India, which has been so nominated with respect to a project, by the Government of India, in the Ministry of Finance (Department of Economic Affairs).

ANNEXURE

1. United Nations Development Programme,
2. United Nations International Children's Fund,
3. Food and Agricultural Organisation,
4. International Labour Organisation,
5. World Health Organisation,
6. United Nations Population Fund.
7. United Nations World Food Programme.
8. United Nations Industrial Development Organisation.

[Notification No. 108/95-C.E., dated 28-8-1995 as amended by Notifications No. 7/98-C.E., dated 2-6-1998; No. 33/98-C.E., dated 13-10-1998; No. 4/99-C.E., dated 11-2-1999, No. 40/99-C.E., dated 2-11-1999, No. 36/2001-C.E., dated 6-7-2001 and No. 50/2001-C.E., dated 12-10-2001].

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF ECONOMIC AFFAIRS

Public Notice No.1(FT)/DEA/2000
New Delhi, dated the 9th August, 2000

Subject: Deemed Exports under para 10.2(d) and grant of Advance Licence for Deemed Export under para 7.3(c) of Export and Import Policy, 1997-2002.

Attention is invited to Para 10.2(d) of the Export and Import Policy, 1997-2002 (as amended upto 31.3.2000) under which supply of goods to projects financed by multilateral or bilateral agencies/ funds as notified by the Department of Economic Affairs, Ministry of Finance under international competitive bidding in accordance with the procedures of those agencies/ funds, where the legal agreements provide for tender evaluation without including the customs duty, shall be regarded as "Deemed Export" under the said policy, provided the goods are manufactured in India. Such supply of goods are eligible for Deemed Export Benefits under para 10.3 of the Exim Policy, 1997-2002. Grant of Advance Licence for Deemed export will be governed by the provisions of para 7.3(c) of the said policy.

2. In terms of provisions of para 10.2(d) of the Export and Import Policy, 1997-2002, the Central Government hereby notifies the following agencies for the purpose of Deemed Export Benefits :-

1. International Bank for Reconstruction and Development (IBRD) and International Development Association (IDA).
2. International Fund for Agricultural Development (IFAD)
3. Asian Development Bank (ADB)
4. Organisation of Petroleum Exporting Countries (OPEC) Fund.
5. Yen credit channelised through ~~Japan Bank for International Cooperation (JBIC)~~ (Development component only)
6. Swedish International Development Agency (SIDA).

3. The supplies to projects funded by the above mentioned agencies would be eligible for deemed export benefits subject to the condition that the supplies are made under ICB procedure only.

4. This Public Notice is in super-session of this Department's Public Notice No.1(FT)/DEA dt.23.6.1994 as amended vide Public Notices No.3(FT)/DEA dt.17.10.1994, No.5(FT)/DEA dt.13.11.1995 and No.2(FT)/DEA/99 dated 14.10.1999?

G. S. Dutt
8.8.2000
(G.S. Dutt)

Joint Secretary to the Govt. of India

Copy forwarded for information and necessary action to all Ministries/Depts. of Government of India/Office of DGFT/Director(PR), Ministry of Finance/
J.S. (DEA) / J.S. (S.D.R.) / S.D. (S.D.R.) / J.S. (F.F.C.) / J.S. (F.T.)