

6. DONATIONS AND GIFTS

GENERAL EXEMPTION NO. 23

Exemption to specified free gifts, donations, relief and rehabilitation material imported by charitable organisations, Red Cross Society, CARE and Government of India. — 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 to do, hereby exempts goods (hereinafter referred to as the said goods) of the description specified in column (2) of the hereto annexed and falling within the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from the whole of the duties of customs leviable thereon under the said First Schedule and from the whole of the ¹integrated tax leviable thereon under sub-section (7) of Section 3] of the second mentioned Act subject to the conditions specified in column (3) against each number in column (1) of the said Table.

TABLE

S. No.	Description of goods	Conditions
(1)	(2)	(3)
1.	The following goods :- (1) Foodstuffs (2) Medicines (3) Medical stores of perishable nature (4) Clothing (5) Blankets	(i) The said goods have been imported by a charitable organisation in India as a free gift to it from abroad or purchased out of donations received abroad in foreign exchange by it; (ii) the said goods are for free distribution to the poor and the needy without distinction of caste, creed or race; (iii) the importer, at the time of importation of the said goods :- (a) produces a certificate to the Assistant Commissioner of Customs from the State Government concerned or from person or institution specified by the Central Board of Excise and Customs certifying that it is a bona fide organisation engaged in relief work and in the distribution of relief supplies to the poor and the needy without any distinction of caste, creed or race; or (b) otherwise satisfies the Assistant Commissioner in this regard; (iv) the Assistant Commissioner is satisfied, having regard to the activities bona fides of the importing organisation, the area of its operations; its financial resources; the status of the donor, the nature, value and quantity of the goods imported; the food and sartorial habits of the people amongst whom the imported goods are to be distributed; that the goods are bona fide gifts for free distribution to the poor and the needy without any distinction of caste, creed or race; (v) the importer gives an undertaking to the [*] [Assistant Commissioner of Customs or Deputy Commissioner of Customs] to the effect that he would furnish to the Central Board of Excise and Customs within six months from the date of importation of the said goods or such extended period as the [*] [Assistant Commissioner of Customs or Deputy Commissioner of Customs] may allow, a certificate stating that the said goods have been distributed to the poor and the needy, free of cost without any distinction of caste, creed or race; (vi) where the said goods have been purchased out of donations received abroad in foreign exchange, the organisation has been permitted to maintain an account abroad by the Reserve Bank of India for the purpose of receiving funds from overseas.
2.	Goods imported by the Indian Red Cross Society	At the time of importation, the importer produces to the [*] [Assistant Commissioner of Customs or Deputy Commissioner of Customs] a certificate from the Secretary General, Indian Red Cross Society, to the effect that the goods in question are required for purposes of relief to distressed persons.

¹ Substituted (w.e.f. 1-7-2017) by Notification No. 43/2017-Cus., dated 30-6-2017.

^{*} Substituted by M.F. (D.R.) Notification No. 61/99-Cus., dated 11-5-1999.

GENERAL EXEMPTION NO. 23

A. Wool, Woollen Fabrics and Woollen apparels received as gifts by the Indian Red Cross Society	-]
Drugs, medicines and medical equipments	<p>(i) The said goods are required for the treatment of the victims of the Bhopal Gas Leak Disaster;</p> <p>(ii) the importer produces, at the time and place of clearance, a certificate from an officer of the Government of Madhya Pradesh not below the rank of a Joint Secretary to that Government, to the effect that the specified drugs, medicines and medical equipments are required for the treatment of the victims of the Bhopal Gas Leak Disaster, and that such drugs, medicines and medical equipments are likely to be so used within three months from the date of their importation;</p> <p>(iii) the importer gives an undertaking to the effect that he would furnish a certificate from an officer of the Government of Madhya Pradesh not below the rank of a Joint Secretary to that Government to the * [Assistant Commissioner of Customs or Deputy Commissioner of Customs] within six months from the date of importation of such drugs, medicines and medical equipments or such extended period as the Assistant Commissioner of Customs may allow, certifying that the drugs, medicines and medical equipments have been so used.</p> <p><i>Explanation.</i> - "Bhopal Gas Leak Disaster" means the occurrence on the 2nd and 3rd days of December, 1984, which involved the release of highly noxious and abnormally dangerous gas from a plant in Bhopal (being a plant of the Union Carbide India Limited, a subsidiary of the Union Carbide Corporation, U.S.A.) and which resulted in loss of life and damage to property on an extensive scale.</p>
2[4. (i) Gift commodities imported by Cooperative for American Relief Everywhere, Incorporated, since renamed as Cooperative for Assistance and Relief Everywhere Incorporated, (hereinafter referred to as CARE) or its distributing Organisations, approved by the Government of India, under the Agreement between President of India and CARE. (ii) Supplies and equipment imported by CARE or its distributing Organisations, approved by the Government of India, under the Agreement between President of India and CARE; and (iii) Supplies and equipment for the official use of the officers of CARE	<p>The importer, at the time of import, gives an undertaking that the gift commodities are meant for free distribution.</p> <p>The importer, at the time of import, gives an undertaking that the supplies and the equipment, when no longer required for the purposes for which they were imported, will be exported out of India and that the imported supplies and equipment are not meant for the personal use of the officers of CARE or its distributing organisations and, further, that any of the supplies or equipment shall not be passed on to a third party by way of sale or otherwise in contravention of the said Agreement.]</p>
5. Goods imported into India for the purposes of relief and rehabilitation	<p>(i) The said goods are imported into India in accordance with the terms of any agreement in force between the Government of India and any foreign Government providing for duty-free entry of such goods into India; and</p> <p>(ii) the goods so imported shall not be sold or otherwise disposed of in India except with the prior approval of, and on fulfilment of such conditions as may be imposed by, the Government in this behalf.</p>
6. Articles of food and edible material	The goods are supplied as free gifts to the Government of India, either by the agencies approved by the United Nations Organisation or by the European Economic Community.

1 Inserted by Notification No. 4/2020-Cus., dated 2-2-2020.

* Substituted by M.F. (D.R.) Notification No. 61/99-Cus., dated 11-5-1999.

2 Substituted by Notification No. 162A/2003-Cus., dated 4-11-2003 as corrected by Corrigendum F. No. 528/84/99-Cus. (TU), dated 11-11-2003.

GENERAL EXEMPTION NO. 24

7.	(i) Articles donated to the Government of India for use of defence personnel (ii) Articles including bullion donated to the National Defence Fund	The articles donated were deposited with the Indian Mission in the country of export and despatched by that Mission to the Government of India or to the officer or officers as that Government may specify in this behalf.
¹ [8.	² [Goods, gifted or supplied free of cost under a bilateral agreement between the Government of India and a Foreign Government.]]	

[Notification No. 148/94-Cus., dated 13-7-1994 as amended by Notifications No. 173/94-Cus., dated 6-10-1994; No. 101/95-Cus., dated 26-5-1995; No. 48/96-Cus., dated 23-7-1996; No. 108/2001-Cus., dated 16-10-2001; No. 162A/2003-Cus., dated 4-11-2003; No. 56/2011-Cus., dated 7-7-2011; No. 43/2017-Cus., dated 30-6-2017; No. 4/2020-Cus., dated 2-2-2020.]

DEPARTMENTAL CLARIFICATIONS / CASE LAW

Degummed rapeseed oil imported by PSU nominated by Govt. of India to import the oil and provided as gift to the Government of India is entitled to exemption under Notification No. 148/94-Cus. — *State Trading Corp. of India Ltd. v. Commissioner - Mumbai* (245) E.L.T. 629 (Tri. - Ahmd.).

Distribution certificates issued by the District Magistrate/Dy. Commissioners/District Collector or his nominee/Asstt. Commissioner of Central Excise would be regarded as acceptable evidence for the purposes of distribution of goods. — *M.F. (D.R.) Circular No. 16/97-Cus., dated 4-6-1997* — 1997 (93) E.L.T. (T9).

Donations. - Import by donee registered under Indo-US Agreement 1968 for free distribution to poor and needy. Certificate issued by Ministry of Social Justice and Empowerment, supporting fact of registration. Importer entitled to benefit under Notification No. 148/94-Cus., Serial No. 8, as they had fulfilled the only condition prescribed therein. Such exemption denied on ground that importer did not produce evidence of actual distribution of imported goods to needy and poor. — *Catholic Relief Services v. Commissioner* — 2013 (290) E.L.T. 683 (Tri.-Mumbai).

Fruit Processing Plant. — Machinery/equipments imported for setting up of Fruit Processing Plant, are eligible for exemption under Serial No. 8 of Notification No. 148/94-Cus. Benefit of notification ibid cannot be denied on the ground that the said goods were not supplied free of cost but on loan, especially when European Union issued certificate showing that the said goods were gifted free of cost under an agreement between it and Government of India and meant for setting up of the said Plant. — *la Horticultural v. Commissioner* — 2018 (363) E.L.T. 919 (Tri. - Bang.).

Gifted food consignments (CARE/WFP) declared damaged and categorised unfit for human consumption but fit for poultry/animal feed - Mode of Disposal. — General Exemption Notification No. 148/94-Cus. will also be applicable to consignments of damaged foodstuffs, which are not fit for human consumption but are fit for animal consumption, irrespective of the fact whether these consignments were damaged either prior to their clearance from customs or subsequent to their clearance, subject to furnishing of a certificate from the concerned State Government that the goods have been converted into animal feed. — *Based on C.B.E. & C. Circular No. 9/97-Cus., dated 11-4-1997* — 1997 (92) E.L.T. (T42).

GENERAL EXEMPTION NO. 24

Exemption to second-hand computers/computer peripherals including printer, plotter, scanner, monitor, keyboard and storage unit received as donation by schools, other public or Charitable Institutions. — In exercise of the power 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, and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 18/1999-CUSTOMS, dated the 11th February, 1999, published in the Gazette of India Extraordinary vide, G.S.R. No. 99(E), dated the 11th February, 1999, hereby exempts second-hand computers and computer peripherals including printer, plotter, scanner, monitor, keyboard and storage unit from the whole of duty ³[* * *], in so far as such goods are leviable thereon under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975), when received as donation by

- (i) a School run by the Central Government or, Government of a State or, a Union territory or, a local body;
- (ii) an Educational Institution run on non-commercial basis by any organization;
- (iii) a Registered Charitable Hospital;
- (iv) a Public Library;
- (v) a Public Funded Research and Development Establishment;

1 Inserted by Notification No. 48/96-Cus., dated 23-7-1996.

2 Substituted by Notification No. 56/2011-Cus., dated 7-7-2011.

3 Omitted (w.e.f. 1-7-2017) by Notification No. 44/2017-Cus., dated 30-6-2017.