PHD House, 4th Floor, Ramakrishna Dalmia Wing
4/2, Siri Institutional Area, August Kranti Marg, New Delhi – 110016,
Tel# 9599665859 E-mail: ceo@mait.com Website: http://www.mait.com

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Shri Gaurav Masaldan, IRS
Jt. Secretary-Customs
Ministry of Finance

Subject: Request for allowing depreciation on clearance of capital equipment under the scheme for manufacture under The Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019, ["MOOWR, 2019"].

Respected Sir,

Greetings from MAIT!

We would like to take this opportunity to thank CBIC for its continued support to the industry in policy related issues.

We write to you in order to draw your kind attention towards the disadvantages faced by bonded warehousing units in respect to the benefits available to units set up for export promotion schemes. Please further note that this peculiar issue is in the context of clearance of used imported capital goods on payment of customs duty to the domestic tariff area.

On 1st October 2019, the Government released the Circular-34/2019-Customs, through which the modalities for the Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019, were explained. Through the said scheme several trade-friendly measures were introduced, which made the scheme welcoming to a certain extent and we earnestly thank the Government for the same. However, it also propagates a major concern which is because even though the MOOWR scheme does not have any provision denying depreciation on clearance of used and imported capital equipment, its Frequently Asked Questions (FAQs) still categorically mentions that depreciation is not available if imported capital goods (on which duty has been deferred) are cleared for home consumption after use in a Section 65 unit. Furthermore, the FAQs also states that when it comes to exports, the imported capital goods (on which duty has been deferred) after use in a Section 65 unit can be exported without payment of duty as per Section 69 of the Customs Act.

In view of the aforesaid observations, we are of the opinion that non-incorporation of provisions related to applicability of depreciation is grossly discriminatory in nature, especially because the Government has provided such benefits under other export related schemes. For example:

- Under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 ["**IGCR Rules**"] also, since 2021, depreciation is allowed in straight line method, as specified below:
    i. for every quarter in the first year @ 4%;
    ii. for every quarter in the second year @ 3%;
    iii. for every quarter in the third year @ 3%;
    iv. for every quarter in the fourth and fifth year @ 2.5%;
    v. and thereafter for every quarter @ 2%.

- Under the Handbook of Procedures (2015-2020) (in force till 31.03.2022), for Export Oriented Units ["**EOUs**"], Electronics Hardware Technology Parks ["**EHTPs**"], Software Technology Parks ["**STPs**"] Scheme and Bio-Technology Parks ["**BTPs**"], the depreciation rate for capital goods other than computers and computer peripherals is as below:
    - 4% for every quarter in first year;
    - 3% for every quarter in second and third year;
    - 2.5% for every quarter in fourth and fifth year;
    - 2% for every quarter thereafter.

The aforementioned examples clearly show that the Government has provided such benefits in other export related schemes as they appreciate the fact that capital goods by their very nature will lose their value once they are used and, therefore, in order to maintain the competitiveness in the exports sector alive, the existing machines will have to be continuously upgraded with newer machines and variants. Similarly, as a bonded unit is not different when compared with other export-oriented units, it is hence, imperative that the same benefits are extended and made applicable to all the other export promotion schemes as well.

In view of the aforesaid, we humbly request the following –

i. the depreciation on imported capital goods at the time of clearance may also be allowed under the MOOWR, 2019 regulations and,

ii. in order to support and promote the truest essence of *Make in India, For the World,* duty should be computed on depreciated value in line with other schemes such as Export Oriented Units / Special Economic Zones etc.

With regards,

George Paul
Chief Executive Officer

CC: Shri Vimal Kumar Srivastava, IRS, Commissioner-Customs, Ministry of Finance