

Import for solar-power generation projects not eligible for MOOWR scheme

18 December 2024

Earlier, the Delhi High Court (HC), in the case of Acme Heergarh Powertech Private Limited, held that solar power-generating companies are eligible to avail the benefits under the Manufacture and Other Operations in Warehouse Regulations, 2019 (MOOWR Scheme). Further, the HC held that the duty deferment on imported capital goods is permissible even if they are not consumed or integrated into the final product, provided they contribute to the manufacturing process within the warehouse. Accordingly, Instruction No. 13/2022, dated 9 July 2022, issued by the Central Board of Indirect Taxes and Customs (CBIC) and the subsequent show cause notices denying benefits of the MOOWR scheme to the petitioner were quashed.

Recently, the Supreme Court had also issued a notice to the Revenue in Special Leave Petition [SLP No(s).20274-20281/2024], challenging the Delhi HC's judgement.

The Finance Act (No. 2), 2024, vide Section 101, granted power to the central government to specify certain manufacturing and other operations in relation to a class of goods that shall not be permitted in a warehouse under MOOWR u/s 65(1) of the Customs Act.

In this regard, the CBIC has issued Notification No. 86/2024-Customs (N.T.), dated 16 December 2024, to specify manufacturing processes and operations that shall not be permitted in warehouses under Section 65 of the Customs Act.

Accordingly, it has been notified that the goods imported for solar power generation projects that supply electricity will not be permitted for manufacturing processes or other operations in a warehouse, effective **17 December 2024**. The restriction applies only when electricity results from the manufacturing processes and other operations concerning the warehoused goods u/s 65 of the Customs Act.

Our comments

The MOOWR scheme was designed to facilitate duty-free imports for manufacturing activities within warehouses. However, the solar industry faced hurdles in availing this benefit due to a CBIC instruction that deemed solar power-generating units ineligible under the scheme.

The Delhi High Court's favourable ruling allowed the solar industry to access the MOOWR benefits. To nullify the impact of this judgement, the Finance Act (No.2) 2024 amended the MOOWR provisions under customs law, empowering the government to specify operations that would not be allowed under the scheme. Pursuant to this, the CBIC has now notified that the goods imported for solar power generation will not be permitted for any manufacturing process or operation in a warehouse.

With the present notification, the government has made it clear that as part of the policy, they do not intend to allow the MOOWR benefits to the solar power-generating sector.

**Connect
with us on**



@Grant-Thornton-Bharat-LLP



@GrantThorntonIN



@GrantThorntonBharat



@GrantThorntonBharatLLP



@Grantthornton_bharat



GTBharat@in.gt.com

© 2024 Grant Thornton Bharat LLP. All rights reserved.

“Grant Thornton Bharat” means Grant Thornton Advisory Private Limited, a member firm of Grant Thornton International Limited (UK) in India, and those legal entities which are its related parties as defined by the Companies Act, 2013, including Grant Thornton Bharat LLP.

Grant Thornton Bharat LLP, formerly Grant Thornton India LLP, is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd. (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.