



# Central Board of Indirect Taxes & Customs

Department of Revenue, Ministry of Finance, Government of India



- [Home](#)
- [About Us](#)
- [G S T](#)
- [GST Awareness](#)
- [GSTP Exam Registration](#)
- [Customs](#)
- [Central Excise](#)
- [Service Tax](#)
- [Tenders/Auctions](#)
- [News & Media](#)
- [Contact us](#)

## News Flash

Nomination For Two-Days' Training Programme for officers of the rank of Commissioner, Principal Commissioner [View all](#)

### Chairman's Desk

### Taxpayer Assistance

### Departmental Officers

### Swachhata Action Plan

### Indian AEO Programme

### Public Information

### Stakeholder Consultation

### Legal Affairs

### AAR/ D.G. Audit

[Home](#) [Central Excise](#) [Circulars/Instructions](#) [Circulars-1999](#)

Circular No. 494/60/99-CX  
dated 12-11-1999

**Government of India**  
**Ministry of Finance**  
**Department of Revenue**

**Subject : Dowtherm Heat Transfer medium and Tri-Ethylene Glycol used for cleaning spinnerets - Eligibility to Notification Nos. 116/88-Cus. and 159/90 - Cus. (Chapter 29)**

A reference is invited to CEGAT Final Order No. C-II/2999/98/WRB, dated 28-12-1998 passed by West Regional Bench, Mumbai in the case of Reliance Industries Ltd. v. Commissioner of Customs, Mumbai reported at 1999 (108) E.L.T. 236 (Tribunal). The brief issue involved in this case was whether Dowtherm Heat Transfer medium, required for heat transfer application in the plant can be treated as "material" for manufacture of the Polyester Staple Fibre / Polyester Filament yarn and entitled for duty exemption under Notification No. 116/88-Cus. dated 29/3/1988 or 159/90-Cus. dated 30/3/1990. Another issue was whether Tri-Ethylene Glycol (TEG) used for cleaning spinnerets after manufacture of PSF/PFY and entitled for duty exemption under Notification No. 116/88-Cus. dated 29/3/1988 and 159/90-Cus. dated 30/3/1990. The CEGAT in its order mentioned above held both the above items to be materials required for manufacture of resultant products, viz. PSF/PFY and set aside the order of Commissioner of Customs denying duty exemption. Commissioner of Customs, Mumbai recommended for filing Civil Appeal against the said order of the Tribunal. The matter was referred to the Ministry of Law and the 1d. ASG advised filing of civil appeal in respect to both items with particularly emphasis on TEG.

Accordingly a Civil Appeal was filed before the Hon'ble Supreme Court. The Court was pleased to pass a one line order "The Civil Appeal is dismissed".

A reference was, therefore, made to the Ministry of Law, Advice B Section for examining the feasibility of filing a review petition in this case. The issue was examined by the Law Ministry and it was inter alia observed :-

"The Hon'ble Apex Court has not indicated any reason for dismissal of the civil appeal and, therefore, apparently there are no grounds for review of the order by the Apex Court. The impugned order of the Apex Court does not imply that the order of the CEGAT stands merged with the order of the Supreme Court. In the case of Indian Oil Corpn. Ltd. v. State of Bihar - AIR 1986 SC 1780, the Apex Court has held that when Special Leave Petition is summarily rejected, it occasions no merger of the order of the lower court in the order of the Supreme Court. These views have been reiterated by the Apex Court in the case of Udai Pratap Singh v. State of Bihar - 1994 Suppl. (3) SCC 451 wherein it has been held that dismissal of SLP by non-speaking order does not imply approval of the impugned judgement."

The file was also placed before the learned Attorney General for India and he observed as given below :

"In my opinion, there are no grounds for review. The issue involved in CA No. 6645/99 which was dismissed by the Supreme Court by its order dated 13-5-1999, may be agitated in other cases".

The above noted learned opinion of Law Ministry and the Advice of the Attorney General for India are brought to your notice so that similar other cases, if any, could be contested in future. It may be noted that mere dismissal of our CA/SLP does not mean that Supreme Court approved the impugned judgement or order of CEGAT stand merged with the order of the Apex Court and in similar other cases we can still agitate the same issue.

## Quick Links

[Exchange Rate Notifications](#)

[Notifications of Customs](#)

[Notifications of Central Excise](#)

[Notifications of Service Tax](#)



[Exchange Rate Notifications](#)

[Notifications of Customs](#)

[Notifications of Central Excise](#)



[Sitemap](#)

[Website Policies](#)

[Feedback](#)



[Help](#)

Follow Us



Last Updated on: 25-Oct-2018

Best Viewed in 1024 X 768 resolution, Chrome 40

© This is the official website of Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance, Government of India.