

Circular No. 35/2010-Customs

New Delhi dated: 17.09.2010

Subject: All Industry Rates of Duty Drawback, 2010-11 - Reg.

The Ministry has announced the revised All Industry Rates (AIR) of Duty Drawback vide **Notification No. 84/2010-Cus. (N.T.)**, dated 17/09/2010. The rates of drawback have been made effective from 20.9.2010. The Notification may please be downloaded from CBEC website www.cbec.gov.in and perused for details.

2. Like in previous years, the drawback rates have been determined on the basis of certain broad parameters including, inter alia, the prevailing prices of inputs, Standard Input Output Norms (SION), share of imports in the total consumption of inputs and the applied rates of duty. The incidence of duty on HSD/Furnace Oil has been factored in the drawback calculations. The incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods has also been factored. The Commissioners may ensure that the exporters do not avail of the refund of this tax through any other mechanism while claiming the All Industry Rates of duty drawback.

3. The Drawback Schedule includes some new entries such as Denim Fabric and cotton garments containing 1% or more by weight of Spandex / Lycra / Elastane, garments of blend containing wool & Man Made Fibre(MMF), woven carpets and floor coverings of jute, knotted carpets and floor coverings of MMF, brass parts of ball or roller bearings and silk embroidery. The Schedule may please be perused for details.

4. The drawback rates have undergone changes in line with the changes in the prices of inputs, duties etc. Thus the drawback rates have been changed in most cases. The more important changes are discussed below:-

(i) Leather and Leather Articles (Chapters 41, 42 & 64)

The Drawback rates for all the goods falling in the Chapters 41, 42 and 64 have been decreased by 5% - 15% approximately. The caps have also been revised downwards. It may be noted that value cap for headings 420501 and 420502 has been changed from Rs. 585 per piece to Rs. 15 per sq. ft. This change was necessitated because of representations received from the field formations and the trade in respect of Leather Sofa cover being exported in SKD/CKD condition which was being denied drawback rate as 'per piece'.

(ii) Textiles and Textile Articles (Chapters 50-63)

(a) Silk: The drawback rate for silk fabric has been increased from 9.8% with a drawback cap of Rs. 295 to 11% with a drawback cap of Rs. 330/kg. The rate for fabric of noil silk has also been revised upwards.

(b) Wool: In the case of wool tops, woollen yarn and fabrics the drawback rates have been decreased by 5% - 20% approximately. The caps have also been revised downwards.

(c) Cotton Yarn and Fabrics: The drawback rates for grey cotton yarn and dyed cotton yarn continue to be Nil for the present. As for cotton fabrics, the new rate is 3.7% (grey)/4.2% (dyed) with a drawback cap of Rs. 12 per kg (grey)/Rs. 14 per kg (dyed). In case of denim fabrics the new rate is 4.3% with a cap of Rs. 16.2/kg. The new entry for Denim Fabric with

1% or more by weight of Spandex / Lycra / Elastane has been created with a drawback rate of 4.6% and value cap of Rs. 17.4 per Kg.

(d) Man-made Filaments and Man-made Staple Fibres: The Drawback rates for most of the goods falling in the Chapters 54 and 55 have been marginally reduced.

(e) Carpets and Floor Coverings: The Drawback rates for most of the goods except for silk carpets, falling in the Chapter 57 have been decreased by 10% approximately. For silk carpets, there is no change. New entries have been created for carpets and floor coverings of Jute and Coir under heading 5702 with drawback rates of 3.5%.

A new entry for carpets and floor coverings of cotton has been created under heading 5702 to cover cotton woven durries/rugs etc. Earlier these goods were being classified under the heading 570501. Representations were received that these goods were correctly classifiable under the heading 5702. Accordingly, the change has been made in this Drawback Schedule. As regards the past consignments, no demands may be raised as the intention was always to allow these goods the rate specified under heading 570501.

There has been a dispute about the heading 570301 as to whether the existing description "hand tufted carpets" covers hand- held gun tufted carpets or not. In order to resolve this dispute, the word "hand" has been deleted from this heading and the description now reads only "tufted woollen floor coverings, all sorts".

(f) Ready Made Garments & Made Ups: In the readymade garment sector, except for silk garments, drawback rates have been decreased by 10% - 15% approximately. The caps have also been revised downwards. The new drawback rate for cotton garment is 7.5% as against the earlier rate of 8.8%. For garments of blend containing cotton and (MMF), the new drawback rate is 8.6% as against the earlier rate of 9.8%; for garments of MMF the new drawback rate is 9.5% as against the earlier rate of 10.5%; for readymade garments made of silk and of wool, the rates are 10% and 7.5% respectively. The new entries for garments of blend containing wool and MMF and for those made of cotton with 1% or more by weight of Spandex/Lycra/Elastane have been created with drawback rates of 8.6% and 8% respectively.

In the made up category, the revised drawback rate for cotton made-ups is 7.1% with a cap of Rs. 60 per kg. The drawback rates and caps for made-ups of MMF and of blend containing cotton and MMF have also been reduced.

(iii) Base Metals and Articles of Base Metals (Chapters 72-83)

The duty drawback rate for stainless steel utensils falling under Chapter 73 and stainless steel cutlery falling under Chapter 82 has been reduced from 12.5% to 8.8%. For other articles of iron and steel where there is a composite rate, the same has been reduced by 25% to 30%. The drawback rate for handicrafts, hardware and other items of brass has been decreased from 15% to 11%. The drawback rates for hand tools have been decreased by 30% approximately. The caps have also been revised downwards.

In order to resolve the dispute whether the description handicrafts/art ware of galvanized iron with brass includes products which are coated/plated, the entry '732603' has been amended to read as "Handicrafts/ Art ware of Iron with or without plating / coating, galvanized or otherwise, with Brass".

(iv) Machinery and Equipment (Chapters 84 and 85)

The new entry for brass parts of Ball or roller bearing has been created with a drawback rate of 3% under heading 848202.

(v) Bicycle & Bicycle Parts (Chapter 87), Sports Goods (Chapter 95) and Writing Instruments (Chapter 96)

The drawback rates for bicycles and bicycle parts have been revised downwards. The new rate for complete bicycle is 9%. Further, a value cap of Rs. 10/- per Kg. has been introduced for the residuary entry 'Others' (871423). The drawback rates for Sports Goods and Writing Instruments have also been revised downwards by about 10% and 20% respectively.

(vi) Miscellaneous

(a) In the earlier schedule, wooden artware and handicrafts were covered under the heading 4420. On representations from the exporters that a number of wooden handicraft items are not covered under the said heading, it has been decided to have a uniform rate of 2.5% for wooden items of headings 4414, 4419 and 4420. A specific entry has also been created for wooden handicraft and artware under the residuary head 4421 with a drawback rate of 2.5%.

(b) The description under heading 22071090 has been changed to read as "Ethanol or Ethyl Alcohol, Rectified Spirit / ENA or otherwise containing more than 94.5% Ethyl Alcohol".

(c) References have been received seeking clarifications as to what should be the minimum percentage of MMF in a garment or made-up for it to be considered as a blended garment /made-up. The issue has been examined and the term 'blend' has been explained in the Notification. It may be noted that the term 'blend' in chapters 61, 62 & 63 refers to only two types of blends i.e. cotton & MMF and wool & MMF. It shall mean that MMF shall be more than 15% but less than 85% by weight in such garment or made-up. Further, the garment or made-up shall be classified as of cotton or wool or MMF or silk or noil silk if the percentage of the concerned fibre is 85% or more by weight in such garment or made-up.

(d) The earlier notification (No. 103/2008 Cus. (N.T.) dated 29.08.08 as amended) provided that the rates of drawback in the Drawback Schedule would not be applicable to products manufactured or exported by availing the rebate of Central Excise duty paid on materials used in the manufacture of export goods in terms of Rule 18 of the Central Excise Rules, 2002, or if such raw materials were procured without payment of Central Excise duty under Rule 19 (2) of the Central Excise Rules, 2002. References have been received that exporters are being denied 1% of drawback, which is the customs component of the AIR drawback, on the basis of the above condition although the manufacturers had taken only the rebate of Central Excise duties in respect of their inputs / procured the inputs without payment of central excise duties; and the Customs duties which remained unrebated should be provided through the AIR drawback route.

The issue has been examined. The present notification No. 84/2010-Cus. (N.T.) dated 17.09.2010 provides that customs component of AIR drawback shall be available even if the rebate of Central Excise duty paid on raw material used in the manufacture of export goods has been taken in terms of Rule 18 of the Central Excise Rules, 2002, or if such raw materials were procured without payment of Central Excise duty under Rule 19 (2) of the Central Excise Rules, 2002.

(e) The earlier notification provided that the gold and silver jewellery exports under the Drawback scheme would be examined by the Customs Appraiser/ Superintendent (Jewellery Expert). Problems have been reported since the jewellery experts are not available at all ports. Accordingly, the notification has been modified. Now such exports may also be examined by other Appraisers/Superintendents who have not been recruited as jewellery

experts. It is however advised that officers may be posted to these positions after adequate training. Efforts should also be made to provide electronic Carat Meters to them.

(f) The earlier notification provided that the rates of drawback in the Drawback Schedule shall not be applicable to products manufactured or exported by availing the facility under the DEPB (Duty Exemption Pass Book) scheme. References were received seeking clarification whether an exporter who manufactured the export goods with raw material imported against DEPB scrips, shall be eligible for drawback on such exports even if DEPB benefits is not claimed. The doubt appeared to have arisen because the above mentioned notification debarred benefit of AIR drawback if the export goods had been 'manufactured' availing the benefit of the DEPB scheme.

In order to resolve the matter, the word 'manufactured' has been deleted in the present notification and the condition has been modified to read that the drawback will not be available if the goods are 'exported' availing the benefits of the DEPB scheme.

6. The Notification and the new Drawback Schedule may be perused carefully to note the changes made therein. Though all care has been taken, the possibility of inadvertent errors/omissions cannot be ruled out. It is requested that any error/omission noticed during the implementation of the rates be brought to the notice of the Board immediately for suitable corrective action.

7. The Public Notice and Standing Order for guidance of the trade and staff may be issued. Difficulties faced, if any in implementation of the changes may be brought to the notice of the Board at once.

Kindly acknowledge receipt of this Circular.

(Najib Shah)

Joint Secretary to the Government of India