

Notification No. 84/2010 - CUSTOMS (N.T.)

New Delhi, dated the 17th September, 2010

G.S.R. (E). In exercise of the powers conferred by sub-section (2) of section 75 of the Customs Act, 1962 (52 of 1962), sub-section (2) of section 37 of the Central Excise Act, 1944 (1 of 1944), and section 93A and sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994) read with rules 3 and 4 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 (hereinafter referred to as the said rules) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.103/2008-Customs (N.T.), dated the 29th August, 2008 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number GSR 627(E), dated the 29th August, 2008 except as respects things done or omitted to be done before such supersession, the Central Government hereby determines the rates of drawback as specified in the Schedule annexed hereto (hereinafter referred to as the said Schedule) subject to the following notes and conditions, namely:-

Notes and conditions:

- (1) The tariff items and descriptions of goods in the said Schedule are aligned with the tariff items and descriptions of goods in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) at the four-digit level only. The descriptions of goods given at the six digit or eight digit or modified six or eight or ten digits are in several cases not aligned with the descriptions of goods given in the said First Schedule to the Customs Tariff Act, 1975.
- (2) The General Rules for the Interpretation of the First Schedule to the said Customs Tariff Act, 1975 shall mutatis mutandis apply for classifying the export goods listed in the said Schedule.
- (3) Notwithstanding anything contained in the said Schedule, all artware or handicraft items shall be classified under the heading of artware or handicraft (of constituent material) as mentioned in the relevant Chapters.
- (4) The figures shown in columns (4) and (6) in the Schedule refer to the rate of drawback expressed as a percentage of the free on board (f.o.b.) value or the rate per unit quantity of the export goods, as the case may be.
- (5) The figures shown in columns (5) and (7) in the said Schedule refer to the maximum amount of drawback that can be availed of per unit specified in column (3).
- (6) The figures shown under the drawback rate and drawback cap appearing below the column "Drawback when Cenvat facility has not been availed" refer to the total drawback (customs, central excise and service tax component put together) allowable and those appearing under the column "Drawback when Cenvat facility has been availed" refer to the drawback allowable under the customs component. The difference between the two columns refers to the central excise and service tax component of drawback. If the rate indicated is the same in both the columns, it shall mean that the same pertains to only customs component and is available irrespective of whether the exporter has availed of Cenvat or not.

(7) Drawback at the rates specified in the said Schedule shall be applicable only if the procedural requirements for claiming drawback as specified in rules 11, 12 and 13 of the said rules, unless otherwise relaxed by the competent authority, are satisfied.

(8) The rates of drawback specified in the said Schedule shall not be applicable to export of a commodity or product if such commodity or product is-

(a) manufactured partly or wholly in a warehouse under section 65 of the Customs Act, 1962 (52 of 1962);

(b) manufactured or exported in discharge of export obligation against an Advance Licence or Advance Authorisation or Duty Free Import Authorisation issued under the Duty Exemption Scheme of the relevant Export and Import Policy or the Foreign Trade Policy;

Provided that where exports are made against Advance Licences issued on or after the 1st April, 1997, in discharge of export obligations in terms of notification No. 31/97 - Customs, dated the 1st April, 1997, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 48/2000-Customs, dated the 25th April, 2000, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 46/2002-Customs, dated the 22nd April, 2002, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 90/2004-Customs, dated the 10th September, 2004, drawback at the rate equivalent to Central Excise allocation of rate of drawback specified in the said Schedule shall be admissible subject to the conditions specified therein;

(c) manufactured or exported by a unit licensed as hundred percent Export Oriented Unit in terms of the provisions of the relevant Export and Import Policy and the Foreign Trade Policy;

(d) manufactured or exported by any of the units situated in free trade zones or export processing zones or special economic zones;

(e) manufactured or exported availing the benefit of the notification No. 32/1997-Customs, dated 01st April, 1997;

(f) exported under the Duty Entitlement Pass Book Scheme as contained in the Foreign Trade Policy, read with the Hand Book of Procedures issued in pursuance of the provisions of the said policy.

(9) The rates and caps of drawback specified in columns (4) and (5) of the said schedule shall not be applicable to export of a commodity or product if such commodity or product is-

(a) manufactured or exported by availing the rebate of duty paid on materials used in the manufacture or processing of such commodity or product in terms of rule 18 of the Central Excise Rules, 2002;

(b) manufactured or exported in terms of sub-rule (2) of rule 19 of the Central Excise Rules, 2002.

(10) Where the export product is not specifically covered by the description of goods in the said Schedule, the rate of drawback may be fixed, on an application by an individual manufacturer or exporter in accordance with the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

(11) The rates of drawback specified against the various tariff items in the said Schedule in specific terms or on ad valorem basis, unless otherwise specifically provided, are inclusive of drawback for packing materials used, if any.

(12) The term "dyed", wherever used in the said Schedule in relation to textile materials, shall include yarn or piece dyed or predominantly printed or coloured in the body.

(13) In respect of the tariff items in Chapters 61, 62 and 63 of the said Schedule, the blend containing cotton and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight and the blend containing wool and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight. The garment or made-up of cotton or wool or man made fibre or silk or noil silk shall mean that the content in it of the respective fibre is 85% or more by weight.

(14) Wherever specific rates have been provided against tariff item in the Schedule, the drawback shall be payable only if the amount is one per cent or more of free on board value, except where the amount of drawback per shipment exceeds five hundred rupees.

(15) The expressions "when Cenvat facility has not been availed", used in the said Schedule, shall mean that the exporter shall satisfy the following conditions, namely:-

(i) the exporter shall declare, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Assistant Commissioner of Central Excise or Deputy Commissioner of Customs or Deputy Commissioner of Central Excise, as the case may be, that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product;

(ii) if the goods are exported under bond or claim for rebate of duty of central excise, a certificate from the Superintendent of Customs or Superintendent of Central Excise in-charge of the factory of production, to the effect that no Cenvat facility has been availed for the goods under export, is produced:

Provided that the certificate regarding non-availment of Cenvat facility shall not be required in the case of exports of handloom products or handicrafts (including handicrafts of brass artware) or finished leather and other export products which are unconditionally exempt from the duty of central excise.

(16) Whenever a composite article is exported for which any specific rate has not been provided in the said Schedule, the rates of drawback applicable to various constituent materials can be extended to the composite article according to net content of such materials on the basis of a self-declaration to be furnished by the exporter to this effect and in cases of doubt or where there is any information contrary to the declarations, the proper officer of customs shall cause a verification of such declarations.

(17) The term 'article of leather' in Chapter 42 of the said Schedule shall mean any article wherein 60% or more of the outer visible surface area (excluding shoulder straps or handles or fur skin trimming, if any) is of leather notwithstanding that such article is made of leather and any other material.

(18) The term "dyed" in relation to fabrics and yarn of cotton, shall include "bleached or mercerized or printed or mélange."

(19) The term "dyed" in relation to textile materials in Chapters 54 and 55 shall include "printed or bleached".

(20) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes, boots or half boots for adult shall comprise the following sizes, namely: -

(a) French point or Paris point or Continental Size above 33;

(b) English or UK adult size 1 and above;

(c) American or USA adult size 1 and above.

(21) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes, boots or half boots for children shall comprise the following sizes, namely: -

- (a) French point or Paris point or Continental Size upto 33;
- (b) English or UK children size upto 13;
- (c) American or USA children size upto 13.

(22) The drawback rates prescribed in the said Schedule against tariff items 711301 and 711302 shall apply only to goods exported by airfreight, post parcel or authorised courier through the Custom Houses as specified in para 4A.12 of the Hand Book of Procedures (Vol. I), 2009-14 published vide Public Notice No.1/2009-14 dated 27th August, 2009 of the Government of India in the Ministry of Commerce and Industry, after examination by the Customs Appraiser or Superintendent to ascertain the quality of gold or silver and the quantity of net content of gold or silver in the gold or silver jewellery. The Free on Board (FOB) value of any consignment through authorised courier shall not exceed rupees twenty lakhs.

(23) The drawback rates specified in the said Schedule against tariff items 711301 and 711302 shall not be applicable to goods manufactured or exported in discharge of export obligation against any scheme of the relevant Export and Import Policy or the Foreign Trade Policy of the Government of India which provides for duty free import/replenishment/procurement from local sources of gold or silver.

2. All claims for duty drawback shall be filed with reference to the tariff items and descriptions of goods shown in columns 1 and 2 of the said Schedule respectively.

3. This notification shall come into force on the 20th day of September, 2010.

[F.No. 609/76/2010-DBK]

(Najib Shah)

Joint Secretary to the Government of India