

F.No. 609/82/2011-DBK
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs

Circular No. - 48/2011-Customs

New Delhi, dated 31st October, 2011

To
All Chief Commissioners of Customs / Customs (Preventive).
All Chief Commissioners of Customs & Central Excise / Central Excise /
Authorized Representative.
All Director Generals under CBEC.
All Commissioners of Customs / Customs (Preventive).
All Commissioners of Customs & Central Excise / Central Excise /
Authorized Representative.

Subject: All Industry Rates of Duty Drawback, 2011-12 - Reg.

Sir/ Madam,

As you are aware, the All Industry Rates (AIR) of Duty Drawback 2011-12 were notified vide [Notification No. 68/2011-Cus. \(N.T.\)](#) dated 22.09.2011. These rates have come into effect on 01.10.2011. Subsequently, the Ministry has received representations on the Drawback Schedule 2011-12 from Export Promotion Councils, Trade associations and individual segments of industry. The representations broadly relate to doubts on classification of items (mainly erstwhile DEPB items) in the Schedule, duty drawback rates, value caps and other miscellaneous matters.

2. The representations have been duly examined and certain amendments / changes, wherever required, have since been carried out vide **Error! Hyperlink reference not valid.**, dated 28.10.2011. The Notification may please be downloaded from CBEC website www.cbec.gov.in and perused for details.

3. Some of the major changes / amendments carried out in the above mentioned notification are discussed below.

4. Parts and components made of iron, steel or aluminium through casting or forging process which were earlier covered under various serial numbers of product group 61 (Engineering) of DEPB scheme were incorporated in Chapter 73 or 76, as the case may be, in the Drawback Schedule. Many representations were received stating that these goods merit classification more appropriately under different headings of Chapter 84 or 85 or 87, for which no specific tariff entry has been provided. To resolve this problem, the said entries have been appropriately replicated under headings 8487, 8548 and 8708 to enable exporters to claim drawback on such parts or components, irrespective of classification of such goods at any other four digit level in the Chapter 84 or 85 or 87 of the Schedule. In this regard a new note (3A) has been inserted in the Notes and Conditions of the Notification No. 68/2011-Cus. (N.T.) dated 22.09.2011.

5. Further, representations have also been received from the trade that certain items merit classification more appropriately under different chapter / heading, instead of the classification as has been provided in the Drawback Schedule. All such representations have been examined and wherever there was merit in the representation, it has been decided to replicate the existing

entry/entries appropriately under the tariff heading as has been sought by exporters. However, while replicating these entry/entries, the existing entry/entries in the Schedule have been retained so as to avoid any disputes. Further, in all such cases where existing entries have been replicated, due care has been taken to ensure that the rates of duty drawback / value caps (wherever assigned) are the same for both the existing entries as well as the replicated entries.

6. It may be noted that the replication of entries as discussed in para 4 and 5 above and the insertion of Note 3(A) as discussed in the preceding para 4 above, is a purely transitory arrangement and with a view to resolving classification disputes.

7. In some cases, representations have been received for creating new entries as well as for making changes in drawback rates, value caps and in the description of the goods in the Drawback Schedule. All such representations have been examined and wherever the representation was found to have merit, the same has been considered and necessary changes have been carried out as reflected in the amending notification. Thus, for example, composite rate of duty drawback has been provided for all goods falling under headings 7318 and 7418; a single entry under heading 6117 and 6214 has been created for Shawls, Scarves, Stoles, Mufflers, Mantillas & Veils and appropriate value caps provided on per piece basis; Duty drawback rate has also been provided for knitted fabric having a blend of Cotton and MMF (Man Made Fibre).

8. Certain doubts have been expressed about classification of few erstwhile DEPB items in the drawback schedule wherein it has been pointed out that the classification under drawback schedule does not match with the classification as provided in the Customs Tariff. In this regard attention is invited to the para (1) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011. It is hereby reiterated that the tariff items and descriptions of goods in the drawback schedule are aligned with the tariff items and descriptions of goods in the Customs Tariff only upto four-digit level. Hence, so long as the alignment is there at the four digit level, there should not be any difficulty for exporters to claim drawback as per the rate specified in the Drawback Schedule, notwithstanding the fact that there may be difference in the classification of the said item at six or more digit level.

9. Doubts have been expressed regarding simultaneous availment of benefits under Advance License / Advance Authorization Scheme along with All Industry Rates of duty drawback. In this regard attention is invited to the sub para (b) of para (8) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011. It stipulates that the All Industry Rate of drawback is not available if the goods are exported in discharge of export obligation against Advance Licence except under certain conditions. It is clarified that in general, the benefits of All Industry Rates of duty drawback and Advance Licence Scheme are not available simultaneously. However, in such cases the exporter can always avail the brand rate of duty drawback under rule 6 or rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, as the case may be and subject to the conditions stipulated therein, for the duty paid inputs used in the manufacture of export goods.

10. Representations have also been received seeking clarification on the admissibility of duty drawback on Multi Utility Vehicle (MUV) / Sport Utility Vehicle (SUV). It is clarified that MUV / SUV would, for the purpose of drawback, be classifiable under tariff item 870302 as motor cars.

11. Field formations have expressed some difficulties on the classification of Leather Garments exported under Chapter 42 of drawback schedule. The dispute is over mixed leather and fabric garments which has less than 40% of

their surface area made of fabric, and whether they are classifiable under 420301, as "Articles of apparel, made of leather" or under 420302 as "Articles of apparel, made of leather in combination with other materials". In this regard attention is invited to the para (17) of the notes and conditions of the notification No. 68/2011-Cus. (N.T.) dated 22.09.2011, which defines the article of leather as any article wherein 60% or more of the outer visible surface area is of leather. It is therefore clarified that the leather garment is classifiable under tariff item 420301 as "Articles of apparel, made of leather", if 60% or more of the outer visible surface area is of leather and under tariff item 420302 as "Articles of apparel, made of leather in combination with other materials" if the area of leather is less than 60% of the outer visible surface area.

12. It may please be noted that all changes / amendments as have been carried out through the amending notification No. 75 / 2011-Cus. (N.T.), dated 28.10.2011, come into effect retrospectively from October 1, 2011. In all such cases, wherever it is required, the exporters shall be allowed to file supplementary drawback claims and these claims shall be processed accordingly.

13. Public Notices and Standing Orders 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 immediately.

Kindly acknowledge receipt of this Circular.

(Najib Shah)
Joint Secretary (Drawback)
