

**-COPY OF-
CUSTOMS CIRCULAR
No. 42/2011-Customs
Dated 22nd September, 2011**

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

The Ministry has announced the revised All Industry Rates (AIR) of Duty Drawback 2011-12 vide Notification No. 68 / 2011- Cus. (N.T.), dated 22.09.2011. The rates of duty drawback are effective from 01.10.2011. The Notification may please be downloaded from CBEC website www.cbec.gov.in and perused for details.

2. As 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, FOB value of export goods 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 this year incorporates items which were hitherto under the DEPB scheme. Thus, the total number of items in the drawback schedule now number approximately 4000. While incorporating these DEPB items in the Drawback schedule, care has been taken to classify them at the appropriate four digit level. However, there may be some doubts about the classification of these DEPB items in the drawback schedule notified. Be that so as it may, it may please be noted that the rates of drawback as specified for these items in the drawback schedule is not to be denied in all such cases. For easy reference, a list of all the DEPB items falling under a particular product code and serial number with the corresponding drawback tariff item has also been separately hosted on the CBEC website. All field formations are requested to inform the Board about specific item/s (if any) on which there are doubts regarding the classification.

4. Broadly speaking, most of the items which are already covered under the duty drawback schedule will suffer a minor reduction in the existing drawback rates. The reduction is mainly on account of the reduction in basic customs duty on crude petroleum as well as a reduction in central excise duty on diesel.

5. In respect of items covered under the DEPB Scheme, major exporters operating under the DEPB Scheme are mainly from the Engineering sector including the auto and auto component industry, Chemicals, Pharmaceuticals, Textiles and the marine sector. It has been decided to provide a smooth transition for items in these sectors while incorporating these in the drawback schedule. As a transitory arrangement, these items will suffer a modest reduction from their DEPB rates, ranging from 1% to 3% for most items.

6. Presently, the DEPB rates are available for two wheelers, three wheelers, commercial vehicles and tractors. Appropriate duty drawback rates have been provided for these items in the proposed schedule without any value cap. Exporters of passenger cars are presently opting for brand rate of duty drawback. Government has received requests from these exporters; appropriate All Industry Rate of duty drawback for export of Passenger Cars has been provided in this year's Drawback Schedule.

7. As a general policy, it has been decided that there will be no value cap on items in the drawback schedule, where the composite duty drawback rate is less than or equal to 3%. Further, there are certain goods especially in engineering and chemicals sectors where because of the wide variation in prices, no value cap has been assigned. You may like to exercise due diligence to prevent any misuse consequently. At the same time, it may also be ensured that the process of scrutiny of such items does not result in hardship to the exporters and the export consignments are not held up.

8. Doubts have been raised as to the eligibility of exporters to claim the composite rate of duty drawback in situations covered under Para 15(ii) of Notification No. 84/2010-Customs(N.T.) in the light of the expression "when no Cenvat facility has been availed for the goods under export" being mentioned in the said para, . The doubt has apparently arisen because Para 15(i) ibid mentions the words "that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product". It is hereby clarified that drawback is reimbursement of input duties suffered in the manufacture of export goods and as long as no Cenvat credit has been availed for any of the inputs or input services used in the manufacture of the export product, the composite rate of drawback is permissible on export of such goods. The expression

"When Cenvat facility has not been availed", in Para 15 of the above mentioned notification, as far as the drawback provisions are concerned, has always meant Cenvat facility on inputs and input services, and is to be understood as such .The drawback notification has been suitably amended to further clarify the matter.

9. There has been some confusion regarding the eligibility of drawback rates for tufted bath mats made of cotton. A new entry has been created under the 4-digit category 5703 which specifies the applicable rate for tufted floor-coverings etc. made of cotton. It is understood that in previous years, exporters of this item were given DBK at the residuary rate corresponding to 570399 @ 2.5%. This was not the intention. In fact the heading 570501 in the previous Schedule qualified for the same rate as that of woven cotton floor coverings falling under heading (570204) @8.9%. It is clarified that the benefit of the rate as existing at the relevant point for 570501 is to be allowed to all exports of tufted cotton bathmats. In all such cases wherever the assessments are not provisional, the exporters shall be allowed to file supplementary drawback claims and the claims shall be processed accordingly.

10. In 2010-11, the description "ENA" (Extra Neutral Alcohol) was incorporated in the heading 2207. There has been some confusion that claims made prior to the notification of last year were not covered under the new description and there was a request for

clarification. It is clarified that “ENA” is otherwise covered under the heading 2207 as ethyl alcohol and would cover all periods, including those prior to 20th, September 2010.

11. Under the heading 8307, the description has been amended to provide drawback on flexible tubing whether or not coated with PVC. It is clarified that the rate under the heading 8307 is applicable to the flexible tubing whether or not coated with PVC, and the rate would be applicable even for past periods, prior to the amendment.

12. It was clarified vide circular no. 25/2007 dated 16th July 2007, that drawback is to be allowed for articles under tariff items 7323 of the drawback schedule without making any deduction towards the lids, handles etc. provided they retain the character of iron or steel articles classifiable under the said tariff item. It is clarified that the same logic shall also be applicable for the goods falling under tariff items 8211 and 8215 of the drawback schedule.

13. There has been a dispute regarding classification of FIBC (Flexible intermediate bulk containers). It has been represented that the field formations are classifying the FIBCs under Chapter 39 whereas the FIBC finds a specific mention under tariff item 630502 of the drawback schedule and the exporters are being denied drawback mentioned against the heading 630502 in the Drawback Schedule. It is hereby clarified that FIBCs which are made of manmade textile material would be classifiable under drawback tariff item 630502. FIBCs which are big or bulk bags or super sacks made of polymers of ethylene and other plastic material would however, be classifiable under chapter 39 of the drawback schedule.

14. Benefits under the DEPB scheme are available only upto September 30, 2011. Thus, all exports under DEPB scheme upto and including September 30, 2011, where the “Let Export Order”(LEO) has been issued by the Customs officer shall be eligible for the issue of DEPB Scrips. Since, export consignments with ‘Let Export Order’ after this date would no longer be eligible for benefits under the DEPB scheme, it is likely that there may be a rush of DEPB export consignments before this date causing extra load on the EDI system. All Custom officers posted at ports under your jurisdiction may be directed to take due care and ensure that DEPB export consignments are accorded priority and processed/cleared expeditiously. Further, officers handling export assessment/examination with specific regard to DEPB Shipping Bills must ensure that the bills in the EDI queue are cleared expeditiously. If for any valid reason, the LEO cannot be given on the EDI on the said date, then the Commissioner of Customs may allow an endorsement of the LEO on the DEPB shipping bills manually. However, this may only be allowed as an exception. Suitable Public Notices/Standing Orders may be issued in this regard.

15. 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.

(Najib Shah)
Joint Secretary (Drawback)