

## **Re-export of Imported Goods - Drawback Rules Amended**

AS per Rule 5 of the RE-EXPORT OF IMPORTED GOODS (DRAWBACK OF CUSTOMS DUTIES) RULES, 1995,

### **5. Manner and time of claiming drawback on goods exported other than by post. -**

(1) A claim for drawback under these rules shall be filed in the form at Annexure II within three months from the date on which an order permitting clearance and loading of goods for exportation under section 51 is made by proper officer of customs:

**Provided that the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, if he is satisfied that the exporter was prevented by sufficient cause to file his claim within the aforesaid period of three months, allow the exporter to file his claim within a further period of three months.**

**Now this proviso is amended to read as:**

(i) the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of three months and that the Commissioner of Customs or Commissioner of Customs and Central Excise, as the case may be, may further extend the period by a period of six months ;

(ii) the Assistant Commissioner of Customs or Deputy Commissioner of Customs or Commissioner of Customs or Commissioner of Customs and Central Excise, as the case may be, may, on an application and after making such enquiry as he thinks fit, grant extension or refuse to grant extension after recording in writing the reasons for such refusal;

(iii) an application fee equivalent to 1% of the FOB value of exports or Rs. 1000/- whichever is less, shall be payable for applying for grant of extension by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be and an application fee of 2% of the FOB value or Rs. 2000/- whichever is less, shall be payable for applying for grant of extension by the Commissioner of Customs or Commissioner of Customs and Central Excise, as the case may be.

**CUSTOMS NOTIFICATION (N.T.) NO. 48/2010-Already sent to the subscribers**

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## **Customs, Central Excise Duties and Service Tax Drawback Rules Amended**

AS per Rule 6 of the CUSTOMS, CENTRAL EXCISE DUTIES AND SERVICE TAX DRAWBACK RULES, 1995, where amount or rate of drawback has not been

determined, the exporter/manufacturer can apply within sixty days for fixation of drawback rates, provided that the Commissioner can further extend this period for another 30 days.

Now this period of sixty days has been extended to three months and the new proviso now reads as:

(i) the Assistant Commissioner of Central Excise or Assistant Commissioner of Customs and Central Excise or Deputy Commissioner of Central Excise or Deputy Commissioner of Customs and Central Excise, as the case may be, may extend the aforesaid period of three months by a period of three months and that the Commissioner of Central Excise or Commissioner of Customs and Central Excise, as the case may be, may further extend the period by a period of six months ;

(ii) the Assistant Commissioner of Central Excise or Assistant Commissioner of Customs and Central Excise or Deputy Commissioner of Central Excise or Deputy Commissioner of Customs and Central Excise or Commissioner of Central Excise or Commissioner of Customs and Central Excise, as the case may be, may, on an application and after making such enquiry as he thinks fit, grant extension or refuse to grant extension after recording in writing the reasons for such refusal;

(iii) an application fee equivalent to 1% of the FOB value of exports or Rs. 1000/- whichever is less, shall be payable for applying for grant of extension by the Assistant Commissioner of Central Excise or Assistant Commissioner of Customs and Central Excise or Deputy Commissioner of Central Excise or Deputy Commissioner of Customs and Central Excise, as the case may be and an application fee of 2% of the FOB value or Rs. 2000/- whichever is less, shall be payable for applying for grant of extension by the Commissioner of Central Excise or Commissioner of Customs and Central Excise, as the case may be.

Similarly Rule 7 and 15 are amended.

Now there is a mess up in this notification. As per Rule 6 (1)(a) of the CCEST Drawback Rules, the manufacturer has to apply to the Commissioner for drawback rate within sixty days and as per the proviso it can be extended by him by thirty days.

Now after the amendment, the manufacturer has to apply to the **Commissioner** within three months and the delay will be condoned by the **Assistant Commissioner**. How this is possible? In short, before this amendment, the rule and the proviso were in harmony as both contained Commissioner. Now it is disturbed. Rule says Commissioner and proviso AC.

May be the assessee should apply to the Commissioner with a copy to the AC for condonation of delay and the poor Commissioner should ask his AC, “Sir, have you condoned the delay so that I can go ahead with the file?”.

**Fee for extension?** Now the Board wants to collect a fee for granting extension of time! Rs. 2000/- for application with Commissioner and Rs. 1000/- with Assistant Commissioner. Nothing wrong with collecting a small fee, but is it worth it when your duty collection is in the range of Lakhs of Crores. Will not the cost of collection be more than the fees?