

F. No. 609/83/2016-DBK
Government of India
Ministry of Finance, Department of Revenue
Central Board of Excise & Customs

New Delhi, dated 31st October, 2016

To
Principal Chief Commissioners / Principal Directors General,
Chief Commissioners / Directors General,
Principal Commissioners/Commissioners,
all under CBEC

Subject: All Industry Rates of Drawback and other Drawback related changes -reg.

Madam/Sir,

The Central Government has revised All Industry Rates (AIRs) of Drawback vide Notification No. 131/2016-Customs (N.T.) dated 31.10.2016 which comes into force on 15.11.2016. These AIRs take into account relevant broad average parameters including, inter alia, prevailing prices of inputs, input output norms, share of imports in input consumption, the rates of central excise and customs duties, incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods, incidence of duty on HSD/furnace oil, value of export goods, etc. The notification may be downloaded from Board's website and carefully perused for details of the changes. Some of the changes are highlighted below –

- (a) AIRs have been provided to certain worked articles under chapters 45, 46 and 68;
- (b) Certain products, earlier with all customs AIRs, have been provided composite rates. These include rubber parts (for automobile or other machinery) of chapter 40 and children's picture, drawing/colouring books, etc. of chapter 49;
- (c) Changes in certain tariff items description have been made for dispute prevention or enhancing simplification. These relate, inter-alia, to packaged rice, rubber parts, certain leather items, leggings, frocks, bicycles, protective sports gear, etc;
- (d) For better product differentiation, separate tariff lines have been provided by carving out from (or replacing) certain existing tariff items. These include surimi fish paste (chapter 16), belts (chapter 39), leather woven/braided hand-bag (chapter 42), hand-bags/wallets etc of plastic and/or textile material (chapter 42), wrist bands/tie-pins/necklaces made of leather (chapter 42), fishnets/sports nets made of different materials (chapter 56/95), kurta and salwar/salwar suits/salwar-kameez/churidar-kameez, with or without dupatta (chapter 61 and 62), blankets etc of blend containing cotton and MMF (chapter 63), glass artware/handicrafts with chatons (chapter 70), tube or pipe fittings of alloy/stainless steel (chapter 73), motor cars, based on four categories of engine capacity each with sub-categories of manual or automatic transmission (chapter 87), cycle frames made of aluminum (chapter 87), soft toys (chapter 95);
- (e) In the notes and conditions of the notification, the term article of leather in chapter 42 of the Drawback Schedule has been expanded to include any article wherein 60% or more of the outer and inner surface area taken together is of leather. This is in the light of newer design and commercial practices;
- (f) Residuary rate (customs) provided to items across various chapters has been reduced from 1.9% to 1.5% and from 1.4% to 1.1%.

2. The notification also specifies the alternative AIRs on garment exports made against the Special Advance Authorization (para 4.04A of FTP 2015-20) in discharge of export obligations in terms of Notification No. 45/2016-Customs dated 13.8.2016. For claiming these alternative AIRs, the relevant tariff item has to be suffixed with suffix 'C' or suffix 'D' for the situation when Cenvat facility has not been availed or when Cenvat facility has been availed, respectively, instead of the usual suffix 'A' or suffix 'B'. The procedure in Circular No. 37/2016-Customs is to be applied.

3. Para 3 of the notification specifies the amount for payment as provisional drawback by proper officer of Customs in terms of sub-rule (3) of Rule 7 of Customs, Central Excise and Service Tax Drawback Rules, 1995. This is equivalent to the Customs component of AIR corresponding to the export goods, if applicable, and subject to the same conditions as applicable to a claim for that component. The procedure for such claim remains as in Annexure 1 of Circular No. 29/2015-Customs which also applies for garment exports against Special Advance Authorization with the variation in declaration as prescribed in Circular No.37/2016-Customs. The amount paid as provisional drawback under this dispensation shall be taken into account for authorizing further provisional drawback (where necessary) by Central Excise authorities who are expected to continue the facilitation in terms of para 5A to 5C of Instruction No. 603/01/2011-DBK dated 11.10.2013 in brand rate cases.

4. In connection with export of packaged rice under claim for AIR it is clarified that – (a) where master packs made of any material contain rice packaged in material and pack size of the type specified in the tariff line, the drawback rate eligible is the drawback rate of the pack size; and (b) where smaller packs made of packaging material other than that described in the tariff line are packed in larger master packs made of the material specified in the tariff line, the drawback rate eligible shall be the drawback rate appropriate to the size of the master pack.

5. It is noted that field formations intermittently raise the issue, with exporters, of admissibility of drawback on parts of machinery under individual drawback tariff lines where the AIR is provided at 4-digit level but the 4-digit description does not specifically indicate the word "parts". In the Drawback Schedule's notification's notes and conditions it is specified that the tariff items and description of goods in the Drawback Schedule are aligned with the tariff items and description of goods in the First Schedule to the Customs Tariff Act 1975 at the 4-digit level and that the general rules for interpretation of the First Schedule to the Customs Tariff Act 1975 shall mutatis mutandis apply for classifying the export goods listed in the Drawback Schedule. However, notwithstanding this position in the Drawback Schedule, certain parts are classifiable in terms of the notes and conditions 3 (ii). This means that if parts of machinery fall under a tariff item in the First Schedule to the Customs Tariff Act 1975 at the 4-digit level, then in the Drawback Schedule too they would be covered under that 4-digit tariff item, unless otherwise specified in the notes and conditions.

6. Apart from revisions in the AIRs, the Central Government has also amended the Customs, Central Excise and Service Tax Drawback Rules, 1995 vide Notification No. 132/2016-Customs (NT) dated 31.10.2016 for the purpose of deleting sub-rule (1) of rule 8 which did not allow AIR or Brand Rate drawback to exports (other than postal exports or exports under advance authorization) if the amount of drawback is less than 1% of F.O.B. value of export, except where the amount of drawback per shipment exceeded Rs.500. This deletion takes effect from 15.11.2016.

7. The Commissioners are expected to ensure due diligence to prevent any misuse. The shipping bills with parameters considered to be sensitive should be handled with adequate care at the time of export. Further, in case of claim of the composite (higher) rate of AIR, the processing should specifically ensure availability of 'Non-availment of Cenvat certificate' etc. at the export stage itself. In the case of AIR claim against tariff item numbers 711301, 711302 or 711401 the availability of exporter's declaration as per Circular No.30/2016-Customs should be ensured and recorded at the Let Export Order stage by the Customs officer.

8. There is also need for continued scrutiny for preventing any excess drawback arising from mismatch of declarations made in the Item Details and the Drawback Details in a shipping bill. It may continue to be ensured that exporters do not avail of the refund of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods through any other mechanism while claiming AIR.

9. With trade facilitation in view, tenure of the Drawback Committee constituted by the Central Government has been extended to expeditiously look into issues arising from the changes made. Accordingly, exporters of products at revised residuary rates of 1.1% and 1.5% may immediately come forward with data, if any, for higher than residuary rates.

10. Suitable public notice and standing order should be issued for guidance of the trade and officers. Any inconsistency, error or difficulty faced should be intimated to the Board. The Commissioners may also inform, with appropriate data, the details of specific products where drawback cap needs to be imposed.

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