

EXPORT PROMOTION COUNCIL FOR EOUs & SEZs

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Subject :All Industry Rates of Duty Drawback and other Duty Drawback changes

The revised All Industry Rates (AIR) of Duty Drawback has been notified vide Notification No. 110/2015-Customs (N.T.), dated 16.11.2015 which comes into force on 23.11.2015. These AIRs broadly take into account certain 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, the factoring of incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods, factoring incidence of duty on HSD/furnace oil, value of export goods, etc.

A copy of Notification No. 110/2015-Customs(NT) dated 16.11.2015 is attached.

Some of the changes are highlighted below :—

(a) The composite rates have been increased in many cases like frozen shrimps/ prawns (chp 3, 16), perfumed agarbatti (chp 33), finished/ lining leather (chp 41), leather hand bags/ wallet/ belts (chp 42), industrial gloves (chp 42), certain MMF yarn/ fabric (chp 54, 55), readymade garment made of cotton, wool & cotton with lycra (chp 61, 62), made-ups of cotton/ MMF (chp 63), hand tools (chp 82), etc.

(b) Separate entries have been provided in the Drawback Schedule for Accelerated Freeze Dried (AFD) shrimps, lobster/crab, pasteurized tinned chilled crab meat (chp 3, 16), fish oil (chp 15), fish meal (chp 23), potassium chlorate (chp 28), leather carpets (chp 42), polypropylene mats (chp 46), cotton yarn of 100 or more counts (chp 52), belting fabrics (chp 54), filtration fabric made of polyester filament yarn/ polypropylene filament yarn/ polybutylene terephthalate (chp 54), suits, jackets & trousers (chp 61 & chp 62)- by trifurcating existing single entry, protective industrial wear made of aramid fibre/ modacrylic fibre/ cotton fibre (chp 62), glass art-ware/ handicrafts with silver coating (chp 70), aluminium conductor steel reinforced (chp 76), turbo charger (chp 84), tractor parts (chp 87), self-loading or self-unloading trailers and semi-trailers of a type used for agricultural purposes (chp 87), leg guards (chp 95).

(c) Rate has been provided for granulated slag (chp 26) and the description under heading 6802 has been reworded with respect to constituent material for tiles, handicrafts, etc.

(d) Certain products earlier having only customs rates, have been provided with composite rates. These include bicycle tyres (chp 40), bicycle tubes (chp 40), woven fabrics of other vegetable textile fibres/ woven fabrics of paper yarn (chp 53), headgear (chp 65), umbrellas/walking sticks etc. (chp 66), artificial flowers etc. (chp 67), acrylic blankets (chp 63).

(e) Iron and steel (chp 72 from heading 7207 onwards), articles of iron and steel (chp 73), tools and parts of base metal (chp 82), miscellaneous articles made from steel (chp 83), machinery and

appliances (chp 84), electrical machinery (chp 85), rolling stock (chp 86) and ships (chp 89) have been provided with increased customs rate of 2%, with certain exceptions.

(f) Composite rates for wooden art ware (chp 44), papiermache (chp 48), yarn/ fabric/ garment of silk (chp 50, 61, 62), certain MMF yarn/ fabric (chp 54, 55), carpets (chp 57), brass artware/ articles (chp 74), certain sports goods (chp 95) etc. see a reduction.

(g) AIR has been fixed as Rs. 209.3/gm for gold jewellery /parts and Rs. 2790/kg for silver jewellery /articles.

(h) Rates on remaining of the erstwhile DEPB items are being aligned with residuary rates, except where higher rates were due.

(i) Drawback caps, wherever meaningfully possible, have been provided normally in entries with rates higher than 1.9% (the highest residuary rate). It may be noted that the drawback cap of the nature provided for certain project exports applies when the conditions specified in the relevant Notes and conditions are met and it does not apply to other cases.

2. The Customs, Central Excise and Service Tax Drawback Rules, 1995 have also been amended vide **Notification No. 109/2015-Customs (N.T.) [copy enclosed]** dated. 16.11.2015 effective from 23.11.2015. This notification may also be perused. The first of these amendments enables exporters of “wheat” to function under the brand rate mechanism. The second change relates to payment of provisional drawback in certain cases of export under claim for brand rate. Presently, after export, a complete application for determination of brand under rule 7 of these Rules has to be filed at the Central Excise office to enable issuance of provisional drawback letter. The sub-rule (3) of Rule 7 has been amended so that Central Government may specify an amount for payment as provisional drawback by proper officer of Customs. Notification No. 110/2015-Customs (N.T.), dated 16.11.2015 (paragraph 3) specifies this amount as 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 the ‘B’ column in the Schedule. **The modified procedure for export under claim for brand rate under rule 7 of Drawback Rules 1995 is also reproduced below.** The amount paid as provisional drawback under the above dispensation shall be taken into account by the Central Excise to authorize further provisional drawback, where necessary. The brand rate facilitation in terms of Paras 5A-5C of Instruction No. 603/01/2011-DBK dated 11.10.2013 would continue and there should be no delay by Central Excise formations in finalizing applications for fixation of brand rate.

Members are requested to kindly go through these notifications and duty drawback rates carefully. **A copy of the revised All Industry Rates (AIR) of Duty Drawback is also attached for kind information.**

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

New Delhi, the 16th November, 2015

Notification

No. 110/2015 - CUSTOMS (N.T.)

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.110/2014-CUSTOMS (N.T.), dated the 17th November, 2014, published *vide* number G.S.R. 814 (E), dated the 17th November, 2014, 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 digits in the said Schedule 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, -

(i) allartware or handicraft items shall be classified under the heading of artware or handicraft (of constituent material) as mentioned in the relevant Chapters;

(ii) any identifiable ready to use machined part or component predominantly made of iron, steel or aluminium, made through casting or forging process, and not specifically mentioned at six digit level or more in Chapter 84 or 85 or 87, may be classified under the relevant tariff item (depending upon material composition and making process) under heading 8487 or 8548 or 8708, as the case may be, irrespective of classification of such part or component at four digit level in Chapter 84 or 85 or 87 of the said Schedule;

(iii) the sports gloves mentioned below heading 4203 or 6116 or 6216 shall be classified in that heading and all other sports gloves shall be classified under heading 9506.

(4) The figures shown in columns (4) and (6) in the said Schedule refer to the rate of drawback expressed as a percentage of the free on board 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) An export product accompanied with application for removal of excisable goods for export (ARE-1) and forming part of project export (including turnkey export or supplies) for which no figure is shown in column (5) and (7) in the said Schedule, shall be so declared by the exporter and the maximum amount of drawback that can be availed under the said Schedule shall not exceed the amount calculated by applying *ad-valorem* rate of drawback shown in column (4) or (6) to one and half times the ARE- 1 value.

(7) The figures shown in the said Schedule under the drawback rate and drawback cap appearing below the column heading "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 heading "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 facility or not.

(8) 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.

(9) 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.

(10) 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;

(c) manufactured or exported by a unit licensed as hundred per cent. Export Oriented Unit in terms of the provisions of the relevant Export and Import Policy or 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.

(11) 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 said Central Excise Rules, 2002.

(12) Wherever specific rates have been provided against tariff item in the said 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.

(13) The expression “ when Cenvat facility has not been availed” , used in the said Schedule, shall mean that the exporter shall satisfy the following conditions, namely:-

(a) 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;

(b) 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 any of the inputs or input services used in the manufacture of the export product, 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.

(14) 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 case of doubt or where there is any information contrary to the declarations, the proper officer of customs shall cause a verification of such declarations.

(15) 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.

(16) 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.

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

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

(19) In respect of the tariff items in Chapters 60, 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 shall mean that the content in it of the respective fibre is 85% or more by weight.

(20) The term " shirts" in relation to Chapters 61 and 62 of the said Schedule shall include " shirts with hood" .

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

(22) 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; and
- (c) American or USA children size upto 13.

(23) The drawback rates specified in the said Schedule against tariff items 711301, 711302 and 711401 shall apply only to goods exported by airfreight, post parcel or authorised courier through the Custom Houses as specified in para 4.72 of the Hand Book of Procedures, 2015-2020 published vide Public Notice No.1/ 2015-2020, dated the 1st April, 2015 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 jewellery or silver jewellery or silver articles. The free on board value of any consignment through authorised courier shall not exceed rupees twenty lakhs.

(24) The drawback rates specified in the said Schedule against tariff items 711301, 711302 and 711401 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 or replenishment or procurement from local sources of gold or silver.

(25) " Vehicles" of Chapter 87 of the said Schedule shall comprise completely built unit or completely knocked down (CKD) unit or semi knocked down (SKD) unit.

2. All claims for duty drawback at the rates of drawback notified herein shall be filed with reference to the tariff items and descriptions of goods shown in columns (1) and (2) of the said Schedule respectively. Where, in respect of the export product, the rate of drawback specified in the said Schedule is Nil or is not applicable, the rate of drawback

may be fixed, on an application by an individual manufacturer or exporter in accordance with the said rules. Where the claim for duty drawback is filed with reference to tariff item of the said Schedule and it is for the rate of drawback specified herein, an application, as referred under sub-rule (1) of rule 7 of the said rules shall not be admissible.

3. The amount referred in sub-rule (3) of rule 7 of the said rules, relating to provisional drawback amount as may be specified by the Central Government, shall be equivalent to the Customs component, as provided by the drawback rate and drawback cap shown in column (6) and (7) in the said Schedule for the tariff item corresponding to the export goods, if applicable, and determined as if it were a claim for duty drawback filed with reference to such rate and cap.

4. This notification shall come into force on the 23rd day of November, 2015.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

Notification No. 109/2015-CUSTOMS (N. T.)

New Delhi, the 16th November, 2015

G.S.R. (E). – In exercise of the powers conferred by section 75 of the Customs Act, 1962 (52 of 1962), section 37 of the Central Excise Act, 1944 (1 of 1944) and section 93A read with section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, namely:-

1. (1) These rules may be called the Customs, Central Excise Duties and Service Tax Drawback (Second Amendment) Rules, 2015.

(2) They shall come into force on 23rd November, 2015

1. In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995,-

(i) in rule 3, in sub-rule (1), in the second proviso, clause (v) shall be omitted;

(ii) in rule 6, sub-rule (4) shall be omitted;

(iii) in rule 7, -

(a) in sub-rule (3), -

(A) for the words “ Where the manufacturer or exporter desires that he may be granted drawback provisionally” , the words “ Provisional drawback amount, as may be specified by the Central Government, shall be paid by the proper officer of Customs and where the manufacturer or exporter desires that he may be granted further drawback provisionally” shall be substituted,

(B) for the words “ applications made under that rule and the grant of provisional drawback” , the words “ applications made under that rule along with details of provisional drawback already paid and the grant of further provisional drawback” shall be substituted;

(b) sub-rule (5) shall be omitted.

[F. No. 609/94/2015-DBK]

(Theodore Tigga)

Under Secretary to the Government of India

Note.- The principal rules were published vide notification number 39/1995-Customs (N.T.), dated 26th May, 1995, in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R. 441 (E), dated the 26th May, 1995, and was last amended by notification number 20/2015-Custom (N.T.), dated the 10th February, 2015 vide number G.S.R. 81 (E), dated the 10th February, 2015.

Procedure for export under claim for brand rate under Rule 7 of Drawback Rules

1. The exporters opting for claim of brand rate under rule 6 the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 shall continue to declare the figure “ 9801” as an identifier under the Drawback details in the shipping bills filed.

2. For shipping bills filed on or after 23.11.2015, the exporters opting for claim of brand rate under rule 7 of Drawback Rules, 1995 shall declare the figure “ 9807” (instead of “ 9801”) as an identifier in the shipping bill under the Drawback details. Immediately after the said identifier, the tariff item number of goods as shown in column (1) of the Schedule shall be declared followed by the character “ B” . For example, if “ Tractors (other than tractors of heading 8709)” are exported under claim for brand rate under rule 7 and the related Drawback Tariff Item number for such tractors in the AIR Schedule is 8701, the declaration on the shipping bill would be “ 98078701B” . Similarly, for “ Bicycle pump” the related Drawback Tariff Item number in the AIR Schedule is 841403 and the declaration on the shipping bill would be “ 9807841403B” . Such a shipping bill is to be processed by the Customs for payment of provisional drawback amount equivalent to the Customs component (‘ B’ column of AIR Schedule consisting of rate and cap) for the said declared Drawback TI of AIR Schedule. This processing is subject to same conditions as applicable to AIR drawback wherein there is claim for only Customs component. Suitable change in EDI is being implemented by DG (Systems).

3.1 After goods are exported, the exporter may apply to the relevant Central Excise office for fixation of brand rate under rule 7. In case of a timely filed complete application for fixation of brand rate under rule 7, subsequent drawback payments may arise against such shipping bill on account of provisional brand rate letter issued by Central Excise in terms of para 5A-5B of Instruction No.603/01/2011-DBK dated 11.10.2013 and/or the final brand rate letter and here the above said provisional drawback amount already paid shall also be taken into account.

3.2 However, in case of a timely filed complete application for fixation of brand rate under rule 7, if the brand rate request is denied after verification, the rejection letter issued by Central Excise and endorsed to the Customs formation should carry the information about the details of the eligibility for the rate and cap specified in ‘ A’ column of AIR Schedule in terms of all the Notes and Conditions with the Schedule and on this basis the Customs shall update the record and after taking into account the payments already made, finalise the claim in terms of the AIR provisions.

3.3 It may be noted that only the first drawback amount processed through the EDI system is electronically validated with respect to Rule 8A of Drawback Rules, 1995. Therefore, wherever there is any subsequent EDI processing on basis of the AIR, this validation must be enforced by the Customs officer for the total drawback amount against relevant tariff item.

4. For shipping bills filed before 23.11.2015, the exporters opting for claim of brand rate under rule 7 of the Drawback Rules, 1995 would, as before, have declared the figure “ 9801” as an identifier in the shipping bill under the Drawback details. In such cases, if the Let Export Order date is to be on or after 23.11.2015, the exporter shall be facilitated to amend, prior to the actual LEO, the identifier along the lines mentioned in item 2 above. However, even if the LEO occurs on or after 23.11.2015 without such amendment, the exporter may provide the information to the Asst/Dy. Commissioner of Customs at the port of export that the option for claim of brand rate reflected in the shipping bill was intended to be under rule 7 of the Drawback Rules, 1995 and also indicate the Tariff Item number (as shown in column (1) of the AIR Schedule) corresponding to the export goods (exported in the shipping bill) and seek provisional drawback amount equivalent to the Customs component. The Customs shall enter this information in its records along with details of the calculation of the amount. The payment of the provisional drawback amount shall be processed with conditions as applicable to AIR drawback wherein there is claim for only the Customs component.