

CIRCULAR NO. 13/2010-CUSTOMS

**F.No.609/51 /2010-DBK
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 24th June, 2010

To

All Chief Commissioners of Customs/Central Excise/Customs & Central Excise.
All Commissioners of Customs/Customs (P)/Customs & Central Excise /Central Excise.
All Director Generals of CBEC,
Chief Departmental Representative of Customs Excise & Service Tax Appellate Tribunal.

Sub: Amendment of the Customs, Central Excise & Service Tax Drawback Rules, 1995 and the Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995- reg.

Sir/Madam,

The undersigned is directed to say that the Board has amended the Customs, Central Excise & Service Tax Drawback Rules, 1995 and the Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995 vide Notifications No. 49/2010-Customs (N.T) and 48/2010-Customs (N.T) both dated 17th June, 2010. The rules have been amended to make the time limits prescribed for making various applications/claims of drawback under the Rules more exporter friendly, to liberalize granting of extensions in case of delays and to delegate greater powers in that regard to the field officers at the level of the Assistant/Deputy Commissioner of Customs. These are trade facilitation measures. The notifications are available on CBEC website and may be perused for details. The important changes that have been made in the Rules are as discussed below.

2. The time limits for filing applications for fixation of Brand Rate of Drawback, supplementary claims of Drawback and for claiming drawback under section 74 of the Customs Act, 1962 have been revised as under:

Type of claim	Previous time limits	Revised time limits
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Brand rate claim(Rules 6 and 7 of Customs, Central Excise & Service Tax Drawback Rules, 1995)	The claim was required to be filed within 60 days from the date of Let Export Order. This time limit could be extended by 30 days by the Commissioner if he was satisfied that the exporter was prevented by sufficient cause from filing the application within the aforesaid time period.	The claim may be filed within 3 months from the date of Let Export Order. This time limit may be extended by 3 months by the AC / DC and by another 6 months by the Commissioner.
Supplement-ary claim(Rule 15 of Customs, Central Excise & Service Tax Drawback Rules, 1995)	The claim has to be filed within 3 months from the date of publication of All Industry Rate (AIR) of Drawback or from the date of communication of the brand rate of drawback. This period may be extended by another 9 months by the AC/DC if he is satisfied that the exporter was prevented by sufficient cause from filing application within the aforesaid time period.	The claim may be filed within 3 months from the date of publication of All Industry Rate (AIR) of Drawback or from the date of communication of the brand rate of drawback. This period may be extended by 9 months by the AC/DC and by another 6 months by the Commissioner.
Drawback on Re-export of imported goods [Rule 5 of the Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995]	This claim has to be filed within 3 months from the date of Let Export Order. The period may be extended further by 3 more months by the AC/DC in case he has satisfied that the exporter was prevented by sufficient cause from filing the case in time.	This claim may be filed within 3 months from the date of Let Export Order. The period may be extended by 3 months by the AC/DC and by another 6 months by the Commissioner.

3. It may be seen from the above that under the amended rules an exporter can file an application for fixation of Brand Rate of Drawback under Rule 6 and 7 within a maximum period of 1 year including the extensions. Similarly, he can file supplementary claim of drawback within a maximum period of 18 months including extensions and a claim of drawback under Section 74 of the Customs Act, 1962 within a maximum period of 1 year including extensions.

4. In all the above cases, the AC/DC or the Commissioner may grant the extension on the basis of an application and after making such enquiry as they think fit. The condition that the exporter should have been prevented by sufficient cause from applying within the prescribed time period has been removed. In case, the AC/DC or the Commissioner decide not to grant extension, they may do so after

recording in writing the reasons for such refusal and the same may be communicated to the applicant through a speaking order. However, as advised by the Board vide Circular No. 14/2003-Cus dated 06.03.2003, delays may generally be condoned on receipt of the exporter's application in this regard.

5. A new feature that has been incorporated in the Rules is that in all the above cases 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 AC/DC and an application fee of 2% of the FOB value of exports or Rs. 2000/-, whichever is less, shall be payable for applying for grant of extension by the Commissioner.

6. The applications for fixation of Brand Rate of drawback have to be filed in the office of the Commissioner of Central Excise (or Customs & Central Excise) as provided in rules 6 and 7 of the Customs, Central Excise & Service Tax Drawback Rules, 1995 and as already advised vide the above mentioned circular. If there is a delay in making the application, the Assistant/Deputy Commissioner of Central Excise (Technical) or such other Assistant/Deputy Commissioner in the office of the Commissioner of Central Excise who has been assigned the work relating to fixation of Brand Rate of drawback, may grant the first extension of upto 3 months. If the delay is of more than 3 months, extension may be granted only by the Commissioner. The applications for supplementary claims of drawback, drawback under section 74 of the Customs Act, 1962 and for repayment of drawback in terms of rule 16A(4) of the Customs, Central Excise & Service Tax Drawback Rules, 1995 may be made to the Assistant Commissioner of Customs at the port of export.

7. Further, Rule 16A (4) of the Customs, Central Excise & Service Tax Drawback Rules, 1995 has been amended to provide that in cases where the sale proceeds are realized by the exporter after the amount of drawback has been recovered from him under Rule 16A (1) of the Drawback Rules, 1995 due to non realization of export proceeds, he shall be allowed to produce evidence of such realization within a period of 3 months from the date of realization of export proceeds instead of the previous provision of one year from the date of recovery of amount of drawback provided the foreign exchange has been realized within the period permitted by RBI.. The period may be extended by the Commissioner of Customs by 9 months subject to the condition that the amount has been realized on a date covered by the extensions of time limit given by the RBI for realizing export proceeds. 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 Commissioner.

8. A suitable Public Notice and Standing Order may be issued for the guidance of the trade and staff. Difficulties faced, if any, in implementation of the Circular may be brought to the notice of the Board at an early date.

Receipt of the Circular may kindly be acknowledged.

Yours faithfully,

(Pramod Kumar)
Technical officer (Drawback)