

**Circular No. 46/2011 - Customs**

**F.No.603/01/2011-DBK  
Government of India  
Ministry of Finance  
Department of Revenue**

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New Delhi, the 20<sup>th</sup> October, 2011

To

All Chief Commissioners of Customs / Customs (Prev).  
All Chief Commissioners of Customs & Central Excise.  
All Directors General of CBEC.  
All Commissioners of Customs / Customs (Prev).  
All Commissioners of Customs (Appeals).  
All Commissioners of Customs & Central Excise.  
All Commissioners of Customs & Central Excise (Appeals).  
DG, (CEIB)/ DG, Central Excise Intelligence.  
DGRI/ DG (EP)/DGI/ DG, NACEN).  
DG (Systems and Data Management).  
CDR, CESTAT.

Sir/Madam,

**Subject: Exports under Duty Drawback Scheme- Reg.**

The C&AG has recently conducted a review on the Duty Drawback scheme. The review and the recommendations contained therein are included in the Audit Report No. 15 of 2011-12 of the Comptroller & Auditor General of India (Indirect Taxes) for the year ending March, 2010. The said Report has since been presented to Parliament and is available on the website <http://www.cag.gov.in>. The same may please be perused.

2. The review has highlighted certain systematic and compliance related weakness in matters relating to assessment of export goods and the payment of drawback to exporters. The Board has submitted a detailed ATN (Action Taken Note) in response to the observations and recommendations of the C&AG.

3. In the background of the recommendations/observations of the C&AG made in the said report, the following instructions are being issued for strict compliance.

**3.1 *Instructions relation to "identification of goods" and "determination of use" in terms of Section 74 of the Customs Act, 1962.***

(a) In terms of the section 74 of the Customs Act, 1962, the export goods are to be identified to the satisfaction of the Assistant/Deputy Commissioner of Customs. This may require examination and verification of various parameters, including but not limited to physical properties, weight, marks and numbers, test reports, if any, documentary evidences vis-à-vis import documents etc., for identification of the goods. If such export goods have been 'used after import', the same is to be determined besides establishing the identity of the goods. It may be ensured that in all such cases where drawback under section 74 is claimed, the Assistant/Deputy Commissioner of Customs shall pass a speaking order giving

detailed reasons with regard to establishing the identity or otherwise of the goods under re-export, and determination of use, if any, while sanctioning Duty Drawback or otherwise. It may further be noted that the detailed speaking orders, following the principles of natural justice, are to be issued in both cases, i.e. where drawback is proposed to be sanctioned (either in full or part) or proposed to be denied.

**3.2 General Instructions with regard to expeditious processing of drawback claims under both Section 74 and Section 75 of the Customs Act, 1962.**

(a) While processing Drawback claims, whether under Section 74 or Section 75, wherever any deficiency is noticed in the claim, the same shall be communicated to the exporter in a clear unambiguous manner within a period of 10 days, from the date of filing of the claim. Further, the drawback claims shall be disbursed in accordance with the timelines as specified in the Citizen's charter adopted by the department and the Sevottam standards prescribed in this regard. Commissioners of Customs shall undertake a periodic review and monitoring of the status of pending drawback claims.

(b) The field formations shall ensure that periodic sample checks and verifications are carried out with respect to the export declarations including classification, descriptions, weight etc.; the value of export goods declared as per the Export Valuation Rules; availment/ reversal of CENVAT credit wherever applicable; realization of the export proceeds/ BRC; actual freight payment certificates. It shall be also ensured that the brand rate drawback claims are disposed off in a time bound manner.

(c) The field formations shall ensure the proper data entry in BRC module of EDI system. Commissioner of Customs shall constitute a special monitoring cell in their respective formations for periodic verification and monitoring of the same. The Monitoring cell will also ensure that the necessary action is taken against the defaulter exporters.

(d) All previous circulars and instructions issued by the Board in this regard shall be strictly followed.

4. Suitable standing orders for guidance of staff may also be issued accordingly.

The receipt of this circular may kindly be acknowledged.

Yours faithfully,

Sd/-

**(ASHOK KUMAR PANDEY)**  
**Senior Technical Officer (Drawback)**