

Refund of Anti-dumping Duty (Paid in Excess of Actual Margin of Dumping) Rules, 2012

- Refund within 90 Days of Application, Undue Enrichment Clause Applicable
- Covers Cases of New Shipper Reviews where DA Determines Import was at less than Dumping Margin
- Application to be Filed within Three Months after Refundability Event
- Deficiencies to be Pointed out within a Month from Application Date

[Ref: 05-Customs(NT) dated 19 January 2012]

In exercise of the powers conferred by sub-section (2) of section 9 AA of the Custom Tariff Act 1975 (51 of 1975), the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement

- (1) These rules may be called the Refund of AntiDumping Duty (Paid in Excess of Actual Margin of Dumping) Rules, 2012.
- (2) They extend to the whole of India.
- (3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Customs Tariff Act, 1975 (51 of 1975);
- (b) "designated authority", in relation to these rules, means any person who is appointed as the designated authority by the Central Government by notification in the Official Gazette in accordance with rule 3 of the Customs Tariff (Identification, Assessment and Collection of Anti dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995;
- (c) "duty" means the anti-dumping duty imposed under sub-section (1) or sub-section (1A) of section 9A of the Act;
- (d) "Fund" means the Consumer Welfare Fund established under section 12C of the Central Excise Act, 1944 (1 of 1944);
- (e) "importer" means any person who has filed bill of entry for clearance of goods and while discharging duty liability on such goods has paid anti dumping duty in excess of the actual margin of dumping.
- (f) Words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. Procedure for claiming refund of excess payment of Anti-dumping duty

- (1) Where an importer has paid any anti-dumping duty in excess of the actual margin of dumping in relation to any imported goods, he may submit an application as per format specified for refund of such excess duty to the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be, at the port of importation.
- (2) The application referred to in sub-rule (1) shall be accompanied by documents evidencing payment of anti dumping duty in respect of which refund has been claimed.

4. Time limit for filing refund

- (1) Every application under these rules shall be filed within three months from the date of publication of notification, issued by the Central Government under sub-section (1) of section 9AA of the Act, in the Official Gazette.
- (2) Where such duty becomes refundable as a consequence of judgment, decree, order or direction of the Court, Appellate Tribunal or Authority, the limitation of three months shall be computed from the date of such judgment, decree, order or direction.

5. Deficiency in application for refund

- (1) On receipt of the application, it shall be scrutinized for its completeness by the Assistant Commissioner of Customs or Deputy Commissioner of Customs and where the application is found to be deficient in any material particulars, it shall be returned to the importer within one month pointing out the deficiencies.
- (2) The importer may re-submit the application after making good the deficiencies to the Assistant Commissioner of Customs or Deputy Commissioner of Customs within one month of receipt thereof.

6. Disposal of refund claim

If, on receipt of any such refund application, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, is satisfied that the whole or part of the anti dumping duty, as notified by the Central Government, is refundable, he may make an order accordingly and the amount so determined shall be refunded to the importer within 90 days of the receipt of the application or application resubmitted after rectification of deficiency, as the case may be, under rule 5:

Provided that the amount of duty refundable under this rule shall, instead of being refunded to the importer be credited to the fund, if he had passed on the incidence of such duty to any other person.

[F.No.354/126/2010 –TRU]