

Re-export of imported goods (Drawback of Customs duties) Rules, 1995

M.F. (D.R.) Notification No. 36/95-Cus. (N.T.), dated 26-5-1995

amended by

Notification No. 63/1995 -Cus (N.T.), dated 20/10/1995

Notification No. 29/1999 -Cus (N.T.), dated 11/05/1999

Notification No. 05/2003 -Cus (N.T.), dated 21/01/2003

In exercise of the powers conferred by section 74 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules, namely :-

1. Short title, extent and commencement.-

- (1) These rules may be called Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995.
- (2) They extend to the whole of India.
- (3) They shall come into force on the 26th day of May, 1995.

2. Definition.-

In these rules, unless the context otherwise requires, -

- (a) "drawback", in relation to any goods exported out of India, means the refund of duty paid on importation of such goods in terms of section 74 of the Customs Act;
- (b) "export", with its grammatical variations and cognate expressions means taking out of India to a place outside India and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port or airport.

3. Procedure for claiming drawback on goods exported by post.-

- (1) Where goods are to be exported by post under a claim for drawback under these rules, -
 - (a) the outer packing carrying the address of the consignee shall also carry in bold letters the words "DRAWBACK EXPORT";
 - (b) the exporter shall deliver to the competent Postal Authority, alongwith the parcel or package, a claim in the form at Annexure I, [See Customs Series Form No. 108 in Part 5] in quadruplicate, duly filled in.
- (2) The date of receipt of the aforesaid claim form by the proper officer of customs from the postal authorities shall be deemed to be date of filing of drawback claim by the exporter for the purpose of section 75A and an intimation of the same shall be given by the proper officer of customs to the exporter in such form as the [Commissioner of Customs] may prescribe.
- (3) In case the aforesaid claim form is not complete in all respects, the exporter shall be informed of the deficiencies therein within fifteen days of its receipt from postal authorities by a deficiency memo in the form prescribed by the [Commissioner of Customs], and such claim shall be deemed not to have been received for the purpose of sub-rule (2).
- (4) When the exporter complies with the requirements specified in the deficiency memo, within thirty days of receipt of the deficiency memo, he shall be issued an acknowledgement by the proper officer in the form prescribed by the [Commissioner of Customs] and the date of such acknowledgement shall be deemed to be date of filing the claim for the purpose of section 75A.

4. Statements/Declarations to be made on exports other than by post.-

In the case of exports other than by post, the exporter shall at the time of export of the goods -

(a) state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback under section 74 and make a declaration on the relevant shipping bill or bill of export that -

- (i) the export is being made under a claim for drawback under section 74 of the Customs Act;
- (ii) that the duties of customs were paid on the goods imported;
- (iii) that the goods imported were not taken into use after importation;

OR

- (iii) that the goods were taken in use;

[Provided that if the Commissioner of Customs is satisfied that the exporter or his authorized agent has, for reasons beyond his control, failed to comply with the provisions of this clause, he may, after considering the representation, if any, made by such exporter or his authorized agent, and for reasons to be recorded, exempt such exporter or his authorized agent from the provisions of this clause.]

(b) furnish to the proper officer of customs, copy of the Bill of Entry or any other prescribed document against which goods were cleared on importation, import invoice, documentary evidence of payment of duty, export invoice and packing list and permission from Reserve Bank of India to re-export the goods, wherever necessary.

5. Manner and time of claiming drawback on goods exported other than by post.-

(1) A claim for drawback under these rules shall be filed in the form at Annexure II [See Customs Series Form No. 109 in Part 5] within three months from the date on which an order permitting clearance and loading of goods for exportation under Sec. 51 is made by proper officer of customs :

Provided that the [Assistant Commissioner of Customs or Deputy Commissioner of Customs] may, if he is satisfied that the exporter was prevented by sufficient cause to file his claim within the aforesaid period of three months, allow the exporter to file his claim within a further period of three months.

(2) The claim shall be filed [* * * * *] alongwith the following documents, namely :-

- (a) Triplicate copy of the Shipping Bill bearing examination report recorded by the proper officer of the customs at the time of export.
- (b) Copy of Bill of Entry or any other prescribed document against which goods were cleared on importation.
- (c) Import invoice.
- (d) Evidence of payment of duty paid at the time of importation of the goods.
- (e) Permission from Reserve Bank of India for re-export of goods, wherever necessary.
- (f) Export invoice and packing list.
- (g) Copy of Bill of lading or Airway bill.
- (h) Any other documents as may be specified in the deficiency memo.

(3) The date of filing of the claim for the purpose of section 75A shall be the date of affixing the Dated Receipt Stamp on the claims which are complete in all respects, and for which an acknowledgement shall be issued in such form as may be prescribed by the [Commissioner of Customs].

(4) (a) Any claim which is incomplete in any material particulars or is without the documents specified in sub-rule (2) shall not be accepted for the purpose of section 75A and such claim shall be returned to the claimant with the deficiency memo in the form prescribed by the [Commissioner of Customs] within fifteen days of submission and shall be deemed not to have been filed;

(b) Where exporter complies with requirements specified in deficiency memo within thirty days from the date of receipt of deficiency memo, the same will be treated as a claim filed under sub-rule (1).

(5) Where any order for payment of drawback is made by the [Commissioner (Appeals)], Central Government or any Court against an order of the proper officer of customs, the manufacturer exporter may file a claim in the manner prescribed in this rule within three months from the date of receipt of the order so passed by the [Commissioner (Appeals)], Central Government or the Court, as the case may be.

6. Payment of drawback and interest.-

(1) The drawback under these rules and interest, if any, shall be paid by the officer of Customs to the exporter or to the agent specially authorised by the exporter to receive the said amount of drawback and interest.

(2) The date of payment of drawback and interest shall be deemed to be, in case of payment -

- (a) by cheque, the date of issue of cheque; or
- (b) by credit in the exporter's account maintained with the Custom House, the date of such credit.

7. Repayment of erroneous or excess payment of drawback and interest.-

Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by an officer of customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).

[7A. Power to relax. -

If the Central Government is satisfied that in relation to the export of any goods, the exporter or his authorised agent has, for reasons beyond his control, failed to comply with any of the provisions of these rules, and has thus been entitled to drawback, it may, after considering the representation, if any, made by such exporter or agent, and for reasons to be recorded in writing, exempt such exporter or agent from the provisions of such rule and allow drawback in respect of such goods.]

8. Savings.-

(1) Any claim made by an exporter or his authorised agent, for payment of drawback in respect of goods exported before the commencement of these rules but not disposed of before such commencement, shall be disposed of in accordance with the provisions of these rules.

(2) Where any goods have been exported under claim for drawback under section 74, before the date of commencement of these rules but no claim for payment of drawback has been filed, the exporter may file his claim within a period of three months from the date of commencement of these rules in the manner prescribed in rule 5.