

**[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. 58/ 2017-CUSTOMS (N.T.)

New Delhi, the 29th June, 2017

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 to further 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 (Amendment) Rules, 2017.

(2) They shall come into force on the 1st day of July, 2017.

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

(i) in rule 2, after clause (e), the following clause shall be inserted, namely:-

‘(f) “tax invoice” means the tax invoice referred to in section 31 of the Central Goods and Services Tax Act, 2017 (12 of 2017).’;

(ii) in rule 3, in sub-rule (1), after the clause (bb), the following clauses shall be inserted, namely:-

“(bc) the Central Goods and Services Tax Act, 2017 (12 of 2017) and the rules made thereunder,

(bd) the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and the rules made thereunder; and”;

(iii) for rule 6, the following rule shall be substituted, namely:-

“6. Cases where amount or rate of drawback has not been determined.-

(1)(a) Where no amount or rate of drawback has been determined in respect of any goods, any exporter of such goods may, within three months from the date relevant for the applicability of the amount or rate of drawback in terms of sub-rule (3) of rule 5, apply to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, having jurisdiction over the place of export, for determination of the amount or rate of drawback thereof stating all the relevant facts including the proportion in which the materials or components or input services are used in the production or manufacture of goods and the duties paid on such materials or components or the tax paid on input services:

Provided that-

(i) in case an exporter is exporting the aforesaid goods from more than one place of export, he shall apply to the Principal Commissioner or Commissioner of Customs, having jurisdiction over any one of the said places of export;

(ii) the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of three months and the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may further extend the period by a period of six months;

(iii) the Assistant Commissioner of Customs or Deputy Commissioner or Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, on an application and after making such enquiry as he thinks fit, grant extension or refuse to grant extension after recording in writing the reasons for such refusal;

(iv) an application fee equivalent to 1% of the FOB value of exports or one thousand rupees whichever is less, shall be payable for applying for grant of extension to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be and an application fee of 2% of the FOB value or two thousand rupees whichever is less, shall be payable for applying for grant of extension to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(b) On receipt of an application under clause (a), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall, after making or causing to be made such inquiry as it deems fit, determine the amount or rate of drawback in respect of such goods.

(2)(a) Where an exporter desires that he may be granted drawback provisionally, he may, while making an application under clause (a) of sub-rule (1) apply to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, that a provisional amount be granted to him towards drawback on the export of such goods pending determination of the amount or rate of drawback under clause (b) of that sub-rule.

(b) The Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, after considering the application, allow provisionally payment of an amount not exceeding the amount claimed by the exporter in respect of such export:

Provided that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, for the purpose of allowing provisional payment of drawback in respect of such export, require the exporter to enter into a general bond for such amount, and subject to such conditions, as he may direct; or to enter into a bond for an amount not exceeding the full amount claimed by such exporter as drawback in respect of a particular consignment and binding himself, -

- (i) to refund the amount so allowed provisionally, if for any reason, it is found that the duty drawback was not admissible; or
- (ii) to refund the excess, if any, paid to such exporter provisionally if it is found that a lower amount was payable as duty drawback:

Provided further that when the amount or rate of drawback payable on such goods is finally determined, the amount provisionally paid to such exporter shall be adjusted against the drawback finally payable and if the amount so adjusted is in excess or falls short of the drawback finally payable, such exporter shall repay to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, the excess or be entitled to the deficiency, as the case may be.

(c) The bond referred to in clause (b) may be with such surety or security as the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may direct.

(3) Where the Central Government considers it necessary so to do, it may,—

- (a) revoke the rate of drawback or amount of drawback, determined under clause (b) of sub-rule (1) by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; or
- (b) direct the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, to withdraw the rate of drawback or amount of drawback determined.

Explanation.- For the purpose of this rule, “place of export” means customs station or any other place appointed for loading of export goods under section 7 of the Customs Act, 1962 (52 of 1962) from where the exporter has exported the goods or intends to export the goods in respect of which determination of amount or rate of drawback is sought.”;

(iv) for rule 7, the following rule shall be substituted, namely:—

“7. Cases where amount or rate of drawback determined is low.— (1) Where, in respect of any goods, the exporter finds that the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, for the class of goods is less than eighty per cent. of the duties or taxes paid on the materials or components or input services used in the production or manufacture of the said goods, he may, except where a claim for drawback under rule 3 or rule 4 has been made, within three months from the date relevant for the applicability of the amount or rate of drawback in terms of sub-rule (3) of rule 5, make an application to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, having jurisdiction over the place of export, for determination of the amount or rate of drawback thereof stating all relevant facts including the

proportion in which the materials or components or input services are used in the production or manufacture of goods and the duties or taxes paid on such materials or components or input services:

Provided that -

(i) in case an exporter is exporting the aforesaid goods from more than one place of export, he shall apply to the Principal Commissioner or Commissioner of Customs, having jurisdiction over any one of the said places of export;

(ii) the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of three months and that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may further extend the period by a period of six months;

(iii) the Assistant Commissioner of Customs or Deputy Commissioner or Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, on an application and after making such enquiry as he thinks fit, grant extension or refuse to grant extension after recording in writing the reasons for such refusal;

(iv) an application fee equivalent to 1% of the FOB value of exports or one thousand rupees whichever is less, shall be payable for applying for grant of extension to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be and an application fee of 2% of the FOB value or two thousand rupees whichever is less, shall be payable for applying for grant of extension by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(2) On receipt of the application referred to in sub-rule (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, after making or causing to be made such inquiry as it deems fit, allow payment of drawback to such exporter at such amount or at such rate as may be determined to be appropriate, if the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, is in fact less than eighty per cent. of such amount or rate determined under this sub-rule.

(3) Provisional drawback amount, as may be specified by the Central Government, shall be paid by the proper officer of Customs and where the exporter desires that he may be granted further drawback provisionally, he may, while making an application under sub-rule (1), apply to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, in this behalf in the manner as has been provided in clause (a) of sub-rule (2) of rule 6 for the application made under that rule along with details of provisional drawback already paid and the grant of further provisional drawback shall be considered in the manner and subject to the conditions specified in clauses (b) and (c) of sub-rule (2), and sub-rule (3) of rule 6, subject to the condition that bond required to be executed by the claimant shall only be for the difference between amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4 by the Central Government and

the provisional drawback authorised by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under this rule.

(4) Where the Central Government considers it necessary so to do, it may,–

(a) revoke the rate of drawback or amount of drawback determined under sub-rule (2) by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be; or

(b) direct the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, to withdraw the rate of drawback or amount of drawback determined.

Explanation.- For the purpose of this rule, “place of export” means customs station or any other place appointed for loading of export goods under section 7 of the Customs Act, 1962 (52 of 1962) from where the exporter has exported the goods or intends to export the goods in respect of which determination of amount or rate of drawback is sought.”;

(v) in rule 9, in clause (d),-

(A) for the words “Principal Commissioner of Central Excise or Commissioner of Central Excise, as the case may be or the Principal Commissioner or Commissioner of Customs and Central Excise”, the words “Principal Commissioner of Customs or Commissioner of Customs”, shall be substituted;

(B) the words “or of Central Excise” shall be omitted;

(vi) in rule 10, the words “or of Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise” shall be omitted;

(vii) in rule 13, in sub-rule (2),-

(A) in clause (iii), for the letters and figure “ARE-1”, the words “tax invoice” shall be substituted;

(B) for clause (v), the following clause shall be substituted, namely:-

“(v) copy of communication regarding rate of drawback where the drawback claim is for a rate determined by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, under rule 6 or rule 7 of these rules.”;

(viii) in rule 15, for sub-rule (1), the following sub-rule shall be substituted, namely:-

“(1) Where any exporter finds that the amount of drawback paid to him is less than what he is entitled to on the basis of the amount or rate of drawback determined by the Central Government or Principal Commissioner of Customs or Commissioner of Customs, as the case may be, he may prefer a supplementary claim in the form at Annexure III:

Provided that the exporter shall prefer such supplementary claim within a period of three months, -

(i) where the rate of drawback is determined or revised under rule 3 or rule 4, as the case may be, from the date of publication of such rate in the Official Gazette;

(ii) where the rate of drawback is determined or revised upward under rule 6 or rule 7, as the case may be, from the date of communicating the said rate to the person concerned;

(iii) in all other cases, from the date of payment or settlement of the original drawback claim by the proper officer :

Provided further that –

(i) the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, may extend the aforesaid period of three months by a period of nine months and that the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may further extend the period by a period of six months;

(ii) the Assistant Commissioner of Customs or Deputy Commissioner or Principal Commissioner of Customs or Commissioner of Customs, as the case may be, may, on an application and after making such enquiry as he thinks fit, grant extension or refuse to grant extension after recording in writing the reasons for such refusal;

(iii) an application fee equivalent to 1% of the FOB value of exports or one thousand rupees whichever is less, shall be payable for applying for grant of extension by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be and an application fee of 2% of the FOB value or two thousand rupees whichever is less, shall be payable for applying for grant of extension by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.”;

(ix) in rule 16A, in the proviso to sub-rule (4),-

(A) in clause (i), the words “or Principal Commissioner or Commissioner of Customs and Central Excise, as the case may be” shall be omitted;

(B) in clause (ii), the words “or Principal Commissioner or Commissioner of Customs and Central Excise, as the case may be” shall be omitted;

[F. No. 609/43/2017-DBK]

(Anand Kumar Jha)
Under Secretary to the Government of India

Note: The principal rules were published vide notification number 39/1995-Customs (N.T.), dated the 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 vide notification number 132/2016-Customs (N.T.), dated the 31st October, 2016 vide number G.S.R. 1019(E), dated the 31st October, 2016.