



OFFICE OF COMMISSIONER OF CUSTOMS NS-II
JAWAHAR LAL NEHRU CUSTOM HOUSE, NHAVA SHEVA
TAL: URAN, DIST. RAIGAD, MAHARASHTRA-400707

F.No.S/12-Gen- Misc-07/2018-19 AM(X)

Date: 11.10.2018

PUBLIC NOTICE NO.138/2018

Sub: : Cases where IGST refunds have not been granted due to claiming higher rate of drawback OR where higher rate and lower rate were identical –reg.

Attention of all the importers, exporters, customs brokers, and all other stake holders is invited to the Board Circular No. 37/2018-Customs, dated 09.10.2018 on the subject mentioned above.

2. Representations have been received by Board from exporters /export associations regarding cases where IGST refunds have not been granted because higher rate of drawback has been claimed or where higher rate and lower rate were identical. The issue has been examined. The legal provisions related to drawback claims are as under:

2.1 Notes and condition (11) of *Notf.No.131/2016-Cus(NT)*, dated 31.10.2016 (as amended by *Notf.No.59/2017-Cus(NT)*, dated 29.6.2017), under which All Industry Rates of drawback had been notified and which were applicable for availing composite rates during period in question (i.e. 01.07.2017 to 30.09.2017), prescribed that 'The rates and caps of drawback specified in columns (4) and (5) of the said schedule shall not be applicable to export of a commodity or product if such commodity or product is –

....

(d) exported claiming refund of the integrated goods and services tax paid on such exports.

2.2 Notes and Condition (12A) of *Notfn.No.131/2016-Cus(NT)*, dated 31.10.2016 (as amended by *Notfn.No.59/2017-Cus(NT)*, dated 29.06.2017 and *73/2017-Cus(NT)*, dated 26.07.2017) prescribed that 'The rates and caps of drawback specified in columns (4) and (5) of the said schedule shall be applicable to export of a commodity or product if the exporter satisfies the following conditions, namely:-

... ..

(ii) If the goods are exported on payment of integrated goods and services tax, the exporter shall declare that no refund of integrated goods and services tax paid on export product shall be claimed;.....'.

2.3 In terms of Rules 12 and 13 of the Customs, Central Excise Duties and

Service Tax Drawback Rules, 1995, the shipping bill itself is treated as claim for drawback in terms of the declarations made on the shipping bill.

2.4 The declarations required in terms of above notes and conditions and provisions of the drawback rules are made electronically in the EDI system. When composite drawback rate was claimed (by declaring suffix A or C with drawback serial number), exporter was required to tick DBK002 and DBK003 declarations in the shipping bills. In fact, for period 01.07.2017 to 26.07.2017, a manual declaration was also required to be given as the changes made on 26.07.2017 were made applicable for exports made from 01.07.2017 onwards.

2.5 By declaring drawback serial number suffixed with A or C and by making above stated declarations, the exporters consciously relinquished their IGST / IT claims.

3. It has been noted that exporters had availed the option to take drawback at higher rate in place of IGST refund out of their own volition. Considering the fact that exporters have made aforesaid declaration while claiming the higher rate of drawback, it has been decided that it would not be justified allowing exporters to avail IGST refund after initially claiming the benefit of higher drawback. There is no justification for re-opening the issue at this stage.

4. Action to be taken in terms of decisions taken in this public notice should be considered as a standing order for the purpose of officers and staff.

5. Difficulties, if any, may be brought to the notice of the DC/AC DBK Cell, NS-II, JNCH through e-mail (e-mail address: drawbackquery.jnch@gmail.com.).

Sd/-

**(MANAS RANJAN MOHANTY)
COMMISSIONER OF CUSTOMS
NS-II, JNCH**

Copy to:

1. The Chief Commissioner of Customs, Mumbai Zone- II.
2. All the Commissioner of Customs, Mumbai Zone- II.
3. All Addl./Joint Commissioners of Customs, Mumbai Zone- II.
4. All Deputy/Asstt. Commissioners of Customs, Mumbai Zone- II.
5. The DC/EDI for uploading on the JNCH website.
6. BCBA/FIEO/Other Trade Associations.