

## VOLUME III

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1. Export department.	\$
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5. Refund.	?

## EXPORT DEPARTMENT

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\$ Export department: Working

Exports form the life line of the economy of our country. Hence it is of utmost importance, that the export goods should be cleared for export with speed and precision. a very broad out-look should be taken while clearing the Export documentation in the Export department. due to the liberalised attitude of the government it is imperative that first preference should be given for the clearance of export cargo without much let or hindrance.

In order to have a smooth functioning of the export department, it is necessary to have simple and lucid procedure to clear the

documents for export. The documents which are produced for exportation of the consignments are as under:

### 1. Shipping bill.

There are five types of shipping bills. they are broadly:-

#### **1.Free shipping bill.**

All the goods to be exported wherein no duty or cess is levied on the export goods or where no duty draw-back has been claimed, or the goods are not exported under the D.E.E.C. Scheme or if the goods are not exported under bond, then in case of all such goods the document for export of such goods is called the free shipping bill. It is white in colour.

#### **2. Dutiable shipping bill**

Where the export goods are liable to either duty or cess, then the document for export of such goods is called the dutiable shipping bill. It is yellow in colour, provided drawback is not claimed. If drawback is claimed then it is green.

#### **3. Draw-back shipping bill**

Where the export goods are under claim for duty draw-back, the document for export in such case is called a draw-back shipping bill. It is green in colour.

#### **4. D.E.E.C. Shipping bill**

Where the export goods are sent as fulfillment of conditions against duty free imports or as advance export for duty free entitlement, the document for export is called DEEC shipping bill. It is white in colour, if no draw back is claimed, and green if DBK is claimed.

#### **5. Bond shipping bill**

When goods manufactured in bonded premises from imported goods on which no duty is paid, are to be exported, then a ex-bond shipping bill is used. It is green in colour.

Note ; The free shipping for export by air is of pink colour. In order to export the goods the various types of shipping bills are used according to the nature of the goods. Along with the respective shipping bill the exporter or his agent submits the following documents:

1. Export invoice.

It is a document which reflects the description, value, quantity, name of the buyer, contract number, date, address of both the consignor and consignee and other such particulars.

2. Packing list.

This document shows the package-wise split-up of the quantity/weight etc. of the goods. It enables the customs to check randomly a percentage of the goods. If found correct and tallies with the declaration in the packing list, then all the goods in that consignment is assumed to be correct.

3. G.R. Form

The G.R. Form means the guaranteed remittance form. It is mandatory as per the rules of the R.B.I. & under F.E.R.A. This form is submitted in duplicate with all details of the shipment.

4. Certificates from other agencies.

For various types of goods various types of certificates are required. like the pre-shipment inspection certificates from agencies like 1. Export inspection agency certificate. 2. Agmark certificates 3. F.P.O. certificates etc. However these certificates can be dispensed with if the buyer gives a letter of waiver of the inspection certificates. This waiver letter should be appended with the shipping bill.

5. Other compulsory certificates.

These certificates are the tea board certificate, no objection from wild life board, quota certificate from AEPC (apparel export promotion council) etc.

6. Other Miscellaneous documents:

Like letter of credit, declaration for value, D.E.E.C. Declaration, AR-4, AR-5 forms etc. once the exporter or his clearing agent has received all the documents for exports he prepares the shipping bill according to the nature of the goods. All the shipping bill must be typed. A hand written shipping

Bill is not acceptable. similar is the case with the

G.R., Invoice, packing list, etc. Once the documents are ready the shipping bill is typed by filling all the mandatory columns in the shipping bill. The exporter also subscribes to a declaration about the truth of the declaration in the shipping bill. the clearing agent also subscribes to a similar declaration. If the exporter handles the documents by themselves, then in the column "name of the CHA." the word "self" is incorporated. the completed shipping bill in all respect along with the required documents are submitted in the export department.

Where computerisation has been completed the system will generate the shipping bill number, which will be endorsed on to the copies of the shipping bill. however in case of manual noting the Noter will give the shipping bill number by the numbering machine. the relevant noting date is also incorporated on the shipping bill.

Once the noting and numbering of the shipping bill is completed the set of the shipping bill is put up to the concerned appraiser or examiner as the case may be, in terms of the allocation done by the assistant collector of customs, export department.

#### Scrutiny of shipping bills.

This is the most important function performed by the Appraising officer in the export department. It is expected of the Appraiser and examiner passing the shipping bills to see the following aspects in the shipping bill before the same is passed.

1. See that all the relevant information are given in the columns of the shipping bill.
2. Check if the export code/R.B.I.Number is given.
3. See that the name of the steamer/vessel is given correctly.
4. The description is given properly with the relevant R.I.T.C. Code number.
5. See that the value of the full consignment is given properly and also see if both FOB. And CIF. Value is shown separately.

6. Check if the gross weight and net weight of the consignment is shown both in words and figures.

7. Verify the name of the consignor and consignee is shown in the respective columns.

8. See that the item shown as description of the goods is not a prohibited or banned item as per the Export policy.

9. Check if the income tax number is endorsed on the face of the shipping bill.

10. Verify the correct exchange rate has been shown in the shipping bill.

11. Verify the shipping bill number and the date of noting and see that the same is initialed by the Noter.

12. Verify if the clearing agent or the exporter as the case may be has subscribed to the declaration properly and has signed the declaration.

13. Check if the declaration given under section 50 of the customs act 1962 is pasted to the reverse of the shipping bill.

14. Check that the invoice number shown in the shipping bill tallies with the invoice number shown in the invoice produced along with the shipping bill.

15. Check the value of the goods and ascertain that the same is fair. Check for over/under valuation, especially in case of draw-back or  
D.E.E.C. Shipping Bill.

16. Check the G.R.-1 form and see that the particulars shown therein tallies with the particulars of the shipping bill, especially with respect to value, quantity etc.

17. Check if any inspection agency certificate or other compulsory certificates like tea board certificates are required for passing the documents.

18. In the case of D.E.E.C. Documents check if the

declaration required for D.E.E.C. Has been made and pasted on the reverse of the shipping bill. This declaration is for the quantity of the exempt material used for the manufacture of the goods.

19. Check that a proper packing list is given showing packagewise contents along with the quantity and weight as the case may be.

20. Check whether the goods for exports require no objection from wild life authorities, archaeological authorities, or any other such authorities for passing the documents.

21. In the case of draw-back shipping bill check if the correct draw-back code number and correct rate of Draw-back is shown on the reverse of the draw back shipping bill.

22. Check that the security number of the G.R.- Form is incorporated on the shipping bill and the shipping bill number is shown on the G.R.-1 form. once all the above scrutiny has been completed the shipping bill is ready for passing. The officer after having satisfied himself about the correctness and veracity of the information given in the documents, then passes the shipping bill by putting his full signature on all the copies of the shipping bill. a set of shipping bill consist of four copies. They are known as original copy, duplicate copy, triplicate copy and the quadruplicate copy. At the time of signing the shipping bill the officer will give the examination order. The examination order is for the shed officers to do the examination as per the direction given in the examination order. The shed staff shall not deviate from the examination order.If such a need arises, then the shed staff shall seek the permission of the assistant collector incharge of docks/shed. The officer passing the shipping bill shall give clear examination order according to the nature of the goods.

1. In the case of free shipping bill the examination order should be generally restricted to the checking the description. In case of free shipping bill the percentage of packages to be opened should be five percent if the lot is less hundred packages. If the lot is more than one hundred packages then the percentage of examination should be two percent subject to opening of maximum ten packages.

2. In the case of draw-back shipping bills the

examination order will depend on the claim for draw back. If the draw back is admissible on the basis of quantity then the order for examination in addition to description check will also include the order for checking the quantity of the goods. Similarly if the draw-back is admissible on weight basis then the goods should be ordered to be weighed. If the draw-back is provisional or based

on value (and if the value is based on both quantity & weight) then in all such cases both the quantity and weight should be ordered to be checked. in the case

of draw-back shipping bill the percentage to be checked should five percent subject to a maximum of twenty packages.

3. In the case of dutiable shipping bill the examination order should be for checking the description and the quantity and/or

weight depending on what parameter the duty or cess is levied.

the percentage of examination should be three percent subject to a maximum of fifteen packages.

4. In the case of D.E.E.C. Shipping bill the examination order should be for checking the description of the goods. In addition, the order should include the checking of quantity and/or weight depending on the nature of the goods. further the order also specifies to check that the declared exempt material is used in the quantity shown in the declaration. Hence where possible the quantity and weight of the packing material is also to be checked if the same form part of the goods for claim of duty free exempt material.

If the quantity or the weight of the exempt material cannot be ascertained on physical verification, then test result on the samples drawn may be relied upon. For this purpose samples for test may be called for randomly and not in all cases.

The percentage of examination should be ten percent of the total number of packages, subject to a maximum of twenty packages.

5. In the case of bond shipping bills the examination order should be for checking the description and weight or quantity

depending on the imported material used in bond. The percentage of examination

should be two percent of the total packages subject to a maximum of ten packages.

Note: 1. All the examination order should be given on the reverse of the original and duplicate shipping bill.

2. After passing the shipping bill the original will be retained in the export

department along with the original G.R.-1 form. The original s/bill will then be sent to M.C.D. For linkage with duplicate received subsequently for closing the export general manifest.

3. All examination order should be given clearly and any certificates or checking of endorsement of any other agencies should be clearly endorsed in the checking order. It will be the responsibility of the officer giving the examination order if he fails to order for checking certain parameters which was necessary before shipment of the goods.

#### Model examination order

SA/EO

Please inspect lot. Open and check description,(weight and/or quantity sq.meter etc) verify (give any parameter you would like to verify like validity of certificate, not antique, other than of a particular quality, wild life no objection, seconds etc). samples may be drawn in duplicate or triplicate as the case may be for sending for test or inspection.

Signature of the officer  
Name of the officer.

#### Validity of Shipping Bill

All the shipping bills filed for sea consignments are valid for 90 days from the date of noting the shipping bill. However for air shipping bills the validity is for 30 days from the noting of the shipping bill. before the expiry of the shipping bill,the same can be re-validated by a revalidation application and on payment of amendment charges. After the expiry of the shipping bill the same has to be cancelled and fresh shipping bill noted. The re-validation can be done only once. Thereafter a new shipping bill has to be filed.

Power source under

The Customs Act 1962.  
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1. Section 2(5) of c.a. 1962 - a bill of export means a bill of export referred to in section 50 of C.A.62.
2. Section 2(11) of c.a. 1962 - customs area means the area of customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
3. Section 2(12) of c.a. 1962 - customs port means any port appointed under class (a) of section 7 to be a customs port (and includes a place appointed under clause (ss) of that section to be an inland container depot.
4. Section 2(13) of c.a. 1962 - customs station means any customs port, customs airport or customs land station.
5. Section 2(16) of c.a. 1962. - "entry" in relation to goods mean an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulation made under section 84.
6. Section 2(18) of c.a. 1962. - "export" with its grammatical variations and cognate expression means taken out of India to a place outside India.
7. Section 2(19) of c.a. 1962. - "export goods" means any goods which are to be taken out of India to a place outside India.
8. Section 2(20) of c.a. 1962 -"exporter" in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter.
9. Section 2(30) of c.a. 1962.-"market price" in relation to any goods means the wholesale price of the goods in the ordinary course of trade in India.
10. Section 2(33) of C.A. 1962.-"prohibited goods" means any goods the import or export of which is subject to any prohibition under this act or any other law for the time being in force in India but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with.

11. Section 2(37) of c.a. 1962.- "shipping bill" means a shipping bill referred to in section 50.
12. Section 11 of c.a. 1962.-power to prohibit importation or exportation of goods.
13. Section 16 of C.A.1962.- Date for determination of rate of duty and tariff valuation of export goods.
14. Section 38 of c.a. 1962. - power to require production of documents and ask questions.
15. Section 39 of c.a. 1962. - export goods not to be loaded on vessel until entry outwards granted.
16. Section 40 of the C.A.1962. - export goods not to be loaded unless duly passed by proper officer.
17. Section 41 of the C.A.1962.- Delivery of the export manifest or export report.
18. Section 50 of the c.a. 1962. - entry of goods for exportation.
19. Section 51 of the C.A.1962. - clearance of goods for exportation.
20. Section 69 of the c.a. 1962. - clearance of warehoused goods for exportation.
21. Section 100 of C.A.1962. - power to search persons.
22. Section 105 of C.A. 1962.- Power to search premises.
23. Section 106a of C.A.1962- power to inspect records etc.
24. Section 107 of c.a. 1962. - power to examine persons.
25. Section 108 of c.a. 1962.- Power to summon person to give evidence or produce documents.
26. Section 110 of c.a. 1962. - power to seize the goods, documents or things.
27. Section 113 of c.a. 1962. - confiscation of goods

attempted to be improperly exported etc.

28. Section 114 of c.a. 1962. - penalty for attempt to export goods improperly etc.

29. Section 117 of c.a. 1962. -penalties for contravention's etc, not expressly mentioned.

30. Section 122 of C.A.1962. -adjudication of confiscation and penalties.

31. Section 124 of c.a. 1962. - issue of show cause notice.

32. Section 128 of c.a. 1962.- Appeal to collector (appeals).  
various standing orders

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1994

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1993

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1992

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Standing order no.7017 dated 10-10-92. gist: on line assessment of free shipping bill.

Standing order no.7012 dated 24-08-92. gist : instruction for direct loading of food grains from trucks to ship hold, to reduce time and cost of loading.

Standing order no.7011 dated 17-08-92. Gist: amendment of exchange control declaration G.R.Form.

1991

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1990

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1989

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Standing order no.6935 dated 12-12-89. Gist: instruction regarding Drawal of sample for test.

Standing order 6922 dated 17-10-89. Gist: Import of live animals

through Bombay customs, obtaining of no objection from wild life, regional office, Bombay.

1988

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Standing order no. 6881 dated 22.8.1988 Gist:- Computerisation in the export deptt. .... procedure regarding..... (refer s.o.for full text)

1979

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Standing order no. 6707 dated 13.03.1979

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Gist:- Circulation of specimen signature of Apprising staff...  
Procedure regarding...

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(refer s.o.for full text)

Standing order no. 6704 dated 17.02.1979

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Gist:- Shut out export cargo-removal of damaged goods back to town....procedure regarding.....

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(refer s.o.for full text)

Standing order no. 6718 dated 12.07.79

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Gist:- Export of exciseable goods in bond by third parties...  
procedure regarding.....

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(refer S.O.for full text)

Standing order no. 6731 dated 14.12.1979

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Gist:- Procedure for clearance of exciseable goods without payment of excise duty for supply as stores for foreign going vessels/aircraft from the pvt.Bonded/ public bonded warehouses....procedure regarding....

-----  
(refer S.O.for full text)

1978

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Standing order no. 6679 dated 22.08.78

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gist:- Export of gold jewellery under the gold replenishment scheme notified by DGFT. New Delhi....  
procedure regarding....

-----  
 (refer S.O.for full text)

Standing order no. 6659 dated 17.05.1978

-----  
 Gist:- Export of T.V.news films and other press material on kutcha shipping bills....  
 procedure regarding....

-----  
 (refer S.O.for full text)

Standing order no. 6642 dated 09.02.1978

-----  
 Gist:- Export of T.V.news films and other press material on kutcha shipping bills....  
 procedure regarding.....

-----  
 (refer S.O.for full text)

1977

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Standing order no. 6606 dated 27.07.1977

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 Gist:- Noting of s/bills for cargo which is being exported by air....procedure regarding....

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 (refer S.O.for full text)

Standing order no. 6694 dated 24.05.1977

-----  
 Gist:-Waiver of GR. formalities in respect of bonafides trade samples...procedure regarding...

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 (refer S.O.for full text)

Other Instructions

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 Various allied acts pertaining to export.

	Name of the act	Its provisions	Requirements
1. duty 1975	The agricultural producess act 1940.	1. Levy of duty on Goods for export	In addition to under tariff act

covered by schedule. This  
duty has to be paid.

## 2.Provisions for penalty.

2. The Produces cess act 1966.	1.Cess is levied on Export of goods as per schedule (eg.coriender seed, cummin seed etc)	---do---
3. The Trade & Contravention Merchandise mark attracts act 1958. penalty.	1. It authorises the central government To issue notification for indicating the country, place or name of manufacture/manufacturere	
4. The copyright Contravention act 1957. invokes penal action.	1. Imposes restriction on Piracy or copying without authority the works of others.	
5. Ancient monuments infringment of prevention act the provisions 1904. of the act	1. Import & export of goods which are Declared as antiquities is prohibited.	
Attracts the	penal provision	
6. Antiquities & export without treasures act permission 1972. attracts	1. Export of antiques and declared treasures Are prohibited penalty.	

7. Prevention of food  
contravention  
adulteration act.  
is liable for  
penalty.

1. Export & import of  
Adulterated or mis-  
branded goods are  
prohibited.

8. Fruit products  
export requires  
order 1965.  
proper export  
fpo certifica-

1. Export of fruit  
Products not confirming  
to f.p.o. Requirements  
is not permitted. Tes.

9. Foreign exchange  
declaration on  
regulation act 1973.

1. Declaration in  
G.R.form the full G.R.form to be  
export value of goods.

Made by

exporter before  
customs.

various inspection agencies

goods for which inspection

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is done.

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1. Export inspection council.

Engineering goods, marine products  
plants and allied products.  
inorganic chemicals, rubber  
products.  
jute hessian  
manganese and iron ore bauxite

etc

manganese dioxide, chrome

kyanite

silimanite, zinc magnesites etc.

2. Agricultural marketing  
advisor (Agmark)

food, agricultural and animal  
products, except marine products,  
cashew, coir etc.

3. Textile committee

cotton yarn, cotton textile,  
and certain varieties of  
handloom goods.

4. Indian standard institute.  
(i.s.i.)

Aluminum utensils, engineering  
And electrical goods etc.

5. Drug controller. Drug, pharmaceutical and cosmetics products.  
 6. Tea board all types of tea.  
 7. Central silk board. Tussar mulberry silk fabrics.

8. Shellac export promotion council. shellac.

9. Salt commissioner. Salt.

8. Check list devised for important areas of work on customs side.

Board's letter b.o.f.no.450/23/88-Cus.IV dated 09.05.88 on the above subject is appended below for guidance by all concerned units.  
 c.no.viii(h)1/41/88 dated 07.05.88

The board had asked the director general of inspection has devised check list for important area of work on the custom side. And directed to forward herewith checklist devised in consultation with the director general of

inspection, relating to the following items of work, namely:-

- i) scrutiny of shipping bills (both free and drawback)
- ii) inland bonded warehouses ; and
- iii) processing of drawback claims.

2. In addition, I am also enclosed herewith a check-list drawn up by madras custom house for processing of bill of entry.

3. The board desires that you may arrange to have the check-list cyclostyled in sufficient numbers and have them circulated to your officers so that they could use them for their guidance whereas it is not the intention of the board to slow down in any way the processing of import and export documents or claims relating thereto by prescribing the requirement of having check-list; it is felt that by maintaining the check-list, the officers would be able to ensure that no important point is missed while processing these

documents and thereby avoid possible audit objections. F.No.450/23/88-Cus.IV

Dt. May '88 check list

check to be exercised by the export department for shipping bills (green) under claim or drawback.

(answer 'yes' or 'no' in each case)

1. Have you checked exporter as code no.

Yes/no.

on G.R. and shipping bill,



2. Have you checked the commodity code no.? Yes/no.
3. Have you checked the names of the consignor  
yes/no  
and consignee as shown on G.R.in relation  
to invoice and shipping bill.
4. Have you checked description of the goods  
yes/no  
in relation to invoice and G.R.
5. Have you checked buyer's order?  
Yes/no
6. Have you check letter of credit?  
Yes/no
7. Have you checked the value and no.of  
yes/no  
packages also written in words on the  
shipping bill?
8. Have you checked whether the invoice  
yes/no  
relates to the shipping bill with  
reference to marks and no. Of  
packages etc.?
9. Have you checked the fairness of  
yes/no  
declared value as per invoice
10. Have you checked conversion of invoice  
yes/no  
value i foreign currency into Indian  
rupee?
11. Have you checked that any alert notice  
yes/no  
has been issued against the exporter  
by DRI?
12. Have you checked export policy with  
yes/no  
reference to an restriction?
13. Have you checked the rate of drawback  
yes/no  
amount with reference to fob value?
14. Have you checked the drawback code no.? Yes/no
15. Has the amount of drawback correctly  
yes/no  
claimed if the drawback is on weight  
basis have you checked the

- weight?
16. Have you checked
17. Have you checked the quota in respect of  
yes/no  
quantity and category of goods?
18. Have you checked the validity of quota?  
Yes/no
19. Have you checked export inspection agency  
yes/no  
(EIA) certificate?  
check list  
-----  
for free goods (white) shipping bills  
answer `yes' or `no' each case
1. Have you checked exporters code no. On  
yes/no  
G.R.and shipping bill?
2. Have you checked the commodity code no.? Yes/no
3. Have you checked the names of the consignor  
yes/no  
and consignee as shown on G.R.in relation  
to invoice and shipping bills?
4. Have you checked description of the goods  
yes/no  
in relation to invoice and GR.?
5. Have you checked buyer's order?  
Yes/no
6. Have checked letter of credit?  
Yes/no
7. Have you checked the value and no.of  
yes/no  
packages also written in words on the  
shipping bill?
8. Have you checked whether the invoice relates  
yes/no  
to the shipping bill with reference to marks  
and no.of packages etc.?
9. Have you checked the fairness of declared  
yes/no  
value as per invoice?
10. Have you checked conversion of invoice value yes/no  
in foreign currency into Indian rupee?
11. Have you checked that any alert notice has

- yes/no  
 been issued against the exporter by DRI or any other agency?
12. Have you checked exports policy with  
 yes/no  
 reference to any restriction ?
13. Have you checked health certificate in  
 yes/no  
 case of export of fresh meat?
14. Have you checked the export licence for  
 yes/no  
 the export of wild life products?
15. Have you checked that the goods covered  
 yes/no  
 by wild life authorities permit?
16. Have you checked no objection certificate  
 yes/no  
 of the drug controller of India in case of export of drugs etc.
17. If the export is under claim of drawback  
 yes/no  
 under Sec.74 of customs Act,1962, have checked:-  
 i) reason for export.  
 Yes/no  
 ii) RBI permission,if required  
 yes/no  
 iii) tally the goods with the bill of entry  
 yes/no  
 on which they were originally imported.  
 iv) rate of drawback claim  
 yes/no  
 v) rate of drawback admissible
- yes/no  
 18. If the export is under D.E.E.C. Scheme, have you checked:-  
 i) exporters obligation and its period  
 yes/no  
 ii) material used  
 yes/no  
 iii) resultant product for export  
 yes/no  
 iv) entry has been made th e D.E.E.C.Book  
 yes/no  
 v) goods compared with the sealed sample

yes/no

19. Have you charged the export duty,if

yes/no

applicable?

20. Have you charged the case,if applicable?

Yes/no

# Drawback department

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40. Drawback claims of less than Rs.50/- admission of :
41. Durable containers - grant of drawback :
42. Drawback on aviation - spirit, oil etc. Uplifted by foreign - going aircraft, touching more than one customs air-port.
43. Monthly statement of receipt and disposal of dbk claims regarding--
44. Motor spirit and lubricating oil put on board and aircraft for outward file.
45. Motor spirit and lubricating oil uplifted by aircraft.
46. Procedure for grant of dbk on aviation spirit and lubricating oil uplifted by foreign going air craft.
47. Fuel oil etc. Imported for subsequent export under claim for dbk.
48. Dbk. Bill of entry register.
49. Up-lift check of..
50. Supervision of loading.
51. Multiple of uplift.
52. Duties of the officer in charge of the field security.
53. Off-loading.
54. Register of off-loading.
55. Test flight and ground running.
56. Registration and dispatch of original shipping bill to the custom house.
57. Check with the EGM.
58. General.
59. Presentation of dbk. Bill.
60. Form of dbk. Bill.
61. Registration of claim.
62. Scrutiny of claim.
63. Notes.
64. Checked by the Dy. Supdt.
65. Scrutinised by appraiser.
66. Check by a.c. Dbk.
67. Pre-audit.
68. Payments.
69. Post audit.
70. Dbk. Aviation spirit - forced or deleberate landing of planes at Indian air ports after having refueled at customs ports and taken off for foreign port.

71. Procedure for grant of DBK on aviation spirit and lubricating oil left in the tanks of an air craft at the time of its diversion from an inland to a foreign flight.
  72. Seating of audit staff in dbk Dept. To minimise movement of papers.
  73. Procedure to be followed for sending dbk claims for post audit at minor ports.
  74. Export of goods forming part of a consignment imported under bill of entry - claim for dbk.
  75. Merchandise and baggage on a ship not proceeding direct to foreign port.
  76. Drawback rules under section 75 of customs act 1962.
  77. Export of the goods completed.
  78. Exporter when entitled for drawback.
  79. Mere suggestion -- no value.
  80. Notification issued subsequently -- has statutory sanction export -- entitled for dbk.
  81. Claim for dbk. -- acceptance of ...
  82. Entitlement to dbk. Amount -- mode of calculation.
  83. Dbk. Rules under sec. 76 of customs act, 1962.
  84. Flow chart for presenting dbk. Claims.
  85. Duties of examiners in dbk. Department.
  86. Duties of appraisers in dbk. Department.
  87. Power source under customs act.
  88. Standing orders.
  89. Short title.
  90. Definitions.
  91. Goods in respect of which dbk. Is paid.
  92. Revision of rates.
  93. Determination of date from which the amount or rate of dbk. Is to come into force and of the effective date for application of amount or rate of dbk.
  94. Cases where amount or rate of dbk. Has not been determined.
  95. Cases where amount or rate of dbk. Determined is low.
  96. Cases where no amount or rate of dbk. Is to be determined.
  97. Power to require submission of information and documents for the purpose of.
  98. Access of manufacture.
  99. Procedure for claiming dbk. On goods exported by post.
  100. Procedure for claiming dbk. On goods exported other than by post.
  101. Payment of dbk. To exporters on his authorised agent.
  102. Supplementary claim.
  103. Repayment of erroneous or excess payment of dbk.
  104. Power to relax.
  105. Repeal and savings.
  106. Amendment of rule 7 (sub-rule 1 ) of customs and C.Ex.duties dbk.
- Rules

- 1971.
107. Notification no. 246/89 customs.
108. Verification of data under simplified brand rate fixation scheme.
109. Proforma for verification report.
110. Classification of cotton handloom items.
111. Fixation of brand rate of dbk. Without verification.
112. Simplified brand rate fixation scheme.
113. Declaration.
114. Proforma of statement DBK1.
115. Certificate required for dbk-i statement.
116. Proforma of statement DBK.IIa
117. Proforma of certificate for DBK.IIa.
118. Proforma of statement DBK.IIb.
119. Proforma of certificate for DBK.IIb.
120. Proforma of statement dbk. Iiia.
121. Proforma of certificate for dbk.iia.
122. General instruction.
123. Goods in respect of which dbk. May be paid.
124. Rate of dbk. In respect of goods specified in the 1st schedule.
125. Rate of dbk. In respect of goods specified in the 2nd schedule.
126. Effective date for application of rate of dbk.
127. Claim for payment of additional amount of dbk.
128. Exporter's declaration and documents.
129. Dbk. On imported material used in the goods to be exported.

-----  
#

Drawback department:- working

The term "drawback" is applied to a certain amount of duties of customs, sometime the whole, sometimes only a part remitted or paid back by government on the exportation of the commodities on which they are levied. To entitle goods to drawback, they must be exported to a foreign port, the object of the relief afforded by the drawback is to enable the goods to be disposed of in a foreign market as if they had never been taxed at all. For customs purposes drawback means the refund of duty of customs and duty of central excise that are chargeable on imported and indigenous materials used in the manufacture of exported goods. drawback is allowed subject to conditions mentioned in section 74 to 76 of the customs Act, 1962 and notifications issued thereunder in respect of duty paid imported goods re-exported, imported goods taken into use and subsequently re-exported and on imported material used in the

manufacture of goods exported.

Drawback under section 74 of customs Act 1962  
requirements for eligibility :-

1. The goods on which drawback is claimed must be imported earlier.
2. Import duty should have been paid when imported.
3. Goods must be entered for re-export within two years from the date of payment of import duty. The period of two years can be extended upto three years by the board or by the collector of customs.
4. Goods must be identified as the same imported goods.
5. Goods must be actually exported out of India.
6. Goods must be capable of being identified as the same goods which was earlier imported.
7. Market price of such goods must not be less than the amount of drawback claimed.

How much of drawback of import duty can be paid. there are two types of cases :-

1. The same imported goods are exported without using them at-all, in that case 98% of import duty is refunded as Drawback.
2. The same imported goods are exported but after they are used in India. In such cases the refund of import duty as Drawback will be as follows:-
  - a) If the time period is less than six months from the date of clearance 85% for home consumption to the date of examination of goods.
  - b) More than 6 months but less than 12 months. 70%
  - c) More than 12 months but less than 18 months 60%



- d) More than 18 months but less than 24 months. 50%
- e) More than 24 months but less than 30 months. 40%
- f) More than 30 months but less than 36 months. 30%
- g) More than 36 months. Nil.

Note :- The drawback for the goods which has entered for export after two years should be sanctioned after taking the permission of the Collector of Customs. notwithstanding anything contained in paragraph 1, in respect of goods (other than the goods specified in the second proviso to that paragraph)(referred to at para 2(c)(viii) of the central manual) imported by a passenger as his baggage for his personal and private use, drawback shall be allowed :

(a) Of the whole of the import duty paid thereon if the period referred to in column (1) of the table in that paragraph does not exceed 6 months; and

(b) Of 85% of such duty if the period exceed 6 months but is not more than 36 months subject to the condition that the board, on sufficient cause being shown, has in that particular case extended the period beyond 24 months. (M.F.(d.r.) Notfn.cus.no.19/65,dated 6.2.65 - C.B.R.Tech.bulletin January- march '65, page 19-20)

Time-Limit :- The appraiser will see that the time ----- limit of two years prescribed by section 74 of the customs act has not been exceeded, or if exceeded, that the Collector of Customs or the Board's sanction as the case may be for an extension has been obtained.

Endorsement on drawback shipping bill in cases granted by of extension the board,	In all cases in which extension of the normal drawback period is the collector of customs or
should	an endorsement to that effect

the be made on the shipping bill by  
drawback department.

Section 74(1),  
re-export under  
Customs act '62 -  
which were  
computation of the  
note pass  
period of two years  
the

of payment

74(1) of

may confer

case of

facility.

the notice

notification

notification

drawback on

down that the

from the

Thus, the

available only

Drawback on goods taken into  
by

Use - computation of period notification 19/6.2.65 under section 74(2)  
of use Customs act 1962  
specifies the rates of

In connection with the

claim for drawback, of goods

originally imported under the

procedure the time lapse between

date of clearance and the date

of duty is considerable section

Customs act 1962 as it stands,

an unintended benefit in the

import made under the note pass

This point has already come to

of the board and that is why in

No.48 dated 1.2.65(replaced by

19/6.2.65) regarding grant of

used goods, it has been laid

period of time is to be computed

date of clearance of the goods.

UN-intended benefit will be

in the case of unused goods.

The notification no.48/1.2.63 replaced

by notification 19/6.2.65 under section 74(2)  
Customs act 1962

drawback of import

duty according to  
which the  
control.  
from the  
consumption  
for  
Appraiser.

the length of period during  
goods have been out of customs  
this period should be computed  
date of clearance for Home  
i.e. The date on which the order  
clearance is given by the

f.no.40/15/64-Cus.IV dated

(Board's  
16.4.64)

Re-export of goods under  
claim for Drawback -  
control"  
Placing goods under  
48(csp-224  
Customs control - clari-  
fication regarding :  
and the  
customs  
the  
customs. When those two  
of the  
to have  
when the  
goods and  
In the  
addition

In satisfying the requirements of the  
expression "placed under customs  
appearing in notification no  
dated 1.2.1963 replaced by  
19/6.2.65) it is necessary that the  
shipping bill should be filed  
goods physically brought into  
act for export and placed under  
control of the  
things are done,the requirement  
said notification can be deemed  
been complied with, no matter  
customs authorities inspect the  
when they are in fact exported.  
case of goods like dredgers, in

they should to the requirements indicated  
 work, after be frozen and not allowed to  
 customs area their being brought into the  
 of the and being placed under control  
 Customs authorities.

(LR.F.no.40/48/63-Cus.IV dt,10.12.63)

<p>Identification of goods under          identity          drawback claim - goods not ordi          at          -narily identifiable - prohi--          cases          -bition and regulation of          required to be          drawback in certain cases          the          to produce the --          entry in time,          may at the          Asstt.Collector,          proceeded with, but the          the risk of his          disallowed, when identity          established from a --</p> <p>Identity - evidence of :-          goods,          is not restricted          house,</p>	<p>(1) It is necessary that the          of the goods should be established          the time of re-export. If, in          in which shipments are          made urgently or at short notice,          exporter is unable          Triplicate bill of          Examination of goods          discretion of the          drawback be          Exporter must take          claim being          cannot be          subsequent scrutiny.</p> <p>In establishing the identity of          the Asstt.Collector          to the records of the custom</p>
--	---

most obvious place  
evidence. On the question  
identification the  
decision is final  
opposed to facts.  
Customs accepted  
statement with due regard  
passenger as  
for purposes of  
identity and the decision  
audit, the Board agreed  
circumstances, the collector  
so.

dt.8.11.39-r.dis.70/40)

Goods not bearing any  
which  
identification marks  
marks  
goods are verifiable  
the importer's stock  
As forming part of  
was not more than  
of re-  
other rules and conditions

though that is the  
to look for  
of completeness of  
Asstt.Collector's  
unless it is wholly  
Where a Collector of  
a passenger's  
to the status of the  
sufficient evidence  
establishing  
was queried in  
that in the  
was entitled to do  
(CBR d.a.dis.1331

Drawback may be allowed on goods  
do not bear any identification  
provided that the  
by a reference to  
books ledgers etc.,  
a consignment which  
two years previous to the date  
export and that  
for grant drawback

are fulfilled.

(D.dis.223/30,  
d.dis.250/30.r.dis.309/30)

In the case of goods without any identification marks and where imported goods are mixed up with those purchased locally, Government of India's sanction for the grant of drawback is necessary. (f.d.(d.r.)d.a.dis.915-cus.1/39 dt,24.7.39 r.dis.133/39)

<p>Drawback of duty is not admissible on : Un-identifiable goods : consignments of cannot ordinarily satisfaction of the Turmeric, Stic lac, gum olibanum, Benjamin, ---</p>	<p>Salt, salted - fish or opium. It has been decided that the following goods be identified to the Customs Collector :- Black Pepper, Cane, frankincense, Gum Arabic, gum precious stones.</p>
<p>Goods not easily goods identifiable - above shall drawback on... that the such capable of identified. Claims for drawback in each which are not ordinarily easily identified, can circumstances, be identified</p>	<p>No claim of drawback of duty on other than those mentioned be rejected merely on ground goods are not as being easily shall be decided on their merits case,and if goods; capable of being yet in special to the Asset.</p>

Collector's satisfaction,  
 refused. When the  
 identification of the goods is  
 the bill of entry and  
 identifying officer,  
 Collector who accepts the  
 note briefly the grounds

drawback need not be  
 method of  
 not apparent from  
 Shipping bill, the  
 or the Asset.  
 identity, should  
 of acceptance.

Collector's discretion  
 that in  
 regarding acceptance  
 the  
 of identification for  
 the record  
 drawback purposes :  
 competent to  
 identification, if he is satisfied  
 imported, though no  
 or other descriptive  
 record to connect them  
 previously imported.

It has been held by the Board  
 establishing the identity of goods,  
 Collector is not restricted to  
 of the Custom house and is  
 decide  
 that the goods were  
 distinguishing marks  
 particulars are on  
 with the goods,

Govt.'s sanction for necessary  
 grant of drawback on goods  
 not identified :  
 special orders  
 India are required.

In all cases in which drawback of duty  
 on goods re-exported without identifi-  
 -cation is to be granted  
 of the Government of

(GI com.no.5130 of 2.10.1922-c.b.r.com.of  
 rulings under sea customs act, page.141)

There are certain articles which do not

themselves bear any identifying marks or numbers so as to connect them to the invoice and through the invoice to the bill of entry or, are not packed in small containers bearing any such identifying marks e.g., Isinglass, old news paper, second hand clothing strawboards. packages containing such articles should be carefully examined for purposes of drawback. Particular attention should be paid to see whether the packages bales or bundles or crates show any signs of having been opened and re-packed with a view to re-arrange the contents to make-up weight etc. The number of bundles should also be counted and compared with the invoiced particulars. If the number of bundles does not tally with those shown in the invoice or the contents show any signs of having been satisfactory -- identified and the claim for drawback should not be admitted, even though the weight may agree.

Prohibition and regulation hereinbefore -tion of drawback in allowed:- certain cases :

any goods which are regulations to be export manifest or are not so included; any goods the market less than the amount thereon;

drawback due in respect of than fifty rupees. Customs act '62]

Notwithstanding anything contained, no drawback shall be

(a) In respect of required under the included in the export report and  
(b) In respect of price of which is of drawback due

(c) Where the any goods is less [section 76 (1) of



When any of the goods specified below have been used after their importation into India, drawback of import duty paid thereon shall not be allowed when they are exported out of India :-

- (1) Wearing apparel,
- (2) Tea-chests
- (3) Exposed cinematography films passed by the board of film censors in India,
- (4) Un-exposed photographic films, paper and plates and x-ray films [mfdr.notfn,no,19/65 dated 6.2.65]

(3) Scrutiny of drawback shipping bills and Examination of goods

see that the

by the shipper

examine the goods

agree in respect

descriptions, quantity,

particulars shown

the duplicate

relative bill of entry

in the invoice

certificate.

re-imported on

supply, when it

identify the goods

Scrutiny by the Appraiser :

The Appraiser in scrutinising the shipping bill will

documents produced

are in order.

The Appraiser will

to see whether they

of marks,

and value with the

in the original and

copies of the

and also those shown

etc., Or sale

in the case of goods

the ground of wrong

is not possible to

with reference to

physical marks and  
 be established  
 the correspondence  
 re-exportation and also --  
 credit note etc.

numbers identity may  
 with reference to  
 to the  
 documents such as

The Appraiser should compare the descriptions in the bill of entry shipping bill, invoice, and -- examination report and bring to notice any discrepancies with a view towards getting them reconciled after actual examination of the goods before they leave customs custody.

Shipment under claim for drawback - Examination of examining drawback fee should be cargo should not private premises. In examination of private premises becomes inevitable, the Asset. for drawback should record there-for. entry put up bill shall not be

Examination of all drawback cargo should be done during office hours. the practice of cargo on overtime discontinued. Such be examined at rare cases where drawback cargo at or on overtime prior permission of collector of customs should be taken who the reasons  
 The original bill of  
 With , the shipping  
 allowed to leave the

custody of the  
 passengers' baggage may be  
 baggage shed for exami-  
 appraiser attached to  
 ordered that no  
 examination of cargo  
 overside cargo, at  
 exporters outside  
 allowed. He  
 in case Asset.  
 customs, drawback  
 there is a case for  
 at site, orders  
 individual case should  
 addl. Collector. In  
 Addl. Collector, orders of  
 be obtained.  
 Imported equipment installed  
 or ships  
 the  
 trade. Equipment  
 the nature of  
 permanently

customs officer.  
 Films and  
 brought to the  
 -nation by the  
 the shed.  
 Collector had  
 request for  
 other than the  
 the premises of the  
 dock area, should be  
 further ordered that  
 collector of  
 considered that  
 allowing examination  
 in each and  
 be obtained from  
 absence of  
 the collector should  
 Ocean going vessels are not liable  
 to import duty whether in  
 coastal or foreign  
 of these vessels in  
 plant machinery if  
 installed will be

regarded as part of those vessels,  
 and the usual drawback on  
 re-export will be allowed under  
 section 42 of the sea Customs act (Sec.74  
 of the customs act 62) in respect  
 of duty paid on importation before  
 installation. [ind.fin.(Cus)no 484  
 of 21.6.1923.file ap.xi/11 og 1923-24  
 also CBR compilation  
 of rulings under sea customs act page 148]

(ii) The government of India have  
 authorised the grant of drawback of duty on articles fitted into vessels in  
 the coasting trade, in replacement of the condemned parts, subject to the  
 usual requirements about the identification of the goods being complied with.

Re-Export of durable contain- As the "durable containers"  
 are "used" (for storage) after  
 -ers e.g.drums,cylinders etc. Board agree that for the  
 importation,the purpose of  
 under claim fr drawback grant of  
 purpose of the  
 drawback on their re-export, the  
 provisions of section 74(2) of the customs act,  
 1962 read with this  
 Ministry's notification no.48(CSR-224) dated  
 the 1st feb.63 replaced by  
 notification 19/6.2.65 are attached. [Board's  
 f.no.40/30/63 dated 14.8.63]

Restrictions on Re-Export:- The Appraiser will see that

the goods  
include the articles notified  
"not capable of being easily  
identified" under section 74(3)(b)  
act 62 and further the goods  
exported to places notified  
section 76(2) ibid in respect  
no drawback is allowed on  
re-exported.

[notfn.no.49/f,no.4/1/63-car dt.1.2.63]

Value of the goods for export  
the  
under drawback  
declared in the  
column of the shipping  
market price of the goods  
time of export and check the  
description and the declared price.  
price should not be less than  
amount of drawback claimed.

Goods imported damaged-  
goods  
drawback on  
The Appraiser  
submit the survey report  
evidence of their value at

do not,  
to be  
Customs  
are not  
under  
of which  
goods

The Appraiser will see that  
exporters have  
remarks  
bill the  
at the

This  
the

When drawback is claimed on  
imported damaged,  
should  
as  
the time

of export.

Valuation of labels imported in the under a contract for purposes to of drawback - board's orders goods sold regarding legal position purpose which the buyer a repudiate the and reject the goods do not goods valueless even though specially made for the particular buyer and have no buyer India. In the absence of deterioration since value of label should be held to be the declare in the bill of entry, notwithstanding their rejection by buyer as not conforming to their specification. In any case value would be the cost for which like goods (i.e. With their if any) could be delivered at place at the date of the export.

Cus. Dated 16.6.55.)

Calculation of drawback amount

The breach of the condition contract of sale of goods as quality and fitness of for a particular entitled correct make the they are in the value the contract the such or defects, the

(CBR no. 40/7/55 -

In the case of goods that have been assessed

advalorem, the amount of  
 which drawback should be  
 calculated is the full duty on the  
 the goods including the cost  
 packing, even if the goods are  
 without their original  
 duty on  
 value of  
 of  
 exported  
 packing.  
 [ c.b.r.r.  
 Dis.639-Cus/27 dt. 14.6.1927  
 r. Dis.  
 13328]

Drawback should be calculated on the basis of the average weight ascertained on check weighment at the time of importation on which duty was levied. [r. Dis. 415/42] Any correction to the value or rates of values on a drawback shipping bill should be made by the Appraising department and attested by the Examining Appraiser. [r.dis.530/36]

In cases where duty has been realised on lubricating oil on the basis of average quantity contained in each drum, drawback on export of the drums shall not be calculated on an average higher than accepted at the time of importation even though the test-weighments indicate such higher average. Any claim for a quantity larger than that on the average should be conceded after weighing the whole consignment.

Shipping bills to be submitted to  
 submit in all  
 Asset. Collector:  
 (including those where goods  
 examined for drawback at shipper's  
 premises) after shipping bill endorsed  
 required to the Asset. Collector  
 customs, drawback either for  
 acceptance of identity or for  
 value. The Asset.  
 The Appraiser will  
 casess  
 are  
 as  
 of  
 verification of

Collector will also satisfy himself

as to

the genuineness of the

Appraiser's signature.

[r.dis. 14032 and

530/36]

Full Signature on Shipping  
Bills and documents

The Examiner who examines the goods,  
The Appraiser who identifies the  
goods

and the Asset. Collector,

who

accepts the identification will

all sign

their names in full in the

case of

claims of RS. 200/- and above.

[r.dis. 14032]

Drawback supervision -  
his goods

The exporter who has had

failure of shipper's right  
of export is

identified at the time

to drawback

entitled to

receive drawback and

no

subsequent failure on the part of

a

customs officer to carry out his

duty,

whether imposed by statute or

by

executive order, can deprive

the

exporters of his right to be

paid the

drawback. Shipment under

customs

supervision is done under

purely

executive instructions

because

that provides the most



effective and convenient security,  
 absence of such supervision  
 not debar payment of drawback.

but the  
 will

[c.b.r. R.dis. 81-cus.27 dt.19.3.27- r.dis.  
 13104 -t.a. Report 1926,Rangoon custom house.]

Steel Drums  
 of identification,  
 drums imported with oil or  
 methylated spirit are required to  
 indelibly engraved or punched  
 identifiable marks or serial  
 at the time of importation.  
 marks or numbers will be  
 by the examining officers in  
 respective bills of entry to enable  
 verification when the drums are  
 re-exported.no drawback will be allowed  
 of the drums which have not  
 their identity  
 means of other  
 satisfactory and identifying marks  
 or engraved on them.

For the purposes  
 steel  
 be  
 with  
 numbers  
 these  
 recorded  
 the  
 on such  
 been so marked unless  
 can be established by  
 carved

16/26]

[r.dis.13268 -d.o.

Lubricating oil in drums  
 accepted by a reference

Identity may be

lot numbers stenciled on the  
 and the stock sheet kept by the  
 provided the export business is  
 a moderate scale.

[d.a.dis.90/32]

Motor Cars  
 be identified, chiefly  
 engine and chassis numbers and

Exporters should arrange for the  
 numbers in order  
 identification may be established.

Drawback on government  
 under  
 Stores without physical  
 exempted from  
 Examination  
 if the application  
 shipment is signed by the head  
 government department concerned  
 officer duly authorised by  
 writing. These orders should  
 strictly followed and if any

Government departments default, the  
 house should pass the goods  
 after examination.

[cbr.lr.f.no.40/10/58-Cus.IV dt.19.6.59.]

to the  
 drums  
 firm  
 done on

Motor cars should  
 by their

Inspection of the  
 That

Government stores re-exported  
 claim for drawback are  
 examination only  
 for  
 of the  
 or by an  
 him in  
 be

Custom  
 only

- 5(e) Bag should be carefully probed in order  
To ensure that there is no extraneous  
Substance in the middle to make up  
Weight.
- 5(f) Exposed cinematography films which have  
Not been exhibited in India owing to  
Their failure to pass a board of censors  
Should not be considered as having been  
'taken into use'.

[c.d.(cr)c.no.117-cus.1/33/dtd.17.1.1936 And  
m.f.r.d.notfn.no.131-cus.dtd.30.9.50 R. 2849/50 ]

<p>Form of shipping bill in consultation with the Considering the claim for in considering Drawback is a procedural respect of any Matter -- Board's opinion shipping bill on</p> <p>the goods were exported, is a</p> <p>procedural matter and so long as,</p> <p>shipment was made on a shipping</p> <p>through a custom house,</p> <p>goods were earlier imported on</p> <p>of duty and their re-exporta-</p> <p>has taken place within 2 years</p> <p>clearance on payment of duty</p> <p>extended period as the board</p> <p>allowed under section 74 of the</p> <p>act 1962.</p>	<p>The Board after</p> <p>Ministry of law,hold that</p> <p>a claim for drawback, in</p> <p>goods, the form of the</p> <p>which</p> <p>(a) the</p> <p>bill</p> <p>(b) the</p> <p>payment</p> <p>-tion</p> <p>of their</p> <p>or such</p> <p>had</p> <p>Customs</p>
--	---

Asset. Collector of customs (c) The

subjectively satisfied that  
 goods entered for export  
 the same goods as those  
 duty within  
 previous two years or a  
 would be legally in order  
 drawback.

Was  
 The  
 Were  
 Which had been imported into  
 India on payment of  
 The  
 Longer period, as allowed by  
 The board.  
 It  
 For the collector of customs  
 To admit a claim for

[cbe&c f.no.40/6/66-cus,iv dt,28.10.67]

Production of proof OC Export in  
 Connection with drawback claim  
 become eligible  
 drawback of customs duty.  
 that the  
 exported lies on  
 least that the  
 therefore,be --  
 send a --  
 custom house  
 department, that  
 of which  
 have been  
 claimants should

Section 74 and 75 of the customs  
 Act,1962 required that goods must  
 be exported to  
 for the  
 The onus of proving  
 Goods have been  
 the claimants. The  
 Claimants can,  
 expected to do is to  
 Declaration to the  
 In the drawback  
 the goods in respect  
 they claim drawback,  
 Exported. The

such declaration soon after  
 vessel on  
 loaded for  
 house had  
 task of  
 collection of further proof  
 regarding the actual export of  
 mate's receipt  
 as satisfactory  
 export of the  
 something  
 information  
 mate receipt is  
 course of the  
 claims the --  
 sanctioned.  
 connection with the above  
 been felt that  
 large number  
 the mate's receipts were  
 to the customs  
 time. This has

send  
 the sailing of the  
 which the goods are  
 Export.  
 Hitherto, the custom  
 been carrying on the  
 the goods. The  
 have been accepted  
 proof regarding the  
 goods and unless  
 contrary to the  
 furnished by the  
 detected in the  
 scrutiny of the  
 Drawback claims are

In  
 procedure it has  
 in proportionately  
 of cases  
 not made available  
 Officers at proper  
 resulted in delay in

the disposal  
drawback --  
avoid such  
should produce  
mates receipt  
office in the  
jetties which granted  
export of  
The shipping  
in the  
two clear  
the final  
vessel. Thereafter  
shall be --  
custom house. In  
cases where the claimants  
that mates  
before the return of the  
bills to the custom house  
should send the same or a  
lading duly  
steamer company  
declaration

of large number of  
claims. In order to  
delays the public  
their copy of the  
to the sectional  
Docks or  
'Allow order' for the  
the goods concerned.  
Bills shall be lying  
Sectional office for  
Working days after  
Sailing of the  
The shipping bills  
returned to the  
those  
failed to produce  
Receipt  
Shipping  
they  
Copy of the bill of  
Attested by the  
Along with their  
That the

goods in respect of which  
drawback is made  
been exported.  
compliance,  
claim bill which is presented  
the custom  
goods have  
such claim  
are presented the exporters  
further decla-  
of the mates

the claim for  
have  
For the purpose of  
the  
by the claimants in  
House shall be deemed to be the  
declaration that the  
been exported. Where  
Bills  
need not make any  
-ration. They should comply with  
The present instructions regard-  
-ing the production  
Receipt or the bill of lading.

Allowing of drawback on re-export  
By air sea or post,,...  
drawback is allowable  
imported by air or by  
post provided  
governing  
drawback are --

The Government of India have  
decided that  
on goods  
Sea or by post and re-exported  
By sea, air or by  
The usual conditions  
The grant of

fulfilled.

[gifd.(rd)lr.no.1236-cus.i/46 og 22.11.46. Gifd(cr)d.dis.  
No.832-cus.i/38 of 14.6.38]

Ship's Stores  
claimed on

When drawback is  
Ships stores, the Appraising

the request Department will, at  
 import department, assess Of the  
 the preventive Values of the goods shown in the  
 department. Inventory prepared by  
 Market value on shipping (i) When examining claims  
 for drawing bill check of back, the  
 appraiser identifying the  
 goods must be careful to see that the exporters declare in  
 of the the real value column  
 bill the market value Shipping  
 check the of the goods at the time of  
 Description and the declared Export and he will  
 the real value value. While doing this it should  
 goods on the shipping be remembered that  
 goods on of the  
 as the value on exports bill may or may not correspond  
 duty, depreciation to the CIF value of  
 He will Import,  
 that true market value will depend upon a number of  
 of the goods at the time of factors e.g. Import  
 Export is not less ciation, market conditions,  
 supply position etc.  
 also see



than the  
of drawback claimed.

amount

of  
mention, the  
CIF value of the goods

(ii) He should also at the time  
making his report

exact

drawback

where possible on which import  
duty and ultimately

shipping bill,

are based in the 'remarks'  
column on the

the accounts

To facilitate checking of the  
Declared value, by

should be

Department. In other cases the  
C.i.f. Value on import of the  
Re-exported goods

Shown at the time the claim  
Is finally examined.

Spare parts fitted into  
Steamers drawback of duty  
or  
on  
and which are, there-  
not capable of easy

(i) Articles which do not bear  
any distinguishing marks

numbers

fore,

importation

identification should be marked  
at the time of

the time of examination

or at

drawback to facilitate

for

identification after their

fitting

on a vessel.

(ii)

In the case of articles which would not be properly visible when fitted, the fitting should be done under customs supervision

(iii)

After the goods are fitted, a report to that effect should be made on the relative duplicate shipping bill, before it is finally completed.

Drawback claims payable at drawback, is The Asset. Collector, port of shipment or port authorised to decide whether of import drawback should be allowed at the port of import or at that of final export. if allowed at the port

a reference shall first be made to the back has not previously been paid, but

drawback on passengers baggage may be granted without such reference.

[ind. c&amp;

i. 6339-79 of 24.8.1911 to 1.9.1911 9.9.1911]

Bombay. ben. fin. 438 s.r. of board's 4776b of

Drawback on reconstructed of entry bill of entry of shipping (original and dupli-

When both the copies of bills or shipping bills

bill: respect of a consignment on refund of duty or entry or shipping bills as the verification by registers and custom house documents that previous claim had been paid for be allowed with collector's approval. a certificate be recorded on bills before the is made.

67(17)-cus.1/51

Drawback claims of less considering the than Rs.5 admission of to which the under section of the customs act would drawback claims. section, no drawback payable if the amount is less than following three situations

cate) in which a claim for drawback case may be, after reference to accounts other no the same goods, may to this effect should the reconstructed refund

[g.o.i.m.f. (r.d)lr.no.

dt. 25.10.52.]

Ministry had been question of the extent statutory provision 76(1)(c) apply in respect of Under the said is Rs.50/- the would

normally arise in the custom

houses :-

(i)

Where the amount of the drawback is

less than Rs.50/-

amount of drawback was

(ii) Where the

initially less than Rs.5/- but

where there has been a

supplementary

claim

raising the total amount

to more

than RS. 50/-

(iii) where the

amount was more than Rs.50/-

and

drawback was actually paid, but

where

the supplementary claim is for

a sum

less than Rs.50/-

in

consultation with the Ministry

of law it

has been decided that these

cases

should be dealt with as follows:-

(i) If the claim is less than

Rs.50/- the

drawback is not

payable because of the

provision of section 76(1)(c) of the

Customs act, 1962

(ii) If the

aggregate of the original and

supplementary claim is more than Rs.50/

payment should be made although

the

original claim was

not paid on account of section 76(1)(c) of the custom act, 1962. (iii) Even if the supplementary claim is for less than Rs.50/- it has to be paid because supplementary claim is not an independent claim, but a claim in continuation.

[ M.F.(d.b.) f.no. 70/35/84-)bk(149) dated 18.12.1965, c.b.r. tech. bulletine oct-dec.,1965, page - 565]

Durable containers M/s imperial chemical industries(India) Pvt. ltd.,may and baker grant of drawback ltd.,philips(i)ltd.,blue star engineering co.(b)(p)ltd.,etc. are importing gas and/or chemical filled in durable containers. these durable containers are charged to duty u/i63(28)f.n.subsequently these durable containers are exported under claim for drawback. In respect of shipments made on or after 1.2.63, drawback of duty is admissible 98% of import duty paid provided the goods have not been taken into use between the date of clearance for home consumption and that on

which the goods are  
 brought under customs  
 control  
 for export.

These "durable container" can be used only  
 for  
 storage of chemicals and/or gas. the  
 very fact that these containers  
 are imported  
 duly  
 filled with gas/chemical and continue  
 to remain in that condition till  
 the contents  
 are consumed, is  
 sufficient to establish that  
 they  
 have been taken into use for purposes of  
 storage. such claims would  
 therefore attract  
 the provisions of  
 section 74(2) of the customs  
 Act read  
 with Govt.of India, Ministry of finance  
 (d.r)notification no.csr.224  
 dated 1.2.63.

drawback  
 of duty in such cases is therefore  
 being paid at the rates laid down in the  
 above  
 notification.

but i.c.i.(i)(p)ltd.Bombay contended that  
 these  
 durable containers should not be  
 considered to have been used after clearance  
 and that  
 drawback of duty should to paid to  
 them 98%  
 of import duty paid admissible under  
 section  
 74 (1) of the customs act. in support  
 of their  
 contention they have further  
 stated that this view is held by customs  
 authorities at other ports also who have

drawback of duty @ 98% of import  
 allowed  
 duty  
 paid by them.

the fact of divergence in practice is brought to the notice of the board by the collector of customs, Bombay and it was ruled that as

'durable containers' are 'used' (for storage) after importation, the provisions of section 74 (2) of the customs act '62, read with ministry's notification no.48 (g.s.r.224) dated 1st February '63 are attracted for the purpose of grant of drawback on their re-export. [f.f.(d.r) f.no.40/30/63-Cus. iv dt.14.8.63, c.b.r.tech. bulletin,july-september, 1963, page 364]

9 (d) drawback on aviation-spirit, oil etc.

-----  
 uplifted by foreign-going aircraft's, touching  
 -----

more than one customs air-port.  
 -----

it has been decided that the carriage of a small amount of domestic traffic between two Indian air-ports will not disqualify an aircraft, which is otherwise on an international flight, from being treated as 'foreign' going for the purpose of section 2(21) of the act. all stores taken on board such an aircraft at the first Indian airport are entitled to avail of the drawback provisions and not only those taken on board at the last Indian airport. In view of this, an aircraft on an international flight, even if it touches one or more customs airports, and whether or/nor it carries some inland traffic, should be deemed to be 'foreign going' within the definition of section 2 (21) and should be deemed to be eligible for drawback and ex-bond facilities at the originating airport also. [board's lr.f.no.40/47/63-Cus.IV dt.22.2.65]

10. motor spirit and lubricating oil put on

-----  
 board an aircraft for outward flight :  
 -----

in addition to the conditions laid down in paragraph 33 (b), page 227 of the Indian sea customs manual (5th edition), the following further conditions should be enforced for the grant of drawback of customs duty

on motor spirit and lubricating oil put on board an aircraft for an outward flight : [d.a.dis.55(18)-Cus/17 dt. 18.2.48-GOI M.F. (r.d)]

(a) the quantities uplifted should be entered in the import manifest.

(b) the claimants for the drawback should indicate a

particular bill of entry under which the goods under re-export or similar goods were imported within a period of two years prior to the date of exportation, and the amount of duty drawback claimed should be capable of being set off against the balance available in this bill of entry, and

(c)(i) in respect of lubricating oil the drawback of duty should be paid on the basis of the lowest rate of duty prevailing within the period of two years prior to the date of exportation of goods.

(ii) the government of India have decided that in view of the limited storage capacity of the oil companies, draw-back of duty on 'motor spirit' should be paid at the lower rate of duty prevailing within the period of six months prior to the date of exportation of the goods unless the collector of customs has any reason to believe that in any particular case, the exportation pertains to stocks which are more than six months old and on which duty at a rate lower still was paid. these orders should be given effect to form 1.3.50. [g.e.m.f (r.d) lr.nos.15(4)-cus.ii/50 dt.21.4.50 6.7.50 respectively]

note-1. but in respect of motor spirit uplifted by the aircrafts on or after 1st september, 1949, drawback at the higher rate should be allowed even though such spirit was imported before that date. [g.i.m.f.(r.d)lr.no.15(4)-cus.ii/50 of 22.1.51]

note-2. the term 'lowest rate of duty' refers to 'lowest tariff rate of duty' prevailing within the period of two years from the date of exportation and not necessarily to the lowest amount of duty per gallon paid within the aforesaid period, since the question of duty may not be based on tariff rate alone but on the combined consideration of the applicable tariff value and the price of the oil (which may fluctuate from time to time).

note-3. the government of India have decided to allow with effect from the 15th june, 1955 full rebate of customs duty in respect of aviation spirit up-lifted by air-craft at the last port of departure from India and put on board under customs supervision for an outward flight from India to Pakistan or from India to a foreign country via Pakistan. [d.f.(r.d.)lr.no.20/3/53-cus.iii dated 16.6.53]

note-4. government of India have decided to allow with effect from 8th April, 1954, drawback of duty on lubricating oil uplifted by aircraft proceeding to Pakistan or to foreign country via Pakistan on the same terms and conditions. [m.f.r.d.no.20(3)53-1.c.dated 7.4.54]

11. motor spirit and lubricating oil uplifted



-----  
 by aircfft : reference orders of the government  
 -----

of India no.55 (13)-Cus/47 dated 18th feb.1948, (vide sub-para (c) (i) to para 10 above) on the above subject, according to which drawing on motor spirit and lubricating oil uplifted by aircraft should be paid on the basis of the lowest rate of duty prevailing within the proceeding to years. in regard to motor spirit only, this period was subsequently reduced to 6

months vide government of India, ministry of finance (revenue division) no.15

(4)-Cus. ii/50 dated the 6th July, 1950 (vide note (c) (ii) above).

the above orders do not in any way affect the rights of exporters, under section 42 sea customs act, (section 74 of the customs Act,1962) to claim drawback of 7/8th (98% under customs act, 1962) of the duty

actually paid when they are in a position to establish identity of the goods with the consignment imported to the satisfaction of the Asstt.Collector. the orders of the government of India should be deemed to apply only to cases in which exports cannot be physically identified as forming part of a particular import. [M.F.(r.d.) f.no.40/2/55-Cus iv dated 13.7.55 CBR.bulletin Cus-tech.july-september,`55,page-80]

## 12. procedure for grant of drawback on aviation

-----  
 spirit and lubricating oil uplifted by  
 -----

foreign-going aircraft :  
 -----

with effect from 15th October, 1954,the following procedure has been introduced with regard to the grant of drawback on aviation spirit and lubricating oil up- lifted by foreign going aircraft.

### i. fuel oil etc.imported for subsequent export

-----  
 under claim for drawback :  
 -----

(i) triplicate bill of entry for drawback purposes. if an oil company wishes to claim drawback on oil covered by any bill of entry, an extra copy of the bill of entry should be presented at the time of clearance for home consumption. after duty stamp has been impressed on all the three copies of the bill of entry the accounts department will send the original,duplicate and the triplifacte through a transit book to the drawback section of the export

department. the latter will compare the triplicate copy with the corresponding duplicate, impress a stamp "earmarked for drawback. please refer to drawback

section if quantity or rate of duty is amended" on original and duplicate and release the original and duplicate copies immediately to the accounts department

for further action. the return will also be entered in a transit book. if any amendments are made subsequently in the original or duplicate bill of entry, these will be promptly brought to the notice of the drawback section by the accounts department. all endorsements relating to the grant of drawback will thereafter be made on this triplicate bill of entry. it will remain in the personal custody of the supervisor of the drawback section and will be kept by him under lock and key.

(ii) drawback bill of entry register :

the particulars shown in the triplicate copy of the bill of entry will be entered in a register in the following form.

-----				
date of	ex-bond	quantity		
description	amount of	presentation bills of	imported	of oil
of into Bond entry.				
B/E.	no.	date		
1	2	3	4	5
-----				
Sl.no.	date of	Drawback s/Bill	date of demand	quantity
re ex-	no.	date	of payment of	shipped
port		drawback.	(in i.g)	
-----				
balance	drawback	balance	date,ini-	date, initial
available claimed.	available	tails of	of appraiser	
for ship-	for pay-	clerk		
ment	ment.			
-----				

-----  
 file collection |  
number.

ii. shipment :  
 -----

(i) up-lift -check of:

----- the IGM. of an aircraft arriving from a foreign airport should show interalia the quantity of fuel and lubricating oil on board. the filed security staff should check that this has been done. they should also make an actual check of the quantity of fuel, oil etc. on board such aircraft. with the help of the meter in the instrument panel and the log book and accepting the measurement which is more favourable to govt. revenue. the check should be carried out invariably whether the aircraft is being diverted to internal flight or not. the field security officer carrying out the check should initial the manifest in token of having done so, before the manifest is presented to the table officer. when an oil company desires to supply aviation spirit or lubricating oil to a foreign bound aircraft under claim for drawback of duty it should apply for permission in writing of the air port inspector (customs) at the air port to allow shipment, along with this application the company should also present a shipping bill in duplicate (marked original and duplicate in appendix form no.25) with all the entries filled in except that against the column for quantity. this column should be filled up by the exporter as soon as the quantity of oil uplifted is ascertained. In the case of upliftment of lubricating oil marks and serial number of barrels from which oil is supplied should be shown on the shipping bill and in order to ensure that the quantity originally declared and charged to duty on importation is not less than the quantity taken out of the barrels, the company should maintain a record for each barrel showing the quantity in barrels when opened and the quantities issued from time to time. this record should be open for customs inspection on demands. the air port inspector will send the shipping bill to the field security officer who will verify by reference to the flight control and the aircraft log book that the "next port of call" has been correctly shown in the shipping bill. he will also compare the EGM with the shipping bill so that discrepancy if any, can be checked and corrected on the spot; and certifies to that effect on the shipping bills.

the airport inspector should have a standing

arrangement with the aerodrome authorities whereby any change in the intended destination of an aircraft will be communicated to the customs staff immediately. When such a communication is received, it should be checked whether the aircraft has uplifted any fuel, under claim for drawback, and if so the records should be corrected accordingly.

(ii) supervision of-loading :-

-----  
 the field security officer who supervises the loading will prior to the refueling, sign the "lot export" order on the shipping bills. he will take the initial reading of the meter attached to the pumping apparatus before loading commences and enter the reading on the reverse of the original drawback shipping bill. at the end of the loading he will again take the reading and enter that reading also on the reverse of the shipping bill. in taking these readings care should be taken to read the correct meter, namely, the one which shows the progressive total of the quantities passed through that meter. care should also be taken to check up that the meter has been constructed to read quantities in imperial gallons and not in u.s.gallons in the later event, the quantity in imperial gallons should be worked out from the corresponding conversion tables. the field security officer should himself take the reading and enter them in his own hand in the shipping bills, he should on no account take down readings dictated by the company's employees from the meters. he should also check interim readings as far as possible, and record these readings as "remarks" on the reverse of the shipping bills. a test check should also be made once a day by taking the \_\_\_ readings of the meter in the plane which is being re-fuelled. where this has been done the result will be shown on the reverse of the shipping bill. air port inspector will maintain a record for verifying that this test check is done at least once a day. after the loading is complete, the field security officer will hand over both the copies of the shipping bills to the company's agent to fill up the column for quantity and obtain an endorsement on both the copies of the shipping bill from the captain of the aircraft or his agent to the effect that he has received the quantity said to have been uplifted. he will also check that the quantity shown as uplifted agrees with the quantity shown in the delivery receipt prepared by the oil company. the field security officer should further ensure that the oil

company have shown the same matter readings in the delivery receipt and a copy of the same is attached with the original drawback shipping bill will be handed back to the oil company's representative for submission along with the drawback bill and the original bill be retained by the preventive officer. it is necessary that in each shift, one particular officer should be in charge of each plane in so far as drawback work is concerned.

(iii) multiple unlifts: after aviation spirit or oil has been supplied once to the aircraft in question, if an application for permission for a second or third uplift is made the field security officer will inquire into the reasons for the multiple unlift and only after the request has been approved by the air for inspector will pumping be allowed. the reasons will be recorded by air port inspector. a separate shipping bill will have to be made out for the second/third shift. this will be dealt with in all respects as in the case of a first uplift, except that the application for second/third uplift will be securely attached to the shipping bill.

(iv) duties of the officer in charge of the field security:-  
-----

the officer in charge of the field security will exercise a general supervision over the work of the field security officer under him. he will occasionally take mater readings himself and when he does so will indicate the results on the reverse of the shipping bill concerned. he will also carry out occasional surprise checks on the work of officers supervising the refueling. he will be held responsible for ensuring that the officers under him carry out their functions satisfactory. he will check from the aerodrome records and flying control office that the aircraft did not reland anywhere in India after taking off for a foreign country. he should record a certificate to this effect on the original copy of drawback shipping bill before the dispatch of the EGM. to the custom house. in token of his general supervision he will countersign all the shipping bills.

(v) off-loading :

if an aircraft wants to off-load any fuel whether that brought from abroad when it arrived or that uplifted here under claim for drawback, it will apply in writing to the officer-in-charge of the field security for permission to do so. before allowing the operation the details thereof will be entered in a register kept with the officer-in-charge, field

security, in the appended form. the quantity actually off-loaded will be declared by the captain or his agent and will be countersigned by the supervising preventive officer, after due check. the off-loading operation will be supervised by field security officer debuted by the officer-in-charge, field security. it will be responsibility of the field security officer to check whether or not the aircraft has already uplifted fuel under a drawback shipping

bill. if fuel has been up-lifted, the field security officer should obtain the original and duplicate copies of the shipping bill, before the off-loading operation commenced, after the operation is over, the field security officer should endorse the quantity off-loaded on the shipping bill, indicating clearly the net quantity of which drawback is admissible. if uplift under claim for drawback takes place after in the drawback shipping bill. if no up-lift takes place, the air company will be required to pay duty on the quantity off-loaded.

the bill of entry number and date under which this is done will be shown in col.(vii) of the register.

-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-  
register of off-loading

Sl.no.	date air bill of entry no. craft no. which	rot. quantity remarks of oil & date on which off-loaded	shipping bill no. & date in adjustment made
-----			
-----			

- (note:-entries in the blanks below should be made received-----gallons of by the supervising p.o.in his own hand) aviation spirit/lubricating oil in the plane.
- 1.air-craft no.....
  - 2.initial reading of the meter in the applying apparatus..... date captain/agent.
  - 3.final reading of the meter in the supplying apparatus.....

i hereby certify that-----  
(in words)-----of aviation spirit/lubricating oil were uplifted by the aircraft mentioned above in included  
my presence on-----i also  
--  
particulars shown in the delivery receipt and they agree with the

certified that i have verified from the e.g.m.of the aircraft-----rot.no.-----that the quantity shown on the reverse has been  
in it. certify that i have seen the  
clerk/MCD.

-----  
 above.

space for noting.

i further certify (i)that the destination shown on the EGM. agrees with that shown in the relative shipping bill &(ii)that i have checked from aerodrum records and flying control office that the air craft did not reland any where in India after taking off for a foreign country.

(vi) test flight and ground running :-  
 -----

the captain or his agent should likewise inform the officer-in-charge,field security, before commencing any test flight or repairs involving ground running. at the end of the test flight or repair the quantity of fuel consumed should be declared by the captain or his agent and his declaration should be checked by the field security, officer with the company's

records. both in the case of off-loading and in the case of local consumption a

-- corresponding debit should be made in the original shipping bill,in any, under which fuel has been uplifted by the plane. if a plane uplifts fuel at the part of departure under custom supervision and makes a test flight thereafter drawback is admissible on the quantity so uplifted less the quantity actually used in the test flight. if after completion of the test flight the plane up-lifts a further quantity under customs supervision for foreign flights drawback is also admissible on such further quantity. if a plane up-lifts fuel at the port of departure under customs supervision and makes a test flight thereafter, drawback is admissible on the quantity so uplifted less the quantity actually used up in the test flight. if after completing the test flight the plane uplifts a further quantity under customs supervision for foreign flights drawback is also admissible on such further quantity.

[f,no,40/41/55-Cus.IV.(CBR)dt,16.10.56]

(vii) registration and despatch of original shipping bill to the custom house :-  
 -----

the particulars of the shipping bill will be entered by the officer-in-charge,field security, immediately after the completion of the operation in a register in the following form kept in his office and the serial number of the entry in the register will be transcribed on the shipping bill two such registers will be kept, one for planes leaving for Pakistan or via Pakistan

and a second for other planes. The serial numbers in the Pakistan register will be shown in the relevant shipping bill with the letter "p" before the number.  
 on  
 the first working day of each week the airport office will send all the original copies of the shipping bills of the previous week in a transit register to the manifest clearance department.

-----  
 -----  
 Sl.no. | date | air | rot. | quantity of | quantity of | next | fees | remarks  
       | |craft | no. | aviation spirit lubricating |stop| |  
       | | | | uplifted | oil uplifted| | |  
 -----

(viii) check with export general manifest :-  
 -----

The captain will show in the export general manifest the Quantity of aviation spirit in his air craft at the time of Its arrival. The quantity up\_lifted under claim for drawback The quantity off-loaded or consumed locally and the net -- Balance at the time of take off. The captain should be Required to make a declaration in the export general manifest That no portion of the quantity uplifted has been consumed Locally for ground running, test flights, repairs etc. We will also show the quantity of lubricating oil, if any, Uplifted under claim for drawback. When the export general Manifest of the aircraft is received from the agents the M.C.D. Will check up he original copies of the shipping bills With it. If the M.C.D. is satisfied that the quantity shown as Up-lifted in the shipping bill has been entered in the export General manifest, it will so certify on the reverse of the Original shipping bill or bills and will also endorse the Export general manifest. "dbs/b.no.....dated..... Thereafter the M.C.D. will send the original shipping bill to The drawback section in transit register.

(ix) general :-  
 -----

The field security staff should be vigilant and make Occasional rounds of the hangers where aircraft remain for Night stop, repairs etc. so as to prevent pilferage of aviation Spirit from the tanks of the aircraft. Each officer on duty Should record timings of such rounds in his diary which -- Should be Scrutinised by the supervising officers. Where an Aircraft is taken to the hanger for a long holt, dips for Ascertaining the quantity of



fuel in the tanks should be Taken before it goes to the hanger and after comes out, so That any pilferage or withdrawal an be detected.

lil.drawback claim:- (i)presentation of drawback bill :-

-----  
 -----  
 On the basis of the duplicate shipping bill returned by  
 The preventative officer to the oil company, the latter Will prepare a  
 drawback  
 bill in form no.4 page 66 of the Calcutta supplement to the Indian sea  
 customs  
 manual. This Together with the duplicate copies of the shipping bill will Be  
 addressed to the Asstt.Collector of customs for drawback.

Drawback-bill

No. \_\_\_\_\_ received  
 on \_\_\_\_\_

Claim by \_\_\_\_\_ for drawback on customs  
 goods

Exported per s.s. \_\_\_\_\_ to \_\_\_\_\_ as follows:-

=====

Import bill of of net weight	date of   rate	drawback marks & 	description
Entry  -----	presen-  -----	shipping nos. On  or quantity	
-----  tation goods	bill no. packages packa-  goods  of		
No. _____	date   origin-  ges.		
-al b/e			

-----

Amount of rate amount of amount of remarks
Value   of   duty  drawback
duty

-----

-----hereby declare that the particulars of the above drawback bill are  
 Truly stated and that the above mentioned goods have not been re-landed and  
 are  
 Not intended to be re-landed at any port in India and that, i/we were at the  
 Time of entry outwards and shipment,and continue to be entitled to drawback  
 Thereon. It is also certify that same readings of the meter have been  
 employed  
 For billing the air cos. And for calculating the quantities shipped under the  
 Drawback procedure.

Q Signature.....

Examined and | i hereby certify that the amount of drawback  
rs. \_\_\_\_\_

Checked. |

(Rupees. \_\_\_\_\_

| passed by me on this bill does not exceed the import duty  
| on the goods specified therein and that drawback has not  
| been allowed on the same articles in any previous bill

Accountant | passed by this department.

Passed for RS. |

Collector of customs

Received payment rs. \_\_\_\_\_ (rupees \_\_\_\_\_

Signature

(ii) registration of claim :-

-----

As soon as drawback bill received in the drawback deptt.

It should be registered in the s-register and a file --

Collection number given to it. It should then be entered In a  
key register by showing the file collection number Against the serial number  
shown on the shipping bill. Separate key registers will be maintained for the  
normal Series and the Pakistan series.

(iii)scrutiny of claim :-

(a) the clerk in the drawback section will next call for

The relevant original shipping bill from the manifest --

Clearance department if it has not been already received in The section. The  
original of the shipping bill will then be Connected with the corresponding  
duplicate submitted by the Company. He will thereafter compare the details  
shown

in the Drawback bill with those shown in the original shipping bill And in  
particular check up that the quantity shown by the Company agrees with that  
certified by the preventive officer On the reverse of the original shipping  
bill. If any -- Discrepancies are noticed these will be pointed out to -- The  
appraiser. He will then calculate the amount of drawback From the  
galling/literage indicated and the rate of duty Claimed, to check up whether  
the amount has been correctly Claimed and will be personally responsible for  
the

accuracy Of this amount. If there are no discrepancies, he will post The  
particulars of the drawback bill in the drawback bill of Entry register and  
initial and date the entry.he will impress The stamps i & ii shown in the  
following form on the --- Appropriate spacer and fill up the blanks in it. He  
will Then attach a note sheet in the following form, fill up Carefully all the  
details called for therein and submit the Papers and the drawback bill of entry  
register to the deputy Office superintendent, drawback section.

|-----|

| examined. Conditions of drawback fulfilled. |  
 | allow drawback. |  
 | passed for payment of RS..... | stamp to be put on)  
 | in file  
 | the shipping bill.)  
 |  
 |  
 |  
 | drawback supervisor appraiser a/c dbk. |  
clerk
-----
drawback of RS.....
on .....gallons.
the reverse of the)
granted in file no.
triplicate bill of)
)
dbk.clerk supervisor appraiser a/c dbk..

#### Notes

-----

1. Drawback bill no,.....date.....s/bill no.....date.....
2. Amount of drawback claimed :
3. Quantity on which claimed :
4. Are declarations on the drawback bill :  
And shipping bill properly signed? :
5. Has the preventive officer entered his :  
Observations on the reverse of the ;  
Shipping bill and is it countersigned :  
By o.c.f.s.? :
6. Has captain/agent acknowledged receipt?:
7. If it is a case of multiple uplift has :  
A.p.i's order taken? :
8. Are the papers otherwise completed? :
9. Date of importation\_\_\_\_\_exceeds/:  
Does not exceed two years. :
10. Date of re-exportation )exceeds/does:  
)not exceeds :
11. Date of demand of drawback )six months :
12. Balance in the triplicate bill of entry.....gas.....RS.....
13. Amount of drawback claimed.....gas.....RS.....
14. Balance covers/does not cover drawback claimed.

15. Next port of call.....is outside India.  
 16. Has the shipping bill been checked with the EGM.?  
 17. Rate of duty at which drawback is claimed.....  
 18. Did you calculate amount of claim and find it correct?  
 19. Have you entered the particulars in the drawback bill Of entry register and initialled?  
 20. Claim is/is not in order submitted.  
 Clerk  
 Drawback section    supervisor    appraiser    Asstt.Collector of Cus.  
 Audited
- Following discrepancies noticed.
- Clerk/IAD                    D.O.S./IAD.                    A.c.\ IAD.

(b) checked by Dy.office Supdt. :-  
 -----

The Dy.office superintendent will check up each Claim counter initial in the appropriate places and pass on the papers To the appraiser to whom it is distributed by the Asstt.Collector of Customs.

(c) scrutiny by appraiser :-  
 -----

The appraiser will scrutinise the claim thoroughly To see if it is admissible. In particular he will check that:-

(1) the re-exportation has been made within two years from The date of importation.

(2) there is a balance in the triplicate bill of entry to Cover the shipment.

(3) the aircraft which uplifted the aviation spirit or Lubricating oil was destined to a foreign airport In the Portuguese settlements in India without any Intermediate halts in India.

(4) the shipping bill bears the endorsement of the manifest Clearance department check to the effect that he has Checked the export with the export general manifest.

(5) the declarations on the shipping bill and the drawback Bill have been duly signed.

(6) the rate of duty at which drawback is claimed is correct. When he is satisfied from the scrutiny that all the --

Conditions for the grant of drawback have been fulfilled He will initial in the stamps on the original and duplicate Shipping bills and on the reverse of the triplicate bill of Entry. He will also initial at the foot of the grant drawback Order on the face of the drawback bill in token of his -- Approval to the grant of drawback. The entry in the drawback Bill of entry

register will also be initialed by him and Thereafter the triplicate bill of entry and the drawback Bill of entry register will be returned to the supervisor, Drawback section while the rest of the papers will go to Asstt. Collector of customs, drawback section. (d) check by a.c./drawback

-----  
 The claims will next go to A.C. Drawback who will Check up items (ii)(v) and (vi) shown against the appraiser In respect of shipping bill. He will also make a full check Of the drawback claim in respect of 5% of the shipping bills And will then initial the shipping bills so checked that The check has been made. The drawback bill of entry register Will also be put up to him for inspection once in a month.

(iv) audit and payment :-

-----  
 (i) pre-audit :- when the appraising department has completed Its action the papers together with the drawback bill of Entry register will be sent to internal audit department For pre-audit. The later will audit the claims according To the procedure laid down in the IAD. Manual and -- Departmental orders.

(ii) payments :- the papers will then be sent to the drawback Section who will despatch the drawback bill to the oil Company. The latter will present it to the accounts Section, drawback department.

(iii) post audit :- after payment the claims will be post Audited by the IAD. And the CRA. Since the bills Are prepared on the basis of delivery receipts, it does Not appear to be necessary to insist on production of a Bill in every case, but during the course of post audit , IAD should however call for bills from the oil companies In 10% cases only and verify the quantities of fuel and Oil on which drawback has been granted. When such check Is exercised by the IAD. The audit officer should make A suitable entry to this effect in the drawback claim.

13. Drawback - aviation spirit - forced or deliberate landing of Planes at Indian airports after having refueled at customs Ports and taken off for foreign port :-

-----  
 The board has decided that forced or deliberate landing Due to circumstances beyond control (either due to entire Trouble, weather conditions, service and sudden sickness of Any passenger or crew) may be considered as frustrated flight. The drawback may be allowed in term of ministry's order no. 40(21)-Cus.IV/54 dated the 20.10.54 unless it is proved

that Such deliberate or forced landing is not genuine and done with The malafide intention of defrauding customs revenue to the Extent of drawback amount claimed. [board's f.no.40/12/56-Cus,IV dt.3.1.57 inst.no.5/dbk 56 CBR-cul.cus.tech. January - march 1957 page 69]

14. Procedure for grant of drawback on aviation spirit and Lubricating oil left in the tanks of an aircraft at the Time of its diversion from an inland to foreign flight:-

-----  
 The government of India have decided in their letter No.226-ds(Cus)/54(pt) dt.20.8.56 that when a plane diverts From an inland to a foreign flight, drawback may be allowed On whatever fuel and oil is actually left in the tanks of The plane just before take off, irrespective of what is Taken in at the last Indian airport. The quantity of fuel and Oil thus left in the tanks of the plane diverting from inland To foreign flight may consist of the amount of fuel and oil Uplifted at a port and the amount of fuel and oil with which The aircraft arrived at that port. In respect of the grant Of drawback on aviation spirit and lubricating oil up-lifted At the airport the procedure already exists in the custom House as per instructions as laid down in para 12. It is – ref Therefore necessary to formulate the procedure for the grant of Drawback on aviation spirit and lubricating oil with which the Aircraft arrives at a port on inland flight before it --

Destination. In this respect the same procedure will be Observed mutatis mutandis as laid down in para 12. In Particulars, the following details will be necessary. The pilot or the agents of the aircraft will bring To the notice of the officer-in-charge at the airport the Fact of the plane's diversion from an inland to a foreign Flight. This fact should be verified by the field security Officer by reference to the flying control records at the Airport, the manifest and the log book of the aircraft and A certificate to this effect should given by him on the Shipping bill filed in duplicate for the quantity of fuel And oil remaining in the tanks of the aircraft. This Shipping bill may be filed by the agents of the aircraft or By the oil company who may claim drawback on this quantity Of fuel and oil remaining in the tanks of the aircraft on Its arrival here and prior to its flight to a foreign --  
 Destination. No drawback of duty on fuel and oil remaining In the tanks will be admissible in cases where an aircraft Commences its flight out-side India and while in transit Touches down at one or more Indian airports, and where an Aircraft commences its flight at one Indian airport and Touches at one or more Indian airports on routs before It finally takes off for a place out-side India.

The field security officer should ascertain the quantity Of fuel and oil in the tanks of the aircraft at the time Of its arrival with the help of the meter in the instrument Panel and the log book and accept the measurement which is More

favourable to government revenue. He should certify to This effect on the relative shipping bill. The agents of The aircraft or the oil company will claim drawback on this Quantity only.

The air-line or the oil company as the case may be Quote the bill of entry particulars in the shipping bill for The fuel and oil originally imported at this port. These Bill of entry particulars may be the same as those quoted In the shipping bill for the upliftment of fuel and oil Relating to the port of their actual importation. The usual Time limit under section 74 of the customs Act'62 will Apply for the export of fuel and oil under claim for drawback.

The claimant will file a drawback bill in the prescribed Form governing the shipping bill for the export of fuel and Oil in the tanks of the aircraft arriving at this port prior To its diversion for a foreign flight. There is no objection To the filing of one drawback bill to cover the shipping bill For the export of fuel and oil remaining in the tanks of the Aircraft and the shipping bill for upliftment of fuel and oil At this airport.

The quantity of fuel and oil in the tanks of the air-crafts with which it arrives at this port and quantity Uplifted prior to its foreign flight should be separately Indicated in the relative export general manifest of the Aircraft as is done at present.

The custom house should process the claims for the Grant of drawback on aviation spirit and lubricating oil In the tanks of an aircraft at the time of its diversion From inland to foreign flight in the same may as the drawback Claims on aviation spirit and lubricating oil uplifted from This port. Just a drawback is admissible on fuel and oil Remaining in the tanks of the aircraft, import duty is Leviable on there where a plane reverts from inland flight Vide CBR letter no. 228-ds(Cus)/54 of 24.7.56.

If an oil company wishes to quote in the drawback Shipping bill prepared by them in respect of aviation fuel/ Lubricating oil, bill of entry prepared by another company By way of the original document, under which duty was paid On the goods under export no objection need be raised provided

(i) the bill of entry quoted covers either the same products As those exported under claim for drawback or similar Products imported within a period of two years prior to The exportation under claim for drawback.

(ii) the bill of entry has a sufficient balance against which A valid claim for drawback can be made;

(iii) the claimant to the drawback has to express consent of the Person or firm who paid duty under the bill of entry to Utilise the bill of entry in the above mentioned manner. (Govt. India letter f.no.40/19/66-Cus.IV dt.8.12.1966)

15(a) seating of audit staff in drawback deptt.

To minimise movement of papers :-

-----  
 The government of India has accepted that recommendation Of custom study team that movement of papers between different Departments may be minimised by seating staff of the internal Audit department with the drawback department itself. { customs recommendation (study team) no.182 }

15(b) procedure to be followed for sending drawback Claim for post audit at minor ports :-

-----  
 -----  
 The claims for drawback under section 75 shall be --  
 Processed at the particular land customs station/minor port Where the claims are filed. They shall be checked with Reference to the rules and orders to ensure that the claims Are admissible. No verification of payment of duty originally Paid on the materials used will be necessary in the case of Such drawback claims. The drawback order sanctioning payment Shall be sent to the claimant without pending them for -- Pre-audit either by the chief accounts officer or by the Major custom house to which the minor port is attached for The purpose of pre-audit. After the despatch of the drawback Order to the claimant, the case file dealing with the sanction Of drawback together with the office copy of the drawback Order shall be sent immediately to the chief accounts officer Or to the internal audit department of the major custom -- House to which the minor port is attached for post audit. The Chief accounts officer or the internal audit department of The major custom house to which the claims will be sent shall Deal with these post audited cases expeditiously.

Since delay will sometimes make it difficult to recover



Any over-payment, if detected. After post-audit a rubber Stamp endorsement will be affixed on the file indicating that The claims have been post\_audited and found in order. The Chief accounts officer or the internal audit department will Also maintain a register in which the particulars of such Claim passed in post audit will be duly recorded before the Case papers shall be returned to the concerned minor port or Land customs stations. The minor port or land customs stations Sending the claims for post audit shall ensure that all the Material that are available at the time of pre-audit are sent.  
[m.f.l.r.f.no.mis.51/66-dbk(293) dt.5.8.66]

In respect of section 74 drawback claims also the same Procedure may be followed with the addition that the files Should contain a specific endorsement to the effect that the Drawback sanctioned has been noted in the original duty paying Document should also be sent to the audit to verify the fact Of such noting. [board's f.no.21/4/66-Cus.IV dt.19.12.66]

16(a)export of goods forming part of a ] Consignment imported under a bill  
] Of entry - claim for drawback ]

(a) when goods to be shipped under claim for drawback Form only part of the goods described in the bill of entry The appraiser should submit a special examination report To the Asset. Collector showing how the identity of the Goods and their value has been established. He should also Mark in the invoice the particular items on which drawback Is claimed to facilitate audit check.

(b) in a case where an appraiser recommends for drawback A part of the consignment covered by a shipping bill, he Should at the time of signing the identity stamp specify Against the 'allow drawback' stamp the number of packages For which drawback is recommended. This will prevent drawback Being calculated and allowed on the whole consignment.

16(b) merchandise and baggage on a ship not ] Proceeding direct to foreign port  
]

Drawback is admissible on merchandise and baggage Shipped on vessel not proceeding to a foreign port direct, Provided that proper steps are taken to prevent the -- Possibility of the goods being relanded at other

customs Ports in India. [ind. Com. D.o. 6366 dt 15.9.66 ]

Drawback procedure under section 75 of Customs act, 1962

-----  
 As stated earlier drawback is admissible only as per Sec.74  
 And Sec.75 of customs act, 1962. Procedure and details of Sec.74 of Customs  
 act  
 1962 has been given above. Here we shall deal with Sec.75 Of customs act,  
 1962.

Under this section drawback is given on the imported material  
 Used in the manufacture of goods which are exported.

Drawback on imported materials used in the manufacture of  
 Goods which are exported :-

1. Where it appears to the central government that in respect Of  
 goods of any class or description manufactured in India [being goods which  
 have  
 been entered for export and in respect Of which in order permitting the  
 clearance and loading -- Thereof for exportation has been made under Sec.51  
 by  
 the Proper officer] {or being goods entered for export by post Under Sec.82  
 and  
 in respect of which an order permitting Clearance for exportation has been  
 made  
 by the proper officer] A drawback should be allowed to duties of customs  
 chargeable Under this act on any imported material of a class or --  
 Description  
 used in the manufacture of such goods, the Central government may, by  
 notification in the official Gazette, direct that drawback shall be allowed in  
 respect of Such goods in accordance with, and subject to, the rules Made  
 under  
 sub-section (2); [provided that no drawback shall be allowed under this sub-  
 Section in respect of any of the aforesaid goods which the

Central government may, by rules made under sub-section(2),  
 Specify, if the export value of such goods or class of Goods is less than the  
 value of the imported materials used In the manufacture of such goods or  
 class  
 of goods, or is not More than such percentage of the value of the imported  
 Materials used in the manufacture of such goods or class of Goods as the  
 central  
 government may, by notification in the Official gazette, specify in this behalf:  
 Provided further that where any drawback has been allowed on Any goods  
 under  
 this sub-section and the sale proceeds in Respect of such goods are not  
 received

by or on behalf of The exporter in India within the time allowed under the Foreign exchange regulation act, 1973(46 of 1973), such Drawback shall be deemed never to have been allowed and The central government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment Of the amount of such drawback;

[(1-a) where it appears to the central government that the Quantity of a particular material imported into India is more Than the total quantity of like material that has been used In the goods manufactured in India and exported outside India Then the central government may, by notification in the Official gazette, declare that so much of the material as Is contained in the goods exported shall, for the purpose Of sub-section(1), be deemed to be imported material.]

(2) the central government may make rules for the purpose of Carrying out the provisions of sub-section (1),and,in Particular, such rules may provide----- (a) for the payment of drawback equal to the amount of duty Actually paid on the imported materials used in the -- Manufacture of the goods or as is specified in the rules as The average amount of duty paid on the materials of that Class or description used in the manufacture of (export goods Of that class or description) either by manufacturers --- Generally or by any particular manufacturer, (aa) for specifying the goods in respect of which no drawback Shall be allowed; (ab) for specifying the procedure for recovery or adjustment Of the amount of any drawback which had been allowed under Sub-section(1); (b) for the production of such certificates, documents and Other evidence in support of each claim of drawback as may be Necessary, (c) for requiring the manufacturer to give excess to every Part of his manufactory to any officer of customs specially Authorised in this behalf by the Asset. Collector of customs To enable such authorised officer to inspect the processes Of manufacture and to verify by actual check or otherwise the Statements made in support of the claim for drawback. For getting this drawback under section 75 the exporters Have to file shipping bill for claiming drawback. The colour Of shipping bill is green. After this shipping bill process By the export department and the goods examined in the docks. The examination report is given

on the duplicate & triplicate Copy of the shipping bill. After the goods are given out-of- Charge and shipped the drawback procedure begins.

1. : exports of the goods completed :

-----  
the goods were taken out to the highseas outside territorial  
supervise the receipt and disposal register;

3. the appraiser should take measures to avoid accumulation of  
number of shipping bills at a particular place. the complete operation of the  
group will be supervised by the appraiser;

5. the appraiser is authorised to sanction the drawback amount upto  
Rs.30,000/- vide ministry's order no.f.no.609/129/91-dbk dated 26th June  
1992.

power source under

-----  
the customs act 1962.  
-----

section 74 of the customs act - draw-back allowable on re-export of  
duty paid goods.

section 75 of the customs act - drawback on imported materials used in  
the manufacturing of goods which are exported.

section 76 of the customs act - prohibition and regulation of drawback  
in certain cases.

standing order.

1. number 6678 dated 21-8-1978.

gist :-procedure regarding drawal of samples of cotton powerloom  
fabrics (seconds) to be tested by SASMIRA for settlement of drawback  
claims.

-----  
(refer S.O. for full text)

2. number 6637 dated 27-1-1978.

gist:- processing of drawback claims of steel pipes and tubes etc.  
under sub-serial no.3608(c)

-----  
(refer So. for full text)

3. number 6715 fdated 15-6-1979.

gist:-goods of Indian origin exported under claims for drawback of  
duty-- reimport thereof-- expeditious clearance-- procedure regarding...

-----  
(refer s\_o. for full text)

number 6730 dated 12-12-1979.

gist:- procedure for drawing of samples of small items of man-made fiber (including blends of more than 50% of such fiber) less than 6 1/2 meters in length to be tested by SASMIRA for settlement of drawback claims.

-----  
(refer So. for full text)

4. number 6771 dated 28-8-82.

gist:- frequency of tests for drawback – instructions regarding-----

-----  
(refer So. for full text)

5. number 6782 dated 9.5.83.

gist:- amendment to Sec.74 and 75 of the customs act, 62 -- introduced by the finance bill 1983 – expeditious settlement of drawback claim.

-----  
(refer So. for full text)

amendment no. 1 dated 10-10-1985.

number 6798 dated 2.-2-1984.

gist:-expeditious settlement of drawback claims -- procedure regarding....

-----  
(refer So. for full text)

4. number 6803 dated 23-4-1984.

gist:- drawback claims in respect of synthetic organic dyestuffs/dyes intermediate/basic organic, inorganic chemicals—dispensing with test reports in cases of regular/ reputed exporters, -- question regarding...

-----  
(refer So. for full text)

5. number 6811 dated 13-7-1984.

gist:- pendency of drawback claims for want of test reports -- instructions regarding...

-----  
(refer So. for full text)

6. number 6821 dated 18-4-1985.

gist:- expeditious payment of drawback claims in respect of the cargo cleared by customs of the inland airport but finally exported out of the country from gateway airports.

-----

(refer So. for full text)

- 7. number 6829 dated 16-9-1985.  
 gist:-clearance of supplementary drawback claims filed in between 1982 to 1984 -- procedure regarding.....

-----  
(refer So. for full text)

- 8. number 6830 dated 16.9.1985.  
 gist:- clearance of supplementary drawback claims filed in between 1978 to 1981 procedure regarding.....

-----  
(refer So. for full text)

- 8. number 6833 dated 25-10-1985.  
 gist:-disposal of supplementary claims--- procedure regarding.....

-----  
(refer So. for full text)

- 9. number 6831 dated 30-9-1985  
 gist:- acceptance of indemnity bond from individual exporter for release of duty drawback amounts without waiting for test reports--- procedure regarding-----

-----  
(refer So. for full text)

- 6. number 6842 dated 31-1-1986.  
 gist:- revised procedure for settlement of drawback claims.

-----  
(refer So. for full text)

- 7. amendment dated 21-2-1986  
 to s.o.no.6842 dated 31-1-1986.  
 gist:-revised procedure for settlement of drawback claims.....

-----  
(refer So. for full text)

<page of>

- 8. amendment dated 1-5-1986  
 to s.o.6842 dated 31.1.1986.  
 gist:- revised procedure for settlement of drawback claims.....

-----

(refer So. for full text)

9. amendment dated 26-5-1986  
to s.o.no.6842 dated 31-1-1986.  
gist:- revised procedure for settlement of drawback claims....

-----  
(refer So. for full text)

10. amendment dated 19-1-1986 to  
s.o.6842 dated 31-1-1986.  
gist:- revised procedure for settlement of drawback claims....

-----  
(refer So. for full text)

11. amendment dated 12-4-1989  
to s.o.6842 dated 31-1-1986.  
gist:- revised procedure for settlement of drawback claims.....

-----  
(refer So. for full text)

12. amendment dated 29-8-1990  
to s.o.6842 dated 31-1-1986.  
gist:- revised procedure for settlement of drawback claims....

-----  
(refer So. for full text)

number 6947 dated 30-3-1990.

gist:- meeting with the members of the trade directly. by the  
chemical laboratory staff and officers -- board's instructions regarding.

-----  
(refer So. for full text)

13. number 6956 dated 20-11-1990.  
gist:-pre-audit work will be attended before sanction of amount of  
drawback claim by appraiser/assistant collector..

-----  
(refer So. for full text)

13. number 6958 dated 29-11-1990.  
gist:- revised procedure for settlement of drawback claims...

-----  
(refer So. for full text)

14. number 6959 dated 13-12-1990.  
gist:- to transfer the EGM's to drawback shipping bills to assistant  
collector of customs, manifest clearance department.

-----  
 (refer So. for full text)

15. number 6960 dated 17-152-1990.  
 gist:- drawal of samples from export consignments for the purpose of drawback-- regarding.....

-----  
 (refer So. for full text)

- number 6978 dated 27-6-1991.  
 gist:- to fill up properly test memos -- instructions regarding.....

16. number 6996 dated 20-1-1992.  
 gist:- amendment to s.o.6842 dated 31-1-1986 revised procedure for settlement of drawback claims...

-----  
 (refer So. for full text)

16. number 7019 dated 3-11-1992.  
 gist:- revised procedure for settlement of drawback claims...

-----  
 (refer So. for full text)

other instructions:-  
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#### THE CUSTOMS AND CENTRAL EXCISE DUTIES DRAWBACK RULES 1971.

In exercise of the powers conferred by section 75 of the customs act, 1962(52 of 62) and section 37 of the central excises and salt act, 1944(1 of 1944) the central government hereby makes the following rules namely;

1. Short title, extent and commencement :

-----  
 (1) these rules may be called the customs and central excise duties drawback rules, 1971;

(2) they extend to the whole of India;

(3) they shall come into force on the 15th day of october,1971.

2. definitions :- in these rules unless the context otherwise requires:-

-----  
 (1) "drawback", in relation to any goods manufactured in India and exported means the rebate of duty chargeable on any imported materials or



exciseable materials used in the manufacture of such goods in India;

(2) "exciseable material" means any materials produced or manufactured in India subject to a duty of excise under the central excise and salt act, 1944 (1 of 1944);

(3) "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;

(4) "imported materials" means any material imported into India and on which a duty chargeable under the customs act, 1962(52 of 1962);

(5) "schedule" means the schedule appended to these rules. drawback :-  
(1) subject to the provisions of;

-----

(a) the customs act, 1962 (52 of 1962) and the rules made thereunder;

(b) the central excises and salt act, 1944 (1 of 1944) and the rules made thereunder, and;

(c) these rules, a drawback may be allowed on the export of goods at such amount or at such rates, as may be determined by the central government:

provided that where any goods are produced or manufactured from imported materials or exciseable materials, on some of which only duty chargeable thereon

has been paid and not on the rest, or only a part of the duty chargeable has been paid, or the duty paid has been rebated or refunded in whole or in part or given as credit, under any of the provisions of the customs act, 1962 (52 of 1962), and the rule made thereunder or of the central excise and salt act, 1944 (1 of 1944) and the rules made thereunder, the drawback admissible on the said

goods shall be reduced taking into account the lesser duty paid or the rebate refund or credit obtained; provided further that no drawback shall be allowed :-

(1) if the said goods, except tea chests used as packing materials for export of blended tea, have been taken into use after -- manufacture; or

(2) if the said goods are produced or manufactured using imported materials or exciseable materials in respect of which duties have not been paid;  
or

(3) on jute batching oil used in the manufacture of export goods, namely jute (including bimlipat jute or mesta fibre) fabric, yarn twist, twine, thread cords and ropes;

(4) if the said goods being packing materials used in or in relation to

the export of-----

(1) jute yarn (including bimplipatam jute or mesta fibre)twist,twine thread and ropes in which jute yarn predominates in weight;

(2) jute fabrics (including bimplipatam jute or mesta fibre) in which jute predominates in weight;

(3) jute manufactures not elsewhere specified(including bilmipatam jute or mesta fibre) in which jute predominates in weight;

1a) (2) in determining the amount or rate of drawback under this rule, the central government shall have regard to:--

(a) the average quantity or value of each class or description of the materials from which a particular class of goods is --- ordinarily produced or manufactured in India;

(b) the average quantity or value of the imported materials or exciseable materials used for production or manufacture in India of a particular class of goods;

(c) the average amount of duties paid on imported materials or exciseable materials used in the manufacture of semis,components and intermediate products which are used in the manufacture of goods;

(d) the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents. provided that if any such waste or catalytic agent is re-used in any process of manufacture or its sold, the average amount of duties on the waste or catalytic agent is re-used or sold, shall also be deducted:

(e) the average amount of duties paid on imported materials or exciseable materials used for containing or packing the export goods;

(f) any other information which central government may consider relevant or useful for the purpose.

4. revision of rates:- the central government may revise the amounts or rates

----- determined under rule 3.

5. determination of date from which the amount or rate of drawback is to come

into force and of the effective date for application of amount or rate of drawback :-

(1) the central government may specify the period upto which any amount or rate of drawback determined under rule 3 or revised under rule 4, as

the case may be, shall be in force.

(2) the provisions of section 16, or sub-section 83, of customs act 1962(52 of 1962) shall determine the amount or rate of drawback applicable to any goods exported under these rules. 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 any goods, any manufacturer or exporter of such goods may, \*[within thirty days from the date of export of such goods] apply in writing to the central government for the determination of the amount or rate of drawback therefore stating all relevant facts including the proportion in which the materials or components are used in the production or manufacture of goods and the duties paid on such materials or components: provided that the central government may, if it satisfied that the manufacturer or exporter was prevented by sufficient cause from filling the application \*[within the aforesaid time] allow such manufacturer or exporter to file such application within a further period of \*[thirty] days[\*\*\*].

(b) on receipt of an application under clause (a) the central government 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 desire that he may be granted drawback provisionally, he may, after making an application under clause (a) of sub-rule (1), apply in writing to the central government 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 central government may after considering the application authorise the collector of customs at the port where the goods are exported to pay provisionally an amount not exceeding the amount claimed by the exporter in respect of such export: provided that the collector of customs, 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 the collector of customs 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 sanctioned provisionally, if for any

reasons, the central government decides not to allow drawback; or

(ii) to refund the excess, if any, paid to him provisionally, if the central government decides to allow a 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, he shall repay to the collector of customs 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 collector of customs may direct.

(3) where the central government considers it necessary so to do, it may cancel

authorisation referred to in sub-rule (2) from such date as it may specify. 7. cases where amount or rate of drawback determined is low;

(1) where, in respect of any goods, the manufacturer or 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 [four-fifths] of the duties paid on the materials or components used in the production or manufacture

of the said goods, he may \*[within thirty days from the date of export of the said goods], make an application in writing to the central government for fixation of appropriate amount or rate of drawback stating all relevant facts including the proportion in which the materials or components are used in the production or manufacture of the goods and the duties paid on such materials or

components. provided that the central government may, if it is satisfied that the manufacturer or exporter was prevented by sufficient cause from making the

application \*\*[within the aforesaid time] allow such manufacturer or exporter to

make such application within a further period of \*[thirty] days \*\*[\*\*\*].

(2) on receipt of the application referred to in sub-rule (1), the central government 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 [four fifth] of such amount or rate determined under this sub-rule.

7a. case where no amount or rate of drawback is to be determined

(1) no amount or rate of drawback shall be determined in respect of any

goods under rule 3, rule the f.o.b. value thereof 1[except where the amount of drawback for shipment exceeds rupees five thousand].

(2) no amount or rate of drawback shall be determined in respect of any goods under rule 6 or rule 7 as the case may be, if the export value of each of such goods or class of goods in the bill of export or shipping bill is less than the value of the imported materials used in the manufacture of such goods or class of goods, or is not more than such percentage of the value of the imported materials used in the manufacture of such goods or class of goods as the central government may, by notification in the official gazette, specify in this behalf.]

8. power to require submission of information and documents for the purpose of

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(a) determining the class or description of materials or components used in the production or manufacture of goods or for determining the amount of duty

paid on such materials or components; or

(b) verifying the correctness or otherwise of any information furnished by any manufacturer or exporter or other persons in connection with the determination of the amount or rate of drawback; or

(c) verifying the correctness or otherwise of any claim for drawback; or

(d) obtaining any other information considered by the central government to

be relevant or useful, any officer of the central government, specially authorised in this behalf by an assistant collector of central excise, may require any manufacturer or exporter of goods or any other person likely to be

in possession of the same to furnish information and to produce such books of

account and other documents are considered necessary by such officer.

9.access to manufactory

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whenever an officer of the central government, specially authorised in this behalf by an assistant collector of customs or of the central excise, considers it necessary the manufacturer shall give access at all reasonable time to the officer so authorised to every part of the premises in which the goods are manufactured, so as to enable the said officer to verify by inspection the process of, and the materials or components used for the manufacture of such

goods, or otherwise the entitlement of the goods for drawback or for a

particular amount or rate of drawback under these rules.

10. procedure for claiming drawback on goods exported by post

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 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 further deliver to the competent postal authority alongwith the parcel or package, a claim from specified by the collector of customs, duly filled in.

11. procedure for claiming drawback on exports other than by post

(1) in the case of export 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; and if so, as what rate or rates;

(b) furnish to the officer of customs, a copy of shipment invoice or any other documents giving particulars of the description, quantity and value of the goods to be exported;

(c) make a declaration on the relevant shipping bill or bill of export that -

- (i) a claim for drawback under these rules is being made;
- (ii) the duties of customs and central excise have been paid in respect of such containers or materials no separate claim for rebate of duty under the central excise rules, 1944, has been or will be made to the central excise authorities.

(2) where the amount or rate of drawback has been determined under rule 6

or rule 7, the exporter shall made an additional declaration on the relevant shipping bill or bill of export that:

(a) there is no change in the manufacturing formula and in the quantum per unit of the imported materials or components, if any, utilised in the manufacture of export goods; and

(b) the materials or components, which have been stated in the application under rule 6 or rule 7 to have been imported, continue to be so imported and are not being obtained from indigenous sources.

12. payment of drawback to exporter or his authorised agent

(1) the drawback under these rules shall be paid by an officer of customs to the exporter or to the agent specially authorised by the exporter to receive the amount of drawback.

(2) the officer of the customs may combine one or more claims for the purpose of payment of drawback as well as adjustment of any amount of drawback already paid and may issue a consolidated order for payment.

### 13. supplementary claim

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 (1) where any exporter finds that the amount of drawback paid to him is less than that what he is entitled to on the basis of the amount or rate of drawback determined by the central government, he shall prefer a supplementary claim in such form as the collector of customs may specify in this behalf: provided that the exporter shall prefer such supplementary claim within a period of six months:

(i) where the rate of drawback is determined or revised under rule 3 or rule 4, 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, from the date of communicating the said rate to the person concerned;

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

(2) save as otherwise provided in this rule, no supplementary claim for drawback shall be entertained.

14. repayment of erroneous or excess payment of drawback where an amount of drawback 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).

### 15. power to relax

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 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.

#### 16. repeal and saving

(1) as from the commencement of these rules, the customs and central excise duties export drawback (general) rules, 1960(hereinafter in this rule referred to as the old rules) shall cease to operate.

(2) notwithstanding such Caesar of operation-

(a) every application (including any claim) made by a manufacturer or exporter for the determination or revision of the amount or rate 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 the old rules as if these rules had not been made;

(b) any claim made by the exporter or his authorised agent for the 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 the old rules as if these rules had not been made;

(c) if any manufacturer or exporter had not made any application before the commencement of these rules for the determination or revision of the amount

or rate of drawback in respect of goods exported before such commencement, he

may, within six months from such commencement make an application writing for

the same in accordance with the provisions of the old rules and such application

shall be disposed of in accordance with provisions of the old rules as if these rules had not been made;

(d) every amount or rate of drawback determined under the old rules and in force immediately before the commencement of these rules shall be deemed to

be the amount or rate of drawback determined under these rules until altered or

superseded by the central government.

(3) notwithstanding anything contained in the customs and central excise duties drawback rules, 1971 as amended by these rules, where a manufacturer or

an exporter has exported goods and has not filed any application for the determination of the amount of rate of drawback or for the fixation of



appropriate amount or rate of drawback on such goods before the rate of commencement of the customs and central excise duties drawback (amendment) rules,

1971, such manufacturer or exporter shall make his application for such determination or fixation on or before the 31st day of October, 1971.

(4) notwithstanding anything contained in these rules, as amended by the customs and central excise duties drawback (amendment) rules, 1986.

(a) where a manufacturer or exporter has exported any goods within a period of one hundred and twenty days immediately preceding the date of commencement of the customs and central excise duties drawback (amendment)

rules, 1986, and has not filed any application for the determination of the amount or rate of drawback on such goods before the date of such commencement,

such manufacturer or exporter may make his application within period of sixty

days from the date of such commencement, whichever period expires earlier, and

(b) where a manufacturer or exporter exports any goods within a period of sixty days from the date of commencement of the customs and central excise

duties drawback (amendment) rules, 1986, such manufacturer or exporter may make

his application for the determination of the amount or rate of drawback on such

goods within a period of sixty days from such commencement.

customs

part-c

dbk

December - 1989

amendment of rule 7(sub-rule(1)of the customs and central excise duties drawback rules, 1971 as you may be aware, all-industry rate of drawback for a product can be claimed by any exporter of the product. in individual cases where an exporter finds that the actual duties suffered on the inputs used in his product are significantly higher than the all industry rate available to him,the customs & central excise duties drawback rules,1971 provide

the facility of claiming special brand rate applicable on individual basis.

this is, however available subject to the condition that the all-industry rate of drawback announced works out to less than 75% of the actual duties suffered.

(2) a large number of requests have been received from time to time from various exporters and export promotion agencies for a reconsideration

of the existing cut off point and reducing the differential of 25% for

eligibility of special brand rate under the aforesaid drawback rules. the government have after careful consideration of these suggestions and administrative aspect of entertaining brand rates in individual cases decided that the existing minimum differential of 25% be reduced to 20% to be eligible

for special brand rate of drawback notification no.246/89-custom dated 6.10.89(copy enclosed) has since been issued to amend the drawback rules accordingly. Thus with effect from 6.10.89 the exporters can claim special brand

rate for a product under rule 7 of drawback rules, if the all-industry rate of drawback for the product works out to less than 80% of the actual duties suffered on inputs used in exporters product.

(3) the above liberalisation would help exporters availing of drawback facility in general and exporters of certain products where the incidence of duty on inputs used is substantial (like electronic goods, drugs, dyes and their intermediates and certain engineering goods) in particular.

(4) you are requested to give a wide publicity to the aforesaid change and bring it to the notice of all concerned exporters who may be availing of duty drawback facility. [mf(dr)f.no.602(9)87 dbk dt 18.10.89]

#### NOTIFICATION NO.246/89-CUSTOMS

in exercise of the powers conferred by section 75 of the customs act, 1962(52 of 1962) and section 37 of the central excises and salt act, 1944(1 of 1944) the central government hereby makes the following rules

further to amend the customs and central excise duties drawback rules, 1971,namely:-

1. (1) these rule may be called the customs and central excise duties drawback(amendment) rules, 1989.

(2) they shall come into force on the date of their publication in the official gazette.

2. in rule 7 of the customs and central excise duties drawback rules, 1971,in sub-rule(1),for the words"three fourths",the words"four-fifths" shall be substituted.

sd/-

(kameshwari subramanian)

under secretary to the government of India

f.no.602/9/87-dbk

verification of data under simplified brand rate fixation scheme/normal brand rate scheme-regarding

(1) please refer to the endorsement of ministry's letter of even

number dated 11th october,1988 addressed to chairman FIEO and others,explaining the broad features of simplified brand rate fixation scheme.

(2) a number of exporters has started availing of the benefit of the aforesaid scheme and in many cases we have already issued the brand rate letters to the applicants pending post facto verification of the data by our field staff. as the brand rates are being issued under this scheme on the asis of declaration of manufacturer-exporters, without prior verification of data(as envisaged for the usual brand rate applications) it is very essential that these applications are taken up for verification on top priority basis to check carefully the authenticity of the data filed and verification reports sent to the directorate expeditiously (copy of latest proforma of verification report is enclosed for ready reference of circulation to field staff).

(3) to prevent any misuse of this facility our verification officers should be asked to carefully check various areas of authenticity of the data filed and answer various queries raised in the enclosed verification report proforma after actual check of the manufacturing process & documentary records. In particular, they should make sure that the consumption pattern of various inputs especially where use of imported inputs is claimed,is as declared; this should be verified from actual manufacturing process of similar product if in progress apart from check of documentary records. wherever doubts arise about the exclusive use of any imported input(s)as claimed, and the manufacturer has not been able to furnish satisfactory evidence for the same-despite being given enough opportunity,it must be mentioned clearly in the verification report against appropriate column or by addition a special annexure.

(4) procurement pattern of various inputs as shown in dbk-ii/iaa,and iii & iii-a statements must be checked with relevant original copies of bills of entry and gate passes and it should be clearly indicated in the verification report:

(a) if any of the bills of entry of gate passes is not in the name of the applicant,

(b) whether for some procurements the aforesaid original supporting documents are not available,

(c) where there are any doubts of receipt of the materials covered by any consignment(s) in the factory of production.

(5) often during manufacturing process,certain co-products/by products also emerge which fetch considerable price to the applicant unit by way of sale or further use in the factory for producing goods.in such case directorate is interested in requisite details of these co-products/by products (including the ultimate realisations by way of sale etc.) so that the duty

incidence on inputs could be suitably allocated while determining the drawback rates.

<page of )

(6) wastage claimed by the applicant is one factor which should need utmost attention of our verifying officers especially when these are substantial. as you are aware, incidence on inputs contained in genuine irrecoverable wastage's are admitted in full; but where wastage's are recoverable, directorate would like to get clear details of its quantum & actual latest sale price per unit, so that while fixing drawback rates suitable deductions may be made for recoveries from wastage, if certain part of wastage's are recycled as such or subject to further processing within the factory, a clear, induction there of be given, as in such cases net quantity of input that is actually consumed per unit of product gets correspondingly reduced.

(7) any suppression of facts/misdeclaration or discrepancies detected during the course of verification which may have some bearing on the

rate should be clearly brought to the notice of the directorate for taking appropriate action. even if the data/declarations, as furnished by a manufacturer-exporter is confirmed on verification in all aspects if may please

be ensured that verification reports in such cases also are dispatched to the directorate on priority basis so as to reach latest within one month from the date of receipt of the data in the collectorate

(8) you are requested to issue suitable instructions to officers under your jurisdiction entrusted with the work of verification of brand rates - under simplified or normal scheme to keep the above guidelines in view and to ensure meticulous checking of the application so that no exporter gets away with any unwarranted benefits [mf(dr)f.no.609(113)89-dbk DT 26.10.89]

proforma for verification report

1] general

1) name and address of the manufacturer.

i) date of receipt of the application in the collectorate/custom house

ii) is the application in the proper format and with dbk statements duly completed?

iii) is the application filed within 30 days from the date of shipment (if the request is for rate fixation for a specific shipment) or first shipment (if request is for fixation for a period of time)?

iv) where application is beyond 30 days but within 60 days from

the day of shipment/first shipment,has the party furnished adequate reasons for the delay and requested the ministry for condonation (attach copy of request made).

2) description of the export product (please verify with shipping bill(s) and furnish).

3) date(s) of visit for verification.

4) whether all the details furnished in the covering proforma of the application are correct,if not,state the discrepancies noticed in respect of each of the entries made therein.

ii relating to dbk i

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5) are all the details furnished in the bill of materials (drawback i statement)correct? if not,whether the necessary corrections have been made in the statement

6) (a) has the input consumption been physically verified during the course of manufacture of the export product?

(b) if not,what is the basis of verification of the inputs consumption?

(c) if the exporter is using an input by procuring both by way of imports and from indigenous sources, has an indication of the same been given under column

5 of dbk i statement.

7) (a) where use of any material/components is claimed only by way of imports, is there enough evidence to show that only imported material/components have been used in the export product?

(b) stte whether this is only documentary evidence are even found during actual visit and check if manufacturing of identical products,is the firm maintaining regular separate records for the use of imported inputs in the export products?

(c) have the imported materials any special characteristics to distinguish it in the final product?

(d) if any input is procured from imports and indigenous sources and there are doubts about the exclusive use of imported inputs as claimed,or where the manufacture agrees to interchange the use. state the quantity of each such inputs procured during the relevant period separately form two sources.

8) (a) has the wastage arising at the different stages of production been checked physically?

(b) if any,what is the basis on which the wastage has been checked?

(c) is the wastage reasonable and comparable to that arising for other like product?

(d) whether some part of the wastage is recoverable?

(e) if so, whether the sale value has been indicated in the relevant column in dbk i statement and verified with latest invoices and found correct?(enclose copy of latest invoice).

(f) is some part of wastage's recycled or used within the factory for production of other goods/if so indicate sale value of the goods manufactured out of such wastage

(g) what is the mode of disposal of the irrecoverable wastage,if significant?

9) (a) are the details furnished in:

s.no.28 of the application and column 11 and 12 of dbk i statement regarding the co-product/by-product correct?

(b) are the quantity and sale: value of co-product/by product correct?

(c) what could be the basis for: allocation of drawback between the main product and the co-product/by product?

10) if the application is in respect of exports under DEEC/pass book.

i) indicate the DEEC/pass book no & date.

ii) enclose a copy of the relevant DEEC/pass book

(including list of items allowed to be imported duty free)

iii relating to dbk ii/iiia

11) (a) have the details of import duties paid been verified with reference to customs duty paying documents?

(b) are all imports indicated in dbkii/ii a in the name of applicant? (indicate the particulars where these are by third parties).

(c) is the assessment provisional/or payment of duty under protest for any import consignment?

(d) is any refund/appeal pending in respect of the assessment for any of the bills of entries detailed in dbk ii statement?

iv. relating to dbk iii/iiia

12) (a) have the actual central excise duties paid in respect of materials detailed in the dbkiii/iiia statement been verified from authentic duty paying documents like gate passes/subsidiary gate passes?

(b) indicate norms of the inputs for which actual duty payment documents not produced for verification.

(c) is the assessment in respect of any of the procurements in dispute and duty paid under protest?

v) general

13) (a) is the manufacturer already availing of MODVAT facility?

(b) whether declaration for availing MODVAT benefits is filed and in respect of any of the raw materials/ components MODVAT benefits under rule 57-a of central excise is being proposed to be availed of? if so the details thereof?

(c) is the declared market value correct.

(d) is the party's estimated drawback per unit of export product less than market value?

(e) can the drawback rate be made applicable for a period of time or restricted to particular shipping bill(s)? if so, specify the period or shipping bill number(s) (enclose copy of shipping bill for first shipment).

14) remarks: (give here your observation considered relevant which may have bearing on fixation of drawback rate, which are not mentioned anywhere on the drawback statements or the application or against the foregoing columns).

place :

verifying officer

dated :

designation

(appraiser of custom house/

Supdt. of central excise

classification of cotton handloom items like rugs, durry rugs, super rugs, rug durries etc.-

1) FIEO and the handloom export promotion council have represented that cotton handloom durries when exported under the description rugs, durry rugs, super rugs, rug durries, floor mats etc. are not being granted drawback under s.s.no. 2804 because these do not find mention under the description 2804 of the drawback schedule.

2) the rate of 2% under s.s.2804 is a refund of the duty incidence on account of dyes and packing materials only. therefore, all the cotton durries and durries and druggets and other like items when dyed are eligible for the grant of drawback at the rate of 2%.as the cotton items- rugs, durry rugs, super rugs, rug durries, floor mats and like products are essentially a kin to cotton durries and druggets as commonly understood, it is clarified that these may be also considered as covered under s.s.2804. all the pending cases may be decided accordingly if otherwise in order.  
f.no.600/2804/90-dbk/cir.no.2. date 26.10.90

fixation of brand rate of drawback without pre-verification - simplified procedure- reg.

1) the existing procedure of brand rate fixation for drawback purposes envisages submission of an appropriate application and a pre-verification of the data and relevant facts by the department before announcement of the admissible rate. though government has taken steps for cutting down the overall time taken in the rate fixation and efforts to expedite the rate fixation are continuing, in certain areas, it has been represented that considerable time is often taken for departmental verification which holds up at times substantial amount of drawback. government has been considering whether any alternative scheme could be evolved where the rate fixation, subject to certain safeguards be based upon data as submitted by the manufacturer-exporter duly authenticated/ checked by independent agencies about their validity correctness.

2) it has now been decided to provide a facility of brand rate fixation without insisting on pre-verification of the data by the department. this facility, to start with, will be available to selective class of manufacturer-exporters of particular industries. the essential features of the scheme would be as follows -

i) the scheme shall be termed "simplified brand rate fixation scheme":

ii) it shall be extended to manufacturing concerns having regular production of the products for which brand rate is sought. the manufacturing concern should be a corporate body having a detailed accounting system, which is normally subject to statutory audit under the company law:

iii) the facility, to start with will be applicable only to export of engineering goods, chemicals and electronic items;

iv) this facility may be sought when there is no all industry rate of drawback or where though the all industry rate exists, the manufacturer-exporter is not satisfied with the rate and claims a special brand rate in terms of provisions of the rule 7 of the drawback rules;

v) the applicant desiring to avail himself of the facility shall make application in the performa (along with statements i, ii a&b, iii a&b)

as at annexure i - one copy to be submitted to deputy secretary, directorate of drawback, department of revenue, jeevan deep building, new Delhi and two copies

to the concerned collector of customs/central excise having jurisdiction over the factory as being done at present;

vi) statement i of the application giving consumption norms of the various inputs should be not only certified for its correctness by the chief



executive/ production-in-charge of the applicant firm, but it should also be got

certified by an independent chartered engineer qualified in the branch of engineering related to the export product. The certificate of the chartered engineer should be in the form as given at the end of the statement i;

vii) statement ii a&b, and iii a&b, which give the details of stock and procurements of various materials -

imported and indigenous, used in the factory for production of the export product shall be got certified by an independent cost accountant/chartered accountant, who would also append the certificates as given

at the end of the statements ii/iii enclosed;

viii) application under the scheme should be related to goods exported under a particular shipment. however, as at present the exporter may make application for the same goods for a period of time if it is certified that consumption pattern would be the same for successive shipments and the exporter

has sufficient stock of the related inputs at the time of making the application, for their manufacture;

ix) the application must be submitted within the time limit as laid down in drawback rules 6/7 i.e. not later than 30 days of the date of export of any goods for which brand rate is desired;

x) the applicant shall also furnish alongwith the application in indemnity bond bearing proper stamp binding himself to pay up immediately the entire amount or such differential amount of drawback as may be determined by

the government if the data on post facto verification by the department is found

to be incorrect in any respect requiring a withdrawal or change in the brand rate which may be issued on the basis of the data filed;

XI) the government would (unless there are any special reasons), normally fix the drawback rate taking into consideration the data filed, as duly certified by the applicant and chartered engineers/cost accountant/chartered accountant without pre-verification, and the exporter would be authorised to claim the drawback rate considered admissible from the concerned customs house(s);

ix) the data submitted will be subject to post-facto checking by the department for its authenticity. The applicant availing himself of this facility shall be required to keep the records ready for the post audit of the data, which would be got done through the concerned customs house/central excise

Collectorate with whom two copies of the application (as stated above) would have to be filed in the initial stages. if the details and data furnished in

the application are found incorrect (on post checking by the department) in any respect or there is suppression of any facts, which may have a bearing on the brand rate fixed, the facility under the scheme shall stand withdrawn forthwith and normal procedure for pre-checking/pre-verification will have to be followed the exporter will have to pay back immediately the excess amount of drawback drawn (in terms of the indemnity bond) apart from facing other penal action that may be initiated against him for submission of false/incorrect data etc. to claim in admissible benefits:

3) the existing provisions of brand rate on pre-verification would continue to apply, wherever any exporter though eligible does not seek the facility mentioned above or to industries/class of exporters to which this facility is not extended. this facility is not extended.

4) you are requested to bring the contents of this letter to the notice of all concerned for their information and necessary action.  
[m.f.(d.r.)f.no. 609/113/88 dbk dt 11.10.88]

#### simplified brand rate fixation scheme

-----

application for fixation of drawback rates-rules 6(1) (a) (brand rate)/rule 7(1) (special brand rate) of customs and central excise duties drawback rules/1971: under simplified brand rate fixation scheme (f.no.609/113/88-dbk dt 11.10.88)

1. (a) name of the applicant :
- (b) status of the applicant  
(whether public ltd.co.,  
or a Pvt. limited co.etc.) :
- (c) year since which the accounts  
are being statutory audited  
under company's act. :

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- 2) name and address of the factory where the export product is being manufactured.
- 3) year since which the export product is being manufactured and central excise licence particulars.
- 4) the collector of customs/central excise under whose jurisdiction the factory falls.
- 5) name of export promotion council

- connected with the export product.
- 6) whether a DGFT or SSI unit.
  - 7) whether the export is to principals/  
foreign collaborates.
  - 8) description, quality & technical  
characteristics of the export product.
  - 9) (a) sub-serial no. of drawback  
schedule.  
(b) if all-industry rate of drawback is  
available SR.NO. and rate of drawback.
  - 10) (a) corresponding serial no.of the  
export product as appearing in vol.ii,  
section-ii of ITC policy for registers  
exporters.  
  
(b) replenishment allowed as per latest  
ITC policy.  
(c) cash compensatory allowance currently  
eligible.
  - 11) where the application is for fixation  
of rate under rule 6(1)(a) or rule 7(1)  
for the first time or refixation/extension  
of rate already fixed.
  - 12) details of brand rates of drawback for past  
two years-whenever granted:  
(a) ministry's ref.no. and date under  
which the rate was fixed.  
  
(b) rate of drawback fixed:  
(c) validity period of the rates.
  - 13) (a) whether rate is desired for period  
of time or specific shipment.  
(b) details of first shipment for which  
rate desired/details of the s/bill for  
which rate desired (enclose copy of  
shipping bill).  
(c) in case rate is desired for period  
of time,the period and the quantity of  
exports for which rate is desired  
should be furnished.  
  
(d) port(s) through which exports made/  
exports are proposed to be made.
  - 14) quantity and f.o.b. value of the export  
of the product for last three years

(yearwise).

- 14) (a) quantity and value of the total production of the product for last three years (yearwise).
- 15) f.o.b. value of the product per unit expected for the export product (as per contract entered, if any, copy to be enclosed).
- 16) net weight of the product per unit, where unit is other than by weight.
- 17) current ex-factory(ex-duty) price of the export product
- 18) the central excise tariff chapter/heading in which classified and rate of central excise duty payable on the export product.
- 18) (a) approx.central excise duty paid by the factory for home clearance of the product per annum.
- 19) state the mode of export -
  - (a) whether under central excise bond.
  - (b) after payment of duty under claim of rebate of central excise duty.
  - (c) otherwise.
- 20) state clearly whether in respect of any of the materials/components the benefits under rule 12a,56a,191a,191b or any other central excise rules is being availed of. if so the details thereof in respect of input/raw material.
- 20) (a) raw materials/components if any for which MODVAT benefit under rule 57a of the central excise rules is not being availed of, and the reasons thereof.

(in case MODVAT scheme does not extend to the export product and or the benefits for MODVAT not availed, a certificate from jurisdictional Asstt. Coll. incharge of the factory must be enclosed with the application.)

- 21) whether any of the raw materials is being supplied at international price in term of ITC policy in vogue.

- 21) (a) whether benefit of iprs is being availed off.
- 22) whether the benefits of ITC p.n.-56/72 and 78/72 are being availed of in respect of any raw materials imported.
- 23) whether any other benefits under any of the customs and/or central excise notifications is being availed of in respect of any of the raw material, components and other inputs used in the export product.
- 24) whether in respect of the imported material or some of the imported materials -  
 (a) the benefits of duty exemption scheme, is being availed of. if so, the details of the same (viz. deec/pass book number of application number of DEEC as the case may be). a photo copy of the complete pass book or DEEC to be forwarded.
- (b) manufacturing under bond in terms of section 65 of customs act, 1962 is being followed, if so the details thereof.
- 25) the quantity and name of the by-product or co-product (and its current sale value ) arising during the course of manufacture of the main product for the unit specified in dbk-i
- 26) (a) the drawback rate (or amount) expected (enclose working sheet in support thereof).  
 (b) in case the application is for fixation of special brand rate under rule 7(1) of the drawback rules, is the rate indicated in s.no 9(b) less than three fourths of the rate indicated in col.26(a) above
- (c) in case the application is for fixation of brand rate under rule 6 of the drawback rules, is the rate indicated in s.no.9(b) above more than 2% of fob value, if so the percentage of drawback rate expected to fob
- 27) brief process of manufacture (enclose catalogue/ literature etc.)

#### D E C L A R A T I O N

-----

i/we hereby declare that the particulars given above as well as in

accompanying statements dbk-i to iii are correct to the best of my knowledge and

belief and that no separate application in respect of the same goods has been submitted so far.

i/we also declare that i/we shall intimate any change (including receipt of suo-moto refunds) in the particulars mentioned in the proforma and statements

submitted within one month from the date of such change in the drawback and i/we

agree to any consequential change in the drawback rates fixed with effect from

the date, the change drawback rates are allowed and shall on demand by an officer of customs repay the amounts received in excess.

i/we further declare that i/we shall immedi the amount of drawback obtained by us in excess of any amount/rate which may be re-determined

by govt. as a result of post verification.

Station -----

signature of power of attorney.

holder of authorised agent.

designation and full address.

1) one copy of the application and statements along with documentary evidence (neat attested photo copies only) should be submitted directly to the deputy secy. (drawback), 3rd floor, jeevan deep building, parliament street, new Delhi and two copies should be submitted to the collector

of customs/central excise mentioned at at sl.no.4 above.

2) particulars of first shipment (with a neat attested photo copy) should be submitted immediately after shipment if the application is made

in advance of exports.

3) brand rate requests under this scheme will not be entertained where the manufactures value of facility of advance licence, pass book or manufacturing in bond. (only in exceptional cases where incidence of duty on non-DEEC items is 10% of fob or higher, the application may be considered.)

s t a t e m e n t - d b k i

-----

decription of the export product \_\_\_\_\_ bill of materials is used for manufacture of (no. of units@ of the export product)\_\_\_\_\_ (bill of materials should consist of raw materials and components going into the manufacture of export product and the actual packing materials used.).

---

SL. no. qty. reqd.	name of the material/ component	quality characteristics	technical	whether u	gross
	wastage			imported or indigenous	n
				irreco-	
	reco-			verable.	
	verable				

---



---

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

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---

sale price of remarks.	by product/co-product	net.wt.of the materials
waste per unit of qty.	----- qty. sale value per unit.	
(10)	(11)	(12)
		(13)
		(14)

---

@(give convenient units by which goods are invoiced for export(e.g.per tonne, per dozen/pcs:per sq.metre etc.)

- note:-1) the units of quantity to be furnished in col.6. should be given in such a manner that it could be related to statements ii and iii respectively.
- 2) maintenance stores/materials such as lubricating oil, greases, fuel etc.which are employed to run the machinery and plant should be excluded.
- 3) the data for packing materials should be for the same unit quantity for which data for export product for raw materials and components

have been given.

4) only those raw materials/components etc.to be indicated for which proof payment of customs/central excise duties is shown in dbk-ii/iii.details of such inputs need not be given where no benefit of duty paid is claimed because of MODVAT or absence of proof of duty. only a brief mention of such inputs being used would be sufficient. certificates required for dbk-i statement

-----  
i) on behalf of the applicant,i hereby certify that the materials as mentioned above are actually required for production of export product.

station \_\_\_\_\_

signature\_\_\_\_\_

date \_\_\_\_\_

(name & designation of the chief

executive/production incharge)

(with seal).

ii) it is certified that (to be given by an independent chartered engineer):

(a) the consumption of various materials shown in dbk-i has been examined by us and these are actually required and being consumed in the factory

of production for manufacture of export product as checked by us on verification

of the production process and relevant technical and related documents;

(b) the imported materials above shown in dbk-i are being actually used in the manufacture of the export product and are not being substituted by

indigenous materials;

(c) the wastage/co-product/by-product claimed are as per production process in the factory. there is no suppression

co-product/by-products.the wastage's claimed in our views are reasonable and are

comparable to the general norms for the industry. where wastage are considered

high,an indication of the normal wastage in the industry has been indicated by

us, under `remarks' column.

signature\_\_\_\_\_



name \_\_\_\_\_  
 designation \_\_\_\_\_  
 place \_\_\_\_\_  
 branch of engg. in which qualified \_\_\_\_\_  
 name & address of the institution \_\_\_\_\_  
 date \_\_\_\_\_  
 under which chartered. \_\_\_\_\_  
 ref.no. and date of membership. \_\_\_\_\_

statement-ii  
 -----

direct imports of materials/components made by the manufacturer and foreign materials obtained locally by the manufacturer during the period commencing three months prior to the date of shipment/first shipment (s.no.13 of the application) upto the date of application for manufacture of (name of export product).

sr. no.	descri- ption unit qty.	techn- assess- in customs chara- acteri- stict.	s.no. heading no. in dbk no	B/E custom tariff act 1975.	name of			
1	2	3	4	5	6	7	8	9

rate of duty  
 name and full address of supplier in the case where foreign materials/  
 country from  
 is remarks assessment final?  
 amount name of the duty of supplier.

locally.	imported				obtained	
-----	-----	-----	-----	-----	-----	-----
10	11	12	13	14	15	
-----	-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----	-----

note:-1) if any of the materials mentioned above have also been procured from indigenous origin, this must be specifically stated so in remarks column and full details of the procurement alongwith proof of payment of duty should be furnished in dbk iii statement, even if it is claimed that they are not used in the products exported.

2) minor items which do not contribute to any significant proportion to the expected drawback rate may be ignored, at the discretion of applicant.

3) if the assessment against any B/E is not final the extent of dispute may be clearly indicated supported by appropriate letter from concerned customs authorities. normally no dbk is admitted for provisionally assess B/E.

4) refund application made against any B/E ,with details must be indicated.

5) photocopies of all bill of entries mentioned above must be enclosed. certified that the particulars mentioned in this statement are correct to the best of my knowledge and belief and no claims for refund of duty in respect of any of the above mentioned bills of entries (other than whose details are furnished) has been or will be lodged with the customs authorities

signature & stamp of independent  
signature of the power of attorney  
chartered accountant/cost accountant.  
holder or authorised agent.

statement ii b

-----  
details of procurements relating to stock of imported materials as on commencement date(the date three months prior to the date of shipment/first shipment)based on FIFO principle(name of export product).

-----  
 -----  
 sr. des- tech- s.no. B/E no name of  
 unit qty. asse- heading rate  
 no. cri- nical in dbk and date custom  
 imp - ssable no. in of  
 ption char- i state- covering house  
 orted value customs duty  
 acte- ment. the imp- origi-  
 tics. orted  
 nally act,1975

stock.

-----  
 1 2 3 4 5 6 6a 7 8 9 10  
 -----  
 -----

-----  
 country is assess- amount of name & full address of  
 the stock re  
 from ment final? duty supplier in the  
 case of as on\_ marks foreign  
 where  
 materials/ \_\_\_\_\_ components  
 imported  
 obtained locally.  
 & name  
 of  
 supplier

-----  
 11 12 13 14 15 16  
 -----  
 -----

note:-1) in this statement please furnish details of stock of all the imported inputs mentioned in statement I which were in stock 3 months prior to the date of shipment/first shipment of the export product and how these were imported/procured.

2) if the assessment for any of the inputs in stock as shown is not final the extens of dispute may be clearly indicated. (normally no dbk

for provisionally assessed B/E are admitted).

3) refund applications made if any for procurement shown in stock with details to be indicated.

4) photocopies of all bills of entries mentioned above must be enclosed.

certificate

-----

certified that the particulars mentioned in this statement are correct to the best of my knowledge and belief and no claims for refund of duty

in respect of any of the above mentioned bills of entries has been or will be lodged with the customs authorities.

signature & stamp of independent

signature of the power of attorney

chartered accountant/cost accountant.

holder or authorised agent.

statement - iii a

materials/components of Indian origin obtained by the manufacturer during the period commencing three months prior to the date of shipment/first

shipment(s.no.13 of the application) upto the date of application for manufacture of.

SL. no.	descri- ption.	tech- c.ex.	tech- effective rate	s.no. in dbk	u n
	purc- able chara- value cteris- tics.	tariff heading no.	i state- ment	i hased.	t

1	2	3	4	4a	5	6	7	8

amount of duty paid.	name & address of supplier	g.p.no. & date	is assessment of duty final?	remark
9	10	11	12	13

-----

note:-1) in this statement details of only those items which are chargeable to the excise duty to be given for which proof of c.ex. duty can be established by gate passes/ subsidiary gate passes.

2) materials/components specified in drawback ii statement if these are also of indigenous origin and procured locally should be included in this statement, whether dutiable or not. This is irrespective of the fact whether the said materials/components are used for export production or not. Where the said materials/components are claimed to be only for manufacture of goods for local sales and not for exports, this should be specifically indicated in the remarks column, against the respective serial no. of the said material/component.

3) the particulars of gate pass numbers and date where the applicant is the consignee should be furnished under col.11.. photocopies of all gate passes for inputs which are subject to central excise duties of 20% or higher and some representative copies for other gate passes must be enclosed.

4) if the assessment which is not final or duty is paid under protest the extent of dispute may please be clearly indicated.

5) refund applications made if any against any gate pass with details, to be indicated.

certificate

-----

certified that the particulars mentioned in this statement are correct to the best of my knowledge and belief and no claims for refund of duty in respect of any of the above mentioned materials/ components procured against gate passes/subsidiary gate passes has been or will be lodged with the central excise authorities.

signature & stamp of independent

signature of power of attorney

chartered accountant/cost accountant

holder or authorised agent.

statement - iii (b)

-----

details of procurements relating to stocks of indigenous materials as on commencement date (the date three months prior to the date of shipment/first shipment) based on FIFO principle.

-----

sr.	description technical	s.no.	u	qty.
-----	-----------------------	-------	---	------

1	2	3	4	4a	5	6	7	8
assessable no. value	c.ex. tariff	effective characteristics. no. state-	in rate of dbk-i duty ment.					n purchased
amount of duty paid	stocks as of duty paid	name & remarks address of supplier	gate pass no. & DT.					is assessment of duty final. on
9	10	11	12		13			14

note:-1) in this statement furnish details of stock of all the indigenous materials mentioned in statement which were in stock 3 months prior to date of shipment/first shipment of the export product and how these were procured (including gate pass nos.etc.).

1a)in this shipment details of only those items which are chargeable to the excise duty may be given for which proof of payment of c.ex.duty can be established.

2) the particulars of gate pass number,date etc.should be furnished in column 11.

3) if the assessment which is not final or duty is paid under protest the extract of dispute may please be clearly indicated.

4) refund applications made if any with details to be indicated.

certificate

certified that the particulars mentioned in this statement are correct to the best of my knowledge and belief and no claims for round of duty in respect of any of the above mentioned materials/ components has been or will be lodged with the central excise authorities.

station: signature & stamp of  
signature of power of attorney  
date independent chartered  
holder or authorised agent.  
accountant/cost accountant.

annexure

-----

certificate to be appended by an independent cost accountant/  
chartered accountant at the end of statements ii and iii.

it is certified that -

(a) we have checked the date contained in the statement ii a&b and  
iii a&b and it gives correct details of all stocks and procurements of the  
inputs used in the manufacture of the export product:

(b) we have checked the data contained in statement ii a&b iii a&b  
with the original copies of the bills of entry, stock register and original copy  
of the gate passes wherever claimed to be available and the same is found to  
be

correct. the stock procurement of every inputs as claimed is fully supported  
by

bill of entry for imported input and gate pass for the indigenous input in the  
name of the applicant as indicated in the statements. wherever there is no bill  
of entry or gate pass but the procurement is under invoices, the same have  
been

clearly indicated in the statements ii/iii

(c) the materials for which data has been furnished in statement  
ii, but no data has been furnished in statement iii, are only of imported origin  
and no procurements are being made from indigenous sources:

(d) the selling price of the recoverable wastage's/co-product as  
indicated in dbk i have been verified with the sale invoices. these are in order  
and comparable to their current market price.

(e) the assessment documents.(bill of entry/gate passes) have been  
finally assessed and the manufacturer has not claimed any refund of the  
duties

paid on any of these documents.

(f) wherever the assessments under any case are provisional or  
refund of duty claimed against a b/e/g.p. the same has been clearly indicated  
in

related dbk ii/iii statements.

signature\_\_\_\_\_

name\_\_\_\_\_

designation\_\_\_\_\_

address\_\_\_\_\_

name & address of the institution

under which chartered \_\_\_\_\_

place:

date :

reg.no. \_\_\_\_\_

amends central excise duties drawback rules 1971. under rule 3 read with rule 4 of the customs and central excise duties drawback rule,1971 (notification no 52/f.no 602/2/70 dbk published in the gazette of India, extraordinary, dated the 25th august,1971),the central government,hereby makes the following amendments in the table published in the ministry's public notice no.drawback/ p.n.-7/88 dated the 31st may 1988:-

circular no.5/92 dbk  
f.no.609/129/91-dbk  
government of India  
ministry of finance  
department of revenue

subject:- delegation of powers to appraisers to sanction drawback under section 75 of the customs act,1962 subject to percentage checks by assistant collectors revised orders - regarding.

sir,

powers were delegated to appraisers of customs to sanction drawback claims up to RS 5000/- in each case (subject to certain percentage checks by assistant collectors) in terms of board's earlier instructions dated 5th july,1977 issued from f.no.602/6/73-dbk.however, it has been reported that this power has become inadequate in view of a steep increase in the amounts of drawback claims in the custom houses over the past few years. there are relatively fewer cases in the major custom houses where the drawback claim is within RS 5000/- .this has led to a situation in which most of the claims have to be put up to the assistant collector for sanction. thus,the assistant collector has become over- burdened and has very little time for supervisory work.

2) the board, after considering the question of further delegation of powers to appraisers for sanction of drawback under section 75 of the customs act,1962 have now decided that the powers of appraisers for sanction of drawback be enhanced to RS 30,000/- in each case,subject to random checks by the assistant collectors,as follows:-

(a) claims up to RS 10,000/- - 5%



- (b) claims between RS 10,000/- - 10%  
to RS 30,000/-

it has been further decided that the claims which will be sanctioned by the assistant collector will not be routed through the appraiser but submitted directly to the assistant collector by the examiner.

3) 100% pre-audit of such claims by the internal audit department shall continue as hitherto, irrespective of the level at which the sanction is accorded. f.no.609/129/91-dbk dated 26.06.92

other general instructions :- in addition to the information given  
----- above a simplified version of what drawback is under section 74 & 75 of the customs act is given below. it enumerates the process to be followed for claiming drawback.

-----  
exports are a life line of a nation. to boost exports government gives incentive to exporters. one of such incentives is drawback. drawback means 'drawing back' of duty on event of export of goods. duty may be in the nature of customs duty paid on goods used in the manufacture of products to be exported. there are two separate provisions for payment of drawback - vis:

(a) payment of drawback of duty of customs on export of goods "as such" which were imported and on which duty was paid.

(b) payment of drawback of duty of customs and duty of excise paid on materials used in the manufacture of goods which are exported.

(i) above covered by provisions of sec.74 ;

(ii) above provisions of sec.75 read with customs & central excise(combines) drawback rules 1971. drawback under sec.74 customs act

-----  
(a) under the provision of sec.74 of c.a.62 goods, on which import duty was paid at the time of their importation – if they are exported, becomes eligible for drawback of duty upto 98% of duty paid subject to conditions that :

(1) goods for export are identified by Asstt. Collector of customs as the same as were imported;

(2) goods are exported within 2 years from the date of their import i.e. from payment of duty.

however, if such goods are put to use before their export the rate of drawback is determined by applying the notfn. issued e.g.19/65 etc. these rates are on a graduated scale or nil.

to avail of the benefit of drawback under sec. 74 following procedure has to be observed :-

(1) apply and obtain permission from dy. manager, docks for carting the goods into the docks. on a "katchha" -- (not noted) drawback

shipping bill.

(2) produce the katcha shipping bill to the shed customs officer and get it registered.

(3) present the goods for examination and get the examination report endorsed on the duplicate copy of the shipping bill this report has to be countersigned by Asstt. Collector of customs (docks),

(4) for examination of goods, triplicate copy of the previous import bill of entry and the customs signed invoice have to be produced.

< page of >

(5) the shipping bill should be suitably endorsed with the facts that:-

(a) request to a.c./m.c.d. has been made to make available original and duplicate copies of the bill of entry for verification at the time of examination.

(b) stock register, stock cards etc. have to be produced

\_\_\_\_\_or\_\_\_\_\_

make an endorsement to the effect that the original/duplicate copies of the previous imports and the stock proofs will be produced

at the time of finalising of the drawback claim and the shipments be permitted

-- provisionally. the customs examination and the examination report accepting

or denying the claim for drawback will -- depend upon these documents and endorsements.

(6) after the Asstt. collector of customs, docks, has signed, the shipping bill is presented for noting to the export department and "order for shipment" obtained by the same process as for other shipping bill.

(7) goods have to be shipped under preventive supervision (tally).

(8) only one amendment of the name of the vessel is permitted. on finalisation i.e. verification of the previous -- records and examination report identifying the goods, a drawback order after pre-audit will be issued by drawback department which can be encashed from the accounts department of customs or through the bank.

drawback under sec. 75 :

-----

drawback on manufactured products is governed by "customs and central excise duty drawback rules 1971." according to these rules drawback

is allowed on goods declared in schedule and at such rates as are specified.

there are two types of rates of drawback in the schedule:

(1) all industry rate, which have been fixed and are applicable to all exporters.

(2) brand rates which can be got fixed by a manufacturer only, for their products which are exported and is applicable to these goods only. drawback rules also envisage special brand rates and general brand rates :  
 special brand rates are those where the all industry rates were 3/4 of the duty paid on raw materials and are required to be fixed for a particular product at a higher rate general brand rate is fixed for items manufactured in bond and where duty paid raw materials are also used along

--

with non-duty paid (i.e.d.e.e.c.goods are used in the --- manufacture). the procedure for claiming drawback under sec.75 is similar

<page of >

to the normal export procedure: however.

i) a draw back shipping bill has to be presented.

ii) a claim for the goods giving the drawback schedule no. and rate and the amount has to be made on the shipping bill.

iii) an advance receipt copy of s/bill known as "drawback claim copy" (dcc) duly signed and with requisite declarations has to be presented. while complete the s/bill, the particulars of sr.no. and the rate of drawback are checked and initialed by assessing officer and the s/bill is then countersigned by the a.c. it should be noted that examination of the goods in the case of drawback is subject to the drawback rate i.e. if on pieces, the pieces have to be counted, if on quality the quality has to be tested. after examination, the dcc will also be endorsed with the examination report and the

order for "permitting export". this copy will be returned to the owner, while other copies will be handed over to the cargo supervisor of the vessel for loading the goods. there are different methods by which drawback payment is made. two of such systems prevalent at Bombay customs are :-

1) duty drawback credit scheme - 1976, and

2) expeditious disposal of drawback claims (1986) p.notice no. 21 of 1986 dt.29-1-86).

1) under the duty drawback credit scheme 1976, all advance payment upto 90% of the drawback claim is made by specified banks, on presentation of a customs certified copy of the "drawback claim copy" of drawback s/bill.

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for this, the dcc after it has been endorsed for "permitted for export" has to be presented to customs export department. a certified copy of the same will be issued by export department on the basis of original completed d.c.c. one of the declarations, which has to be made on the dbc is :

"please pay RS. ----- being the amount of drawback admissible to me/us in respect of the shipment covered by this shipping bill to me/us in respect of the shipment covered by this shipping bill to m/s.----- (bank with branch) through r.b.i. quoting reference number. ----- allotted to us by the authorised

bank"

customs certification would be:-

<page 4 of >

amount of drawback as ascertained on the basis of the drawback as ascertained on the basis of the declarations given in the shipping bill is RS.----- and this amount will be admissible on export of the quality stated in the shipping bill, provided the declared description is found correct on the basis of examination and test (if any). on presentation, bank will advance 90% of such estimated claim amount upto 90 days. there will be no interest charge by the bank. if however, the claim is not finally passed and funds not sent by customs to RBI for payment of full claim amount to the bank, banker would charge the exporter interest for the entered period from the first date of advance paid. if however, the claim is finalised within 90 days, the remaining 10% will be released to the exporter to be credited in the account opened for this purpose. no doubt bank will charge a nominal service charge for this facility extended to the exporter.

2) under the revised procedure as per p.n.no.21 of 1986 (as amended). the exporters besides, the drawback declaration, has also to make endorsement of total shipments and/or short shipment also after the same has been returned by the dock examining office and before presenting to the drawback dept. while presenting such a drawback claim to the drawback department it should also accompany.

- 1) copy of bank certified invoice.
- 2) copy of bill of lading/airway bill.
- 3) copy of the AR-4 or AR-4a forms duly signed by customs in docks.
- 4) copy of insurance certificate/policy.
- 5) copy of the test report, where goods are sent for test.
- 6) copy of the brand rate letter if brand rate is claimed.
- 7) any other documents which are relevant. on submission of such a case, the same will be scrutinized for deficiencies, if any. if there is any thing wanted the claim will be returned with a memo pointing out deficiencies. if the claim is otherwise in order, the same will be enter in a ledger account maintained separately for each exporter. It will then be scrutinized and passed . the particulars of drawback claim sanctioned will be entered in a register. every fortnight for the amount at the credit of the exporter will be totalled and a consolidated cheque will be issued in favour of the bank nominated by the exporter and sent to the bank under intimation to the exporter :

to receive such cheques, the exporter must open an account in

the state bank of India or any nationalised bank and intimate the name and address of their bank and their account no. with their consent to transfer the drawback amount to their bank. such claims are supposed to be sanctioned, if possible in 24 hours. no supplementary or provisional claims will be admissible. in cases of dispute, a detailed working order can be asked for and an appeal filed for the short receipt of the claim amount.

11.3 drawback claims under section 74 of the customs act.1962 in respect of postal articles: drawback of customs duty to the extent of 98 percent of the duty paid is granted in the case of all articles re-exported by parcel post in whatever manner imported provided that adequate proof is produced of the payment of import duty, of the identity of the articles and of their re-export being effected within two years from the date of importation or within such extended period as deemed fit and granted by the board on sufficient cause being shown. wrappers of the parcel containing particulars of assessment is taken as duty receipt for the purpose. for goods imported and used in India before their re-export the drawback is admissible from 30% of 85% depending upon duration but no drawback is admissible if they have been used for a period exceeding 36 months.

11.4 drawback claim under section 75 of the customs act, 1962 procedure:

- (i) for places where foreign post office exists:
1. the drawback application should be presented in triplicate in the prescribed form.
  2. the application should be accompanied by one copy of the invoice for use of the deptt. and a forwarding letter addressed to the Asstt. collector of customs, postal appraising section.
  3. it should also be accompanied by p.p.form or no objection letter from the reserve bank of India.
  4. the application should show the no. of parcels, duty, net weight, gross weight (of each parcel seperately) value and the raw material from which the goods are manufactured.
  5. the application should bring all parcels ready except the top side of the parcel.
  6. the parcels have then to be posted under customs escort.
  7. after the parcels leave India, the post office of booking calls for the party to take back the duplicate drawback application after it has been duly certified to the effect by the post office of exchange.
  8. thereafter the party has to present the duplicate

drawback form to the drawback section of the postal appraisal section. non-presentation of the duplicate application for within three months is liable to result in rejection of drawback claim.

9. after the duplicate form duly certified is given to drawback section. the drawback amount is calculated and intimations sent to party for collection of the drawback amount.

(ii) for places where no foreign post office exists :

1. exporters who have factories/place of working at interior places away from established f.p.o. shall when the goods are ready to be packed for export, make an application to the superintendent of central excise in whose jurisdiction the exporter is located requesting permission to arrange for the examination of the goods.

2. on receipt of the application, the Supdt. of central excise shall depute an officer to examine the goods under his direct-supervision.

3. the exporter shall hand over the parcels to the post master alongwith all the 3 copies of form "d" and comply with postal regulation prescribed for in this behalf.

4. the post master shall forward, the parcels along with all three copies of the form "d" after completing part.iii. all the copies to the foreign post office having jurisdiction.

5. at the foreign post office, these consignments alongwith all the three copies of the form "d" shall be presented to the customs officer for inspection.

6. the customs officer shall inspect the parcels with reference to the entries made in all the three copies of the form "d" and verify that the seals on the parcels are intact. if the seals are found to be broken or otherwise tampered with, he shall cause such parcels to be examined and satisfy himself that the contents are as per the declaration and particulars furnished in all the three copies of the form "d".

7. on receipt of the original application from the suptd. f.p.o. the customs deptt. in the f.p.o shall immediately process the same treating it as a claim for drawback of duty. the customs deptt. shall if satisfied in all <pages of >

respects sanction the drawback at the prescribed rates notified for the export commodity in question. in case, there is no prescribed notified rate for the export commodity in question, the brand rate shall be first fixed by the customs and thereafter the drawback amount will be sanction.

an intimation to the effect that drawback has been sanctioned shall be also sent

to the central excise officer at the place of booking of the parcel for completing his action.

8. on receipt of the triplicate copy of the application from the Supdt. of the f.p.o. the Supdt. of central excise who originally supervised the examination of the goods shall match the same with quadruplicate copy in his possession and file the same.

11.4 exports where drawback is not admissible  
drawback is not admissible under certain situations. sec. 76 of the customs act

1962 stipulates that :

(a) where market price of goods for export is less than the drawback amount payment of drawback should not be made.

(b) where the amount of drawback admissible is less than Rs.50/- no drawback should be paid. central government can also notify that goods which are to be exported but are likely to be smuggled back – should not

be considered entitled to any drawback. drawback under section 75 of the customs act 1962.

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1. customs & central excise duties export drawback (general) rules 1971:  
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section 75 of the customs act, 1962 and rules made thereunder allow drawback which include refund of duties of customs and central excise duties that are chargeable on imported and indigenous materials used in the manufacture of goods when export under claim for drawback. the rules made under

section 75 are the "customs and central excise duties export drawback(general)rules,1971 which reproduced below with subsequent amendments :-

1. short title :-  
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these rules may be called the customs and central excise duties drawback rules 1971.

2.definitions :-  
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in these rules, unless the context otherwise requires : (a)  
"excisable materials" means materials produced or manufactured in India or in

the state of pondichery, on which central excise duty has been paid;

(b) "export" includes shipment of the goods as provisions or use on board a ship proceeding to a foreign port;

(c) "goods" means any of the articles specified in the first or the second schedule, which are manufactured in India or the state of pondicherry, and in the manufacture of which imported or excisable materials or both have

been used;

(d) "imported materials" means materials imported into India or the state of pondicherry, on payment of customs duty; (e) "manufacturer" means a

manufacturer of the goods;

(f) "drawback" includes drawback of customs duty paid on imported materials and relate of central excise duty paid on excisable materials;

(g) "schedule" means a schedule appended to these rules. [m.f. (d.of rev.& ins.) notfn.no. 48 date 1.7.67, 5 dated 13.1.68,88 dated 29.6.68, 131 dated 2.11.68, 201 dated 21.12.68.]

3. goods in respect of which drawback may be paid:

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(1) subject to the provisions of the sea customs act, 1878 (8 of 1878) and of the central excises and salt act, 1944 (1 of 1944) and of these rules, and subject also to such provisions of the central excise rules, 1944, as may be applicable in this behalf, a drawback at the rate or rates determined in accordance with rule 4 or rule 5, is the case may be, shall be allowed of the customs duty paid on the imported materials, and the central excise duty paid on

the excisable materials, used in manufacture of the goods exported from India or

the state of pondicherry - provided that no such drawback shall be allowed-

(i) if the exporter claims under rule 12 or rule 12a of the central excise rules, 1944, rebate of excise duty paid on the excisable materials used in the manufacture of the goods exported or intended to be so exported; or

(ii) if the said goods have been in to use after manufacture.

(2) nothing contained in provision to sub-rule

(1) shall apply to tea chests which are used as packing material for the export of blended tea.

4. rate of drawback in respect of goods specified

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in the first schedule :  
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(1) drawback admissible under these rules in respect of any goods specified in the second column of the first schedule shall be at the rate specified against such goods in the corresponding entry in the third column

of the said schedule with reference to weight or measure of any unit or shall be

prescribed as percentage of the value of such goods;

(2) the central government may revise the rate of rates of drawback so specified at such intervals as it thinks fit, and for this



purpose, may require any manufacturer of any variety or brand of the goods to furnish information in such form as it may prescribe, particularly in respect of the materials used in the manufacture of such brand or variety and the customs or the central excise duty, if any, paid thereon.

5. rate of drawback in respect of goods specified in

-----  
the second schedule:  
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(1) the rate of drawback admissible under these rules in respect of any quantity of a particular variety or brand of the goods specified in the second schedule shall be the total of the average customs duty paid on the excisable materials, used in the manufacture of such quantity of such variety or brand of the goods and shall either be determined in accordance with this rule with reference to weight or measure or any unit or be prescribed as a percentage of the value of such goods.

(2) such averages shall be determined, or application by the manufacturer, by the central government or by such collector of customs or collector of central excise as may be designated by the central government in any particular case, on the basis of the information furnished by the manufacturer in respect of the materials, used in the manufacture of the goods and the customs or the central excise duty, if any, paid, on materials, during such period as in the opinion of the central government or such collector is relevant for the purpose.

(3) such information shall be furnished by manufacturer in such form as the central government or such collector may prescribe in any particular case, and shall be subject to such verification as the central government or such collector may deem necessary in any particular case.

(4) the allowances of drawback at any rate or rates so determined shall be subject to the fulfilment of such conditions as the central government or such collector may prescribe in any particular case.

(5) the central government or such collector may revise any rate or rates of drawback for any variety or brand of the goods at such intervals as it or he thinks fit, and for this purpose, may require any manufacturer to furnish information in such form as may be prescribed particularly in respect of the materials used in the manufacture of such brand or variety and the customs or excise duty, if any, paid thereon, if such information is not furnished and facilities for its verification are not provided, by the manufacturer within such period as may be specified by the

central government or such manufacturer within such period as may be specified  
 by the central government or such collector may be deny drawback in respect of  
 shipments made, of such variety or brand of goods after the expiry of the said period.

6. Effective date for application of rate of drawback: the provisions of section 38 of the sea customs act, 1878 shall apply to the rate of drawback applicable to any goods exported as they apply to the rate of any duty and tariff-valuation (if any) applicable to such goods

7. claim for payment of additional amount of drawback:

-----  
 where an exporter finds that the amount of drawback paid to him is less than what he is entitled to on the basis of the rate of drawback fixed by the central government or the collector, he shall prefer a supplementary claim in such form as may be prescribed by the collector.

8. (1) exporter's declarations and documents:

-----  
 at the time export of the goods, the exporter shall:-  
 (a) make a declaration on the relative shipping bill that a claim for drawback under these rules is being made;  
 (b) state on the shipping bill, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback, and if so. at what rate or rates;  
 (c) furnish the customs collector with a copy of the shipment invoice or any other document giving particulars of the description quantity and value of the goods to be exported.

Drawback on imported material used in the goods to be exported

in exercise of the powers conferred by sub-section (1a) of section 75 of the customs act, 1962(52 of 1962), the central government hereby declares that the whole of the material specified in the table annexed hereto as contained in the goods manufactured in India and exported outside India shall,

for the purpose of sub-section (1) of said section 75, be deemed to be imported material.

table

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s.no.	material
1	copper
2	zinc
3	lead

[m.f.(d.r. & 1) notifi.no.52-customs and central excise, dated 20th august 1971,amended by notifi.1 cus.and c.excise dated 7.4.78,notifi.no.2 cus & c.excise dt.15.5.78 and no.1. cus. c.excise dt 17.3.79]

Drawback on imported material used in the goods to be exported

in exercise of the powers conferred by sub-section (1a) of section 75 of the customs act,1962 (52 of 1962),the central government hereby declares that the whole of the material specified in the table annexed here to a s is contained in the goods manufactured in India exported outside India shall,for the purpose of sub-section (1) of the said section 75,be deemed to be imported material.

Sr.no.	Material	sr.no.	Material
1.	DI-2 aminobutanol	13.	Carnauba wax
2.	Antimony butyrate	14.	Cellulose acetate
3.	Asbestos fibre sheets	15.	Cellulose acetate
4.	Arsenic oxide	16.	Cellulose nitrate sheets
5.	Bi-metal	17.	Ceramic filters
6.	Bismuth	18.	Chlorinated diphenyl
7.	Brass scrap	19.	Chromium
8.	Butyl rubber	20.	Cobalt
9.	C-acid	21.	Copper
10.	Cable impregnating components	22.	Copper scrap
11.	Capacitor tissue paper	23.	Cork
12.	Carbon insulating paper for cable industry	24.	Crgo steel sheets
25.	Crngo steel sheets	40.	H-acid
26.	Crude iodine	41.	Hdpe resin
27.	Cyanuric chloride bearing)	42.	High speed steel(cobalt
28.	Cubic boron nitride	43.	High speed steel(non-cobalt bearing)
29.	Dexamethasone	44.	Hub ring 5.25"
30.	4-4d diamine stilbene 2.2.di sulfonic acid	45.	Hydrocortisene acetate

- |  |  |
|--|--|
| 31. Diamond power<br>prepregs                          | 46. Impregnated epoxy glass            |
| 32. Dumet wire   | 47. Industrial diamond                 |
| 33. Electrolytic copper wire/rod                       | 48. Jacket 5.25"                       |
| 34. Electrolytic grade paper                           | 49. Lap film(burnishing tape)          |
| 35. Epoxy resin  | 50. Lead                               |
| 36. Erythromycin thiocynate                            | 51. Magnesium dioxide                  |
| 37. Flexible folding disc jacket<br>with liner         | 52. Melamine moulding powder           |
| polyester film for                                     | 53. Metallised                         |
| 38. Getter   | capacitors                             |
| 39. Gum copal  | 54. Mercury                            |
| 55. Molybednum   | 70. Potassium chloride                 |
| 56. Naphthalene  | 71. Pvc compound of paste              |
| grade  |  |
| 57. 2-naphthylamine                                    | 72. Pyridine                           |
| 58. Neck tubes for picture tubes                       | 73. 4 mega byte ram                    |
| 59. Nickel   | 74. Rough blanks for ophthalmic lenses |
| 60. Ortho-xylene                                       | 75. Selenium                           |
| 61. Palladium  | 76. Silicon bronze wire                |
|  |  |
| 62. Paracresidine                                      | 77. Stainless steel strips             |
| magnetic   |  |
| 63. P-4 phospher                                       | quality 40/42 bg/cold rolled           |
| 64. Photocrsist polymer film                           | stainless steel strips for razor       |
| 65. Polyacetal resin                                   | blades                                 |
| 66. Poly carbonate moulding powder                     | 78. Sulphur                            |
| 67. Polyethylene terephthalate film<br>(media on roll) | 79. Tartaric acid                      |
| 68. Polyvinyl alcohol                                  | 80. Tin                                |
| 69. Potassium  | 81. Tin plats for ots cans             |
| grade).  | 82. Titanium dioxide(rutile            |
| 83. Tungsten   | 89. Zinc                               |
| 84. Wattle extract                                     | 90. Glass-shells                       |
| 85. Wedge capacitors                                   | 91. Poctin                             |
| 86. Winchester disk drive                              | 92. Rayon grade wood pulp              |
| 87. Xipe insulating compound                           | 93. Silicon oil                        |
| 88. Xipe semi-conducting compound                      | 94. Tantalum oxide                     |
|  | 95. Tungsten ore.                      |

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2. This notification shall come into force on the 1st day of june1991  
[no.cus.44/91 cust., Dt. 30.5.91 as amended by 213/92-cust.,dt. 1.6.1992]  
revised order regarding delegation of powers to appraisers to sanction  
drawback

under section 75 of the customs act,1962 subject to percentage checks by assistant collectors.

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powers were delegated to appraisers of customs to sanction drawback claims upto rs.5,000/- in each case(subject to certain percentage checks by assistant collectors) in terms of board's earlier instructions dated 5th july,1977 issued from f.no.602/6/73/dbk. however,it has been reported that this power has become inadequate in view of a steep increase in the amount of drawback claims in the customs houses over the past few years. there are relatively fewer cases in the major customs house where the drawback claims is within rs.5,000/-. this has led to a situation in which most of the claims have to be put up to the assistant collector for sanction. thus,the assistant collector has become over-burdened and has very little time for supervisory work. the board,after considering the question of further delegation of powers to appraisers for sanction of drawback under section 75 of the customs act,1962 have now decided that the powers of appraisers for sanction of drawback be enhanced to rs.30,000/- in each case,subject to random checks by the assistant collectors,as follows-

(a) claims up to RS. 10,000	-	5%
(b) claims between RS. 10,000 to RS. 30,000	-	10%

It has been further decided that the claims which will be sanctioned by the assistant collector will not be required through the appraiser but submitted directly to the assistant collector by the examiner. 100% pre-audit of such claims by the internal audit department shall continue as hitherto,irrespective of the level at which the sanction is accorded.

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44. Endorsement of previous offences.
45. Entry of the particulars of penal action in the penalty register and Previous offence register.
46. Impression of penalty stamp and pin-pointing of fines/penalty on the B/E.
47. Entry of the penalty register with realisation particulars.
48. Issue of order-in-original.
49. Action for custody where the goods are not redeemed.
50. Precautions for noting second B/E for goods under penal action.

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Bond Department

Working:- The goods imported are cleared for Home consumption or kept in bond. the procedure for clearance of cargo into bond and ex-bond are as follows:-

The bond bill of entry which is yellow in colour after noting is presented to the group. after assessment all the copies (five copies) are sent to bond department.

There are three types of bonds

1. Warehousing bond
2. Manufacturing bond
3. Transit Bond/ Bond to bond transfer.

The general procedure for bonding the Cargo is as under :-

1. B/E submitted to assistant collector bond department with request letter from importer/CHA for execution of bond.

2. The B/E is then endorsed by the warehousing clerk, for recovery of 50% duty amount as deposit.

3. The B/E is then resubmitted to the bond department along with a bond under section 59 of the customs act 1962. this bond should be for a sum equal to twice the amount of the balance duty plus interest for the bond period.

4. The thoka number and date of the bond department is then put on the bond B/E.

5. Bond registration is done by giving bond number and date of registration. details of 50% duty deposit and date as well as compare run of bond B/E are noted for calculation of interest which will be for minimum period of 23 days for registration.

6. The bond papers are then submitted to the assistant collector bond department for acceptance of bond under section 59(1) of customs act 1962.

7. The bond B/E is then returned to the party/ agent with a date of return on all copies of into bond B/E for the purpose of clause (b) of sub-section (1) of section 61 of the customs act, the five years in the case of capital goods meant for 100% EOU and one year in the case of any other goods period will start from this date of passing order under section 60 of the customs act 1962.

8. After the order permitting the deposit of the goods into the warehouse is given under section 60 of c.a. 1962, the importer or his agent is free to take the cargo into the bonded warehouse.

9. In the case of first check or appraisal the order permitting to bond the goods is given in the bond department by the concerned deputy office superintendent. while in the case of second check or appraisal the permitting for bonding of cargo will be given by the docks/shed appraiser.

Ex-bonding of goods:- The importer who has bonded the cargo has to ex-bond the same for home consumption. the procedure to be followed for ex-bonding are as follows:-

1. An ex-bond bill of entry is first presented to the recordkeeper in the bond department, along with a copy of into bond B/E.

2. The ex-bond B/E along with the respective bond register is submitted to the warehousing clerk for noting the ex-bond B/E. along with noting the B/E. an endorsement of 50% duty deposit recovered and also recovery of interest after expiry of seven days from the compare run is shown.

3. With these endorsement the B/E is then sent to assessment to the respective group and for completion and signature of the assistant collector of customs.

4. Then licensing and calculation of duty formalities are completed.

5. After completion of these formalities, the B/E goes to cash department for payment of duty and interest.

6. The cash department then gives out of customs charge.

Ex-bonding of goods within the normal bonding period can be done with the following manner :-

1. Removal from one warehouse to another warehouse at the same part with permission of customs and under preventive escort. (sec.67)

2. Removal from one warehouse at one part to another warehouse at other warehousing port by executing a transit bond with bank surety for due arrival and re-warehousing. the movement of the goods will be in the name of collector of customs to collector of customs. (sec.67)

3. Clearance from bond for shipment to a foreign port by filing ex-bond shipping bill (sec.68)

4. Clearance from bond for home consumption on filling ex-bond bill of entry (sec.68) as stated earlier, ex-bond bill of entry should be presented for noting to bond department and after entry to the bond register and noting, the same should be submitted to the groups as usual. (sec. 68) the value conversion in the case of ex-bond bill of entry should be at exchange rate as prevalent on date of noting. The Appraiser will assess the same at the rate of duty applicable on that date and not at the rate of which it was warehoused. [sec.15(b)] on payment of duty and warehouse charges the delivery will be given by the warehouse keeper. It should be noted that the rate of exchange rate of duty on ex-bond goods would be the rates applicable on the date of physical delivery being taken. (sec.15)

Note:- 1. Debonding of the goods after expiry period to be permitted only with the concurrence of additional collector incharge.

2. Request for high sea sale at the time of debonding not to be considered as the bond is executed by the original importer.

3. In the absence of import documents at the time of debonding the goods should be physically checked with regard to description value etc. before giving out of charge for home consumption

**Manufacturing Bond:-** The Procedure for manufacturing bond under section 65 of customs act, 1962.

The goods imported free of duty can be taken into bond where in manufacturing process or other such activities are carried out. these bonds should be approved by the customs after the payment of prescribed fees and fulfilling the conditions laid down by the collector of customs.

These bonds are generally attached to a factory where imported raw materials are utilised for converting into finished products which are generally to be exported out of India. the imported goods are not subjected to payment of duty. the importer files an into bond bill of entry for taking the cargo from the docks to his factory bonded premises. these goods are not ex-bonded as in the case of normal bonded warehouses. the importer takes the required material for manufacture by seeking permission from the bond officer, who keeps a record of the receipt and issue of duty free import cargo. after manufacturing process is over the finished goods are exported on filing an ex-bond shipping bill. During the course of manufacture, if any waste or refuse results then the following provisions shall apply :-

a) If the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse has arisen from the operations carried or in relations to the goods exported;

provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as it had been imported into India in that form;

(b) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption.

**transit bond:-** transit bond means a bond taken for ----- the transshipment of the goods under section 67 of the customs act. This bond is given along with a bank guarantee, and five

copies of shipping bills,space certificate, license under section 58 and 65 of the customs act (if the party is 100% export oriented unit or manufacturing bond). in addition to this a double duty bond is also given. the transit bond is also known as bond to bond transfer. an importer can by means of the transit bond take his warehoused goods with the permission of the proper officer, from one warehouse to another warehouse without payment of duty, subject to the conditions as stated above. this is necessary for the safe arrival of the goods at the warehouse to which the removal is permitted. after the receipt of the permission for the transit bond the same is registered in the bond department and important particulars like B/E number, date, IGM. number, d.p.number,c.i.f.value,description, quantity,rate of duty,details of bank guarantee etc. are noted. after completion of the formalities the shipping bill is sent to the docks/shed for examination of the goods if it is bond to bond transfer then the goods move from one bond to another. transit bond is also taken if the goods have to make from the customs port to a designated bond. however in that case delivery should be taken within 14 days after taking delivery from the docks/shed. the shipping bill along with the transport receipt are to be sent to the bond department after proper endorsement of the concerned customs officer, of having delivered the goods. the transport receipt with the shipping bill are sent to the concerned officer at the destination point who is incharge of that bonded warehouse. he sends an intimation of receipt of cargo and documents.

Exemption hundred percent export oriented undertaking

### Introduction

In order to make good the increasing deficit in the balance of trade and rapid decline of exchange reserves govt. of India implemented the scheme of 100% export oriented units, an industrial unit basically meant for export it's entire production excluding permitted levels of rejects and extended certain concessions to the units under notification no. 13 cus. DT. 9.2.1981. to be published in gazette of India extra ordinary part i, section j

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 government of India  
 ministry of commerce  
 (department of commerce)  
 no.8/15/78-ep.

resolution

-----  
 new Delhi, the 31st dec. 1980.



### 100% export oriented units

in order to bridge the increasing deficit in the balance of trade and running down of exchange reserves, it has become necessary to step-up the growth of our exports. accordingly government have decided to implement a scheme to facilitate the setting up of 100% export oriented units. it has been decided to give such units certain concessions to enable them to meet regours of foreign demand in terms of pricing quality precessions etc.

2. A 100% export oriented unit would imply an industrial unit offering for exports its entire production excluding permitted levels of rejects. an agreed time phasing for achieving 100% export will be permissible on merits of each case. such an unit would belong to an industry in respect of which the export potential and export targets have been considered by the relevant should not be subject to export control quota ceilings which can be reached by existing units in the industry. the intention is that capacity should be created which should result in additionally of exports and not mere substitution.

3. minimum value added content of 20% or more will be necessary for production of such a unit. Domestically procured raw materials shall be treated as imports for computation of value added.

4. while approving such a unit the additional employment which would be generated by the proposed unit would also be taken into consideration.

5. an illustrative list of industries which may be considered under the scheme is annexed.

6. all the units intending to set up industries under the scheme shall make applications to the secretariat for industrial approvals, ministry of industry. Department of industrial development, udyog bhavan, new Delhi in the relevant ii fc forms super-imposed with the words "100% export oriented industry" . these applications will be considered by a board headed by the commerce secretary. a unit approved by the board shall be governed broadly by the following terms and conditions:

(i) the unit shall undertake to manufacture in bond and to export its entire production for a period of 10 years ordinarily and 5 years in the case of products having high degree of technological change. the customs authorities shall provide bond facilities to such units wherever located.

(ii) import of capital goods, components, and raw materials shall be exempt from import duty. finished products shall also be exempt from excise and other central levies.

(iii) no export benefits like cash assistance, replenishment licences would be admissible on these exports.

(iv) import of capital goods, components, raw material and consumables, as required will be permitted.

(v) imports of necessary capital goods shall be allowed against free foreign exchange of bilateral credits in such a way that the cost of units is not unduly raised.

(vi) foreign collaboration may be permitted on merits of each case.

(vii) the conditions for dilution of foreign equity as stipulated in the department of economic affairs press note of 19th February, 1972, will not be enforced in 100% export oriented cases.

(viii) so as to keep rates of return on export production competitive, exporting units including large house/MRTP units may be permitted

to borrow from financial institution at normal debt/equity RA

(ix) indigenously available capital goods, components and raw materials will be allowed without payment of central excise duty.

(x) rejects up to 5% or such percentage as may be fixed by the board may be allowed to be sold in the domestic tariff area on payment of customs duty on imported inputs and central excise duty on the indigenous inputs and also central excise duty on the rejects or an amount equal to the aggregate of such duties.

(xi) time phasing for achieving 100% exports may be considered on merits. however in such cases exports shall have to be at least three fourths or more of the production.

(xii) the gestation period for achieving export targets shall not be more than two years and the period of export obligation in terms of the approval shall commence after the gestation period.

(xiii) the condition of export obligation shall be subject to review by the board and the question whether the unit can be allowed to be debonded after completion of export obligation period and thereafter allowed to produce for domestic market shall be decided in the light of industrial policy in force at that time equity participation indigenous capacity and protection to small scale industry.

(iv) on debonding after the period of export, duties shall be leviable as follows :

(a) customs duty on capital goods on the depreciated

value but at rates prevalent time of import;

(b) customs duty on unused imported raw materials and components on value at the time of import and at rates in force at the time of clearance;and

(c) in respect of exciseable goods, excise duty to be levied without depreciation and at rate attracted at the time of clearance.

(xv) an application made for industrial licence to the secretariat for industrial approvals shall be treated as an application under the m.r.t.p. act, 1969 and simultaneous action shall be taken to process the same so that a single point clearance is given by the board.

(xvi) if any, unit approved under this scheme is unable for any reasons, to fulfill its export or other obligations under this scheme, the board will review the circumstances of that unit and recommend the future course of action to be taken in regard to that units.

(xvii) the units which are approved for these special facilities would have to execute bond/legal undertaking with the DGFT and in case of failure to fulfill their obligations, they would be liable to penalty in terms of such, bonds/ legal undertaking besides the penalty, if any under the import trade control regulations.

sd/-k. prakash anand  
joint secy. to the government of India

order

ordered that the resolution be published in the gazette of India and a copy thereof communicated to all concerned and given wide publicity.

sd/- k. prakash anand

(B) illustrative list of products which would be eligible for special facilities on the ground of 100% exports.

1. Engineering goods

1.1 engineering goods (excluding prime and nonferrous metals).

1.2 electronics products including electronic

software.

2. Chemicals plastics and allied products, namely:-

a. In organic chemicals, organic chemicals & miscellaneous chemicals.

b. Drugs and drugs intermediates including crude drugs.

- c. Dyes and dye intermediates.
- d. Toiletries and perfumeries (excluding processed talc).
- e. Paints and allied products.
  
- f. Safety machines, fireworks, explosives and detonators.
- g. Ceramic products.
- h. Glass and glassware.
- i. Wood products and processed wood.
- j. Asbestos, cement including cylinders and cement products.
- k. Rubber manufactures.
- l. Paper, paper products and stationery.
- m. Pesticides and preservatives.
  
- n. Agarbatties.
- 2.2 culinary also resins.
- 2.3 refractories.
- 2.4 plastics and linoleum products.
- 3. Furniture
- 4. Leather and sports goods
  - 4.1 finished leather and leather manufacture including footwear and paint brushes
  - 4.2 sports goods.
  
- 5. Food agriculture and forest products
  - 5.1 canned and frozen marine products.
  - 5.2 processed foods, fruits, vegetables and alcoholic and soft beverages.
  - 5.3 meat and allied products
  - 5.4 packaged tea. I.e. Tea packed in consumer packs of a size upto 1 kg. And instant tea.
  - 5.5 instant and packaged ground coffee.
  - 5.6 tobacco manufactures.
  - 5.7 deoiled rice bran and cotton seed cakes, sal see fats and animal foods.
  - 5.8 mango kernel extraction and mango kerna oil.
- 6. Textiles
  - 1. Carpets.
  - 2. Ready-made garments, knitwear, made-up articles
  - 3. Rubberised coir and curled coir.
  - 4. Khadi.
  - 5. Natural silk fabrics, garments and made-up articles.
  - 6. Hosiery.
  - 7. Handloom fabrics, made up articles and garments.
  - 8 miscellaneous
    - 1. Handicrafts.
    - 2. Silver and gold jewellery

3. Fabricated mica.

2. In the aforesaid scheme 100% export oriented undertakings will be entitled to certain facilities. the facilities that will be available have been indicated in details in c.b.e.c.letter. f.no. 370/30/80-cus. I government of India 20.2.81 which is reproduced below.

f.no.370/30/80-cus.i  
government of India  
central board excise & customs  
new Delhi the 20th February, 1981

to

the collector of customs,  
Bombay, Calcutta, madras  
all the collectors of customs & central excise,  
Dy. collector of customs  
visakapatanam, goa.

Sir,

Subject : Special facilities for 100% export-oriented undertakings.

I am directed to say that a scheme for extending special facilities for 100% export-oriented undertakings have been approved by the government. in this connection a copy of resolution no. 8/15/78- EP DT. 31.12.80 issued by the ministry of commerce is enclosed for your information.

2. Under the scheme it would be obligatory for the 100% export oriented units to carry out the manufacturing operations in customs bond. the gods such as capital goods, raw materials and components to be imported by the units under the scheme will be exempt from customs duty. similarly indigenously available inputs/capital goods will be allowed without payment of central excise duty, to move to the factories operating in customs bond. the finished products will also a exempt from excise duty and other central levies.

A copy of the customs exemption notification issued is enclosed. the importers will have to execute a common bond with the licensing authority for the fulfilment of obligations under the customs act and the import and export (control) act.

3. The 100% export oriented units eligible for special

facilities will have to executed a common of the board set up by the government for the approval of such units, since the units would be required to operate in bond, licensing of the approved units for undertaking manufacturing operations in bond would have to be automatic and for this reason you are requested to take action to licence the approved units for undertaking the manufacturing operations in bond expeditiously. the services the customs staff to be posted in such units will have to be provided as usual on cost recovery basis. since the units under the scheme will be obtaining the imported components and raw materials and exciseable inputs free of duty, it would be necessary to ensure the proper utilisation of the inputs through periodical supervisory and audit checks of the transaction. for this purpose it will be necessary to ensure that the manufacturing operations under the scheme are completely segregated from other operations that the licensee may be engaged. in regard to each unit in your control it may be ensured that the requirements of the manufacture & other operations in warehouse regulations and all other instructions in regard to control over manufacturing and auditing of transactions in bonds are observed.

4. Units operating under the scheme would be eligible to 5% or such percentage as fixed by the said special board rejects to domestic tariff area on payment of appropriate duties. the exact percentage for levy of duty on such goods is being worked out and separate instructions in this regard will be issued in due course.

5. in case the units set up under the scheme fail to fulfill the export obligations, the provisions of section 111 of the customs act, 1962 would be attracted. however, before initiating such action, the details of the case may be brought to the notice of the central board of excise & customs for taking up the matter with the board of approval for hundred percent export oriented undertakings.

kindly acknowledge receipt of this letter.

sd/- p.k. kapoor

director (customs)

Power source under the Customs act.1962.

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1. Section 2(43) warehouse means a public Warehouse

appointed under section 57 Or a private warehouse licensed under Section 58 of customs act 1962.

2. Section 2(44) warehouse goods means Goods deposited in a warehouse.

3. Section 2(45) warehousing station Means a place declared as warehousing Station under section 9 of the custom act.

4. Section 9, power to declare place to Be warehousing stations.

5. Section 57, appointing of public Warehouses.

6. Section 58, licensing of private Warehouses.

7. Section 59, power to take warehousing Bond.

8. Section 60, permission for deposit of Goods, in a warehouse.

9. Section 61, period for which goods may Remain warehoused.

10. Section 62, control over the warehouse Goods with the proper officer of the Customs.

11. Section 63, payment of rent and warehouse Charges by the owner of the warehouse goods. Power to fix the rates by collector of customs.

12. Section 64, owners right to deal with Warehouse goods.

13. Section 65, manufacture and other operations In relation to goods in a warehouse.

14. Section 66, power to exempt duty on Imported material used in the manufacture Of goods in warehouse.

15. Section 67, removal of goods from one warehouse To another.

16, section 68, clearance of warehouse goods for Home consumption.

17. Section 69, clearance of warehouse goods for Exportation.

18. Section 70, remission of duty in case of Volatile goods.

19. Section 71, goods not to be taken out from the Warehouse except as provided by this act.

20. Section 72, goods improperly removed from Warehouse, liable to duty, penalty etc.

21. Section 73, cancellation of warehousing Bond and return to the person who has Executed the bond.

Standing orders:-  
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1. Number 6668 dated 13-7-1978.

Gist:- clearance of wireless apparatus and Component parts thereof imported by M/s English electric co. Of India ltd. (marconi marine division) Bombay-- procedure regarding.....

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(refer So. for full text)

2. number 6669 dated 21-7-1978.

gist:- period for which goods may remain warehoused under section 61 of the customs act, 1962 as amended by section 9 of the amendment act 25 of 1978---

instructions regarding\_\_\_\_\_

No.86

imp. sup no. 116

exp. sup no. 82

supplement to the daily list

of imports/exports dated : 11.7.78

new custom house,

Bombay :400 038

11th July, 1978.

### P u b l i c N o t i c e

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It is notified for the information of all concerned that pursuant to coming into force of customs, central excises and salt and central board of revenue (amendment) act 1978 from 1st July, 1978, the following clarification is

offers in respect of bills of entry noted prior to 1.7.1978 :-

i) Prior entry bills of entry :- noted for home consumption under section 46 of customs act, 1962 before 1.7.1978; the exchange rate applicable will be determined with reference to the date of final entry of the vessel.

ii) ex-bond bills/entry in respect of goods entered for warehousing prior to 1.7.78; the rate of exchange a applicable will be determined with reference to the date of clearance from bond. in respect of bills of entry for home consumption noted under "prior entry system" or otherwise after 1.7.78 the

rate of exchange will be with reference to the date of noting as provided in the

amendment act, 1978. similarly, in case of into bond bills of entry filed after 1.7.78, the rate of exchange applicable on ex-bonding will be the same as applicable at the time of noting the into bond bills of entry.

sd/-



( j.datta )

collector of customs

Bombay

issued form file

adhi pramanit

no.c 003863/78

(v.a.phadkar)  
sahayak seema shulk samaharta  
patrachar vibhag

Standing Orders.

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number 6802 dated 13-3-1984.

gist:- to take permission from assistant collector of custom, bond department for re-export the bonded goods under section 69 of customs act 1962.

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(refer s.o. for full text)

number 6810 dated 22-6-1984.

gist:- expeditious clearance of imported consignments (by sea) under 100% export oriented scheme --  
procedure regarding----

-----  
(refer s.o.for full text)

3. number 6866 dated 3-11-1987.

gist:- procedure for disposal of bonded goods.

-----  
(refer s.o. for full text)

number 6862 dated 9-5-1989.

gist:- instructions regarding bond period...

4. number 6894 dated 24-1-1989.

gist:- streamline the audit warehousing bills of entry and cancellation of bonds.

-----  
(refer s.o. for full text)

5. number 6895 dated 25-1-1989.

gist:- to exercise the proper control and supervision over the destruction of uncleared bonded goods--instructions

regarding.....

-----  
(refer s.o. for full text)

number 6912 dated 26.06.1989

gist:- streamline the procedure of processing of documents in respect of 100% export oriented units.-- procedure regarding.

-----  
(refer s.o.for full text)

6. number 6920 dated 13-10-1989.

gist:-to charge the correct rate of duty while clearing the goods from bonded warehouse.

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(refer s.o. for full text)

7. number 6921 dated 13-10-1989.

gist:- levy of interest on warehoused goods when cleared without payment of duty--procedure regarding.....

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(refer s.o. for full text)

7. number 6933 dated 6-12-1989.

gist:- bonded of goods – determination of bond amount -- extensions of benefits of notifications imposing conditions of end-use for the imported goods.

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(refer s.o. for full text) (also refer  
s.o.7034 datd 11.02.1993)

8. number 7001 dated 17-3-1992.

gist:- procedure in respect of discharge and clearance of liquid cargo in bulk for home consumption/warehousing in bonded warehouse for the purpose of determining duty liability under section 116 of customs act.

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(refer s.o. for full text)

number 7034 dated 11-02-1993.

gist:- bonded of goods – determination of bond amount -- extensions of benefits of notifications imposing conditions of end-use for the imported goods

---- regarding...  
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(refer s.o. for full text)

number 7043 dated 24-9-93

gist:- procedure in regard to noting of ex-bond B/Es/e check prescribed...

regarding...

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(refer s.o.for full text)

Other instructions.

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Customs  
General Instructions  
May, 1991.

1. Transfer of imported goods for re-warehousing from major ports to inland warehousing stations - furnishing of bank guarantee/insurance policy - instructions reg. reference correspondence resting with board's letter of even number dated -11-90 on the subject mentioned above.

3. As a measure of further relaxation, the board has decided that established houses/trading houses may be allowed to furnish 15% bank guarantee. instead of 25% bank guarantee.

2. the board's instructions dated 18-05-90 may be deemed to have been modified to the above extent. f.no.473/25/90-cus.vii dt.15-05-91.

general instructions  
(customs)  
October - 1988

2. Revision of the policy of public bonded customs warehouses.

Attention is invited to board's instructions f.no.473/147/79- cus vii dated 7th July, 1980 and to say that the policy of appointing public bonded warehouses has been reviewed by the board in the light of representations received from the state warehousing corporations for grant of permission to operate customs bonded warehouses. it has been decided that warehousing corporations of the states may be allowed to operate public bonded warehouses only in those warehousing stations where the central warehousing corporation does not operate a warehouse.

The applications from the state warehousing corporations (swc) may be entertained on the basis of a no objection certificate from the central

warehousing corporation to the effect that they have no objection to the customs department appointing a public bonded warehouse run by the state warehousing corporation at that station.

2. Warehouses run by swc's may be appointed as public bonded warehouses under section 57 of the customs act on the above basis. however, care should be taken that such warehouse are appointed only in industrial areas where the need for a public bonded warehouse is justified.

3. Boards instructions dated 7.7.1980 may be deemed to be modified to this extent. a monthly report containing the details of public bonded warehouses appointed in favour of cwc and swc's may be sent to the board.  
(m.f.(d.r)f.no.473/349/87-cus.vii, dt.28.9.88

general instructions  
(customs)  
august - 1989

3. Relevant date for calculation of customs duty in cases where warehoused goods are cleared after the expiry of warehousing period. reference to board's instructions contained in f.no. 483/17/85-cus-vii dated 17th march, 1987 on the above mentioned subject wherein it was clarified that in cases where warehoused goods are cleared from a warehouse after the expiry of the bond period, the rate of duty shall be the one which is prevalent on the date of expiry of the bond.

2. The issue was re-considered in the tripartite meeting held in the ministry of law with the representatives of the department of revenue and c.& a.g. it was observed in the meeting that on expiry of warehousing period, the goods kept in a warehouse cease to be warehoused goods and, therefore, their removal from the warehouse cannot be regarded as covered by the provisions of section 15(1) (b) of the customs act. it was also noted that there was no specific legal provision to determine the rate of duty in such cases of warehoused goods where the bond period has expired. it was accordingly concluded that the residual clause of section 15(1) (c) of the customs act could apply to cases where the

goods are removed from a warehouse after expiry of the warehousing period and that the rate of duty in such cases shall be the rate prevalent on the date of payment of duty.

3. the provisions of section 15(1) (b) of the customs act would, however, continue to apply in cases where goods are cleared from the warehouse after extension of the warehousing period but before expiry of the extended period. for applying this provision, the applications from the importers for extension of the warehousing period shall be received before the expiry of the permitted period of warehousing. if such applications are received after expiry of warehousing period, including the extended period, the extensions cannot be granted as such goods cannot be regarded as warehouse goods.

4. board has accepted the above conclusions reached in the tripartite meeting as brought out in paras 2 and 3 above. these may be implemented with immediate effect. this supersedes board's instructions issued vide f.no.483/17/85-cus.vii dated 17th march, 1987. f.no.473/206/87-cus.viii, cent.board of ex. & cus. dt. 12.7.89

4. extension of warehousing period - cases where applications received late-several cases have come to the notice of the board wherein companies have requested for extensions/further extensions of warehousing period many months after the expiry of the original or the extended warehousing period. the PAC in therein 124th report received recently have also commented adversely on the manner in which extensions requests are received and considered by the department.

Board feels that extension requests should be entertained with circumspection. apart from considering them only in very genuine and unavoidable circumstances. we must inter alia insist that these are received by the department sufficiently before the expiry of the warehousing period/other previous extension granted if any, failing which these would be liable for straight away rejection. the concerned trade interests may please be informed suitably. (mf (dr) f.no.473/180/88-cus.viii, dated 11.7.88

5. Specifying the perishable goods for the purpose of period of warehousing under section 61 of the customs act (a) reference is invited to proviso (1) of section 61(1) of the customs act, 1962 which empowers collectors of customs to reduce the initial period of warehousing in respect of goods which are likely to deteriorate. for the purpose of uniformity in applying this provision, it has been decided that the following goods shall be treated as perishables for the

above purpose.

- (1) fresh fruits and vegetables, meat, fish poultry eggs and other fresh uncanned/unprocessed food materials ;
- (2) hygroscopic substances (other than in sealed containers);
- (3) medicinal Herb's;
- (4) molasses;
- (5) confectionery;
- (6) cigarettes, and tobacco;
- (7) menthol, camphor, saffron;
- (8) cells, batteries and re-chargeable batteries;
- (9) cereals, sugar and other grocery items;
- (10) refills for ball-point pens;
- (11) lighter fuel, including lighters with gas, not having arrangement for re-filling;
- (12) beer.

(b) it has been decided that the initial period of warehousing in the above category of goods shall be 45 days instead of the normal period of 3 months as

provided under section 61(1) of the customs act. collectors are requested to issue necessary public notices in this regard. collectors may also send in their suggestions for including any further items in this list.

[m.f.(d.r.)f.no.483/14/88-cus.vii dt 14.10.88]

(6) warehousing - adding new column in the form of ex- bond bills of entry-instructions-regarding.

(1) a number of audit objections have been received by the board wherein interest on the amount of customs duty was not levied properly resulting in non-recovery of government dues in time. to avoid such adverse criticism of audit, board has decided that a new column in the form of ex-bond of entry may be introduced for giving "details of bond-interest collected", with immediate effect just below the column for 'date of removal of goods from the warehouse'

which must incorporate the following details:-

- (1) date of first extension of warehousing period;
- (2) amount of interest collected; and
- (3) period for which interest collected.

(2) all the collectors may please make necessary addition in the ex-bond bills of entry form so that interest on customs duty on the warehoused

goods is collected in time and may not escape the notice of the concerned officers/assessing officers. f.no.483/16/89-cus.vii, dt 25.3.91

(7) warehousing-chargeability of interest on warehoused goods under section 61(2) of the customs act, 1962 clarification regarding.

Attention is invited to the c.c.bombay and c.c.e. meerut, d.o. letter no s/6-gen-266/87-88 b dated 5.8.87 and c.no.viii(30) cust/tech/12/87/16786 dated 31.7.1987 respectively on the above subject. the question of charging interest on warehoused goods where duty has been paid but goods are not cleared from the warehouse on the same day was considered by the board, and it has been decided to consider waiver of interest leviable on the warehoused goods for a period of 7 days after duty thereon has been paid but goods could not be removed from the warehouse for reasons beyond the control of the bonder. you are,therefor, requested to forward these types of cases for board's consideration of waiver of interest after verifying the genuiness of the reasons for not clearing the goods from the warehouse after payment of duty. [c.b.e. & c. f.no.473/239/87-cus vii dt 24.5.88]

(8) Revision of the policy of customs bonded warehouses in the interior of the country. reference to board's instructions f.no.473/147/79-cus.vii dated 7.7.1980. the policy of appointing public bonded warehouses has been reviewed by the board in the light of representations received from the state warehousing corporations for grant of permission to operate customs bonded warehouses. it has been decided that state warehousing corporations may be permitted to operate public bonded warehouses in interior towns/ industrial areas where central warehousing corporation does not have a warehouse, without the requirement of a 'no objection certificate' from the central warehousing corporation. this is in supresession of the decisions conveyed in board's letter f.no.473/349/87-cus. Vii dated 28th september,1988 and 10th November, 1988.

(1) A policy has also been taken by the board to permit private bonded warehousing of goods which require specialised storage conditions if cwc or swc warehouses are not in a position to provide such specialized facilities.

(2) The decision regarding appointment of public bonded warehouses of state warehousing corporation may be taken by the jurisdictional collector after satisfying the requirements. as regards grant of private bonded

warehouses licences on specialised material indicated in para 2 above, all such

applications may be forwarded to the board by the collectors with their recommendations for decisions on merit.

(3) board's instructions DT. 7.7.1980 may be deemed to have been modified to this extent. f.no. 473/349/87-cus-vii,  
cen. board of ex. & cus. dt 20.7.89

(9) Warehousing -request for warehousing imported plant and machinery at the public bonded warehouse in the inland areas -instructions regarding.

(1) Attention is invited to para 5(e) of board's instructions f.no.473/147/79-cus-vii dated 7.7.80(copy enclosed) wherein it was stated that the warehousing in public warehouses in inland areas will be allowed only in respect of such goods as are industrial raw materials and components. it has now been decided that the above mentioned instructions may be strictly followed in dealing with the matters relating to warehousing the goods in inland areas.

(2) The Board's letter instructions on the above subject contained in circular f.no.473/69/83-cus-vii dated 18.5.83 (copy enclosed) are cancelled and may be treated as withdrawn f.no.473/25/91-cus-vi dt. 30.5.91  
customs - warehousing facilities in inland warehousing stations - instructions regarding.

(1) attention is invited to board's letter f.no.473/2/ 75-cus-vii dated the 3rd may,1975,on the above subject. the manner in which inland warehouses have been licensed in the last few years has led to certain difficulties. while,on the one hand,a large number of places have been declared as warehousing stations and private warehouses licensed at these stations even in the absence of the required customs expertise in the concerned central excise collectorate, there have, on the other hand, been representations, from the trade that certain other areas and locations which,having regard to the need of industry are even more deserving of warehousing facilities, have not been provided with these facilities.

(2) it will be recalled that in the last collectors conference held in Delhi in 1978 mention was made about considerable procedural and other difficulties and of possible risks to revenue due to lack of customs expertise in the interior. it was suggested that a careful and cautious approach should be adopted in the licensing of and dealing with the operations of the ware houses



in inland areas.

(3) the position with regard to this has been reviewed by the board. it has been decided to withdraw the powers delegated to the collectors vide notification no 79 of 1975. accordingly notification no 136 of 7.7.80 has been issued ( copy enclosed). henceforth the board will declare a place as a warehousing station in consultation with the collector concerned.

(4) there should be as few a number of places which should be declared as warehousing stations as possible having regard to the proximity to the port, the requirement of the trade and industry, the availability of customs expertise etc. the warehousing stations should be so chosen that the industrial units located in the interior uniformly and without discrimination, get the benefit of the facilities. if the number of places is kept minimal and uniform, it will be possible to cater better to the needs of the trade and industry, and to provide expert and adequate customs staff for exercising powers in regard to warehoused goods. it should also be possible to keep the number of warehouses to the minimum and yet cater to the needs of the industry adequately if, instead of a number of private warehouses, a single public warehouse is appointed at an appropriate station supervisory, audit and other checks would also be possible more easily and expeditiously if this approach of having only public warehouses is adopted.

(5) Having regard to the above factors, and in suppression of board's letter no 473/2/75-cus-vii dated 3.5.75, the following guidelines are laid down which may be kept in view in forwarding cases to the board for declaration of places as warehousing stations for appointing public bonded warehouses in inland areas:

(a) Places should be recommended for declaration as warehousing stations having due regard to the need of the trade and industry, proximity to the point of import expertise of the customs trained staff available. There should not normally be more than two to three places declared as warehousing stations for appointing inland bonded public warehouses in the jurisdiction of any collectorate. the collector will exercise due care in selecting these places, having regard to all relevant factors and the board will, after taking into account the available expertise and other factors and after satisfying itself about the need for declaring such places as warehousing stations, declare the places to be warehousing stations.

(b) Once a place is declared to be a warehousing station, the collector will himself exercise the power to appoint the public warehouse;

(c) The central warehousing corporation (c.w.c.) which has vast experience in running warehouses all over the country, has agreed to undertake the work of manning and operating the warehouses at places which would be declared warehousing stations in the inland areas. to begin with only the warehouses run by cwc may be appointed as public warehouses;

(d) At places where a public warehouse has been appointed, no fresh private licences shall be granted and the existing licences should be gradually withdrawn when the existing licences expire;

(e) Warehousing in public warehouses in inland areas will be allowed only in respect of such goods as are industrial raw materials and components;

(f) The grant of the manufacture-in-bond facility will for the present continue to be governed by the existing instructions i.e. it will be granted after a reference is made to the board. the manufacture-in-bond facility in inland areas will be limited to predominantly export oriented industries. private licences may be granted to manufacturing units whose requests for manufacture-in-bond have been approved by the board. for this purpose, the collector may recommend places to be declared as warehousing stations, if the places in which the -- manufacturing units are located are not already declared as warehousing stations.

(6) The customs staff required for being posted for warehouses, whether private of public, will be on a cost recovery basis.

(7) A suitable public notice on the lines indicated in the enclosed draft public notices may be issued immediately. copy of f.no.473/147/79-cus.vii dt 7.7.80

(10) Extension of warehousing period-cases where applications received late- several cases have come to the notice of the board wherein companies have requested for extensions/further extensions of warehousing period many months after the expiry of the original or the extended warehousing period.the PAC in therein 124th report received recently have also commented adversely on the manner in which extensions requests are received and considered by the department. Board feels that extension requests should be entertained with circumspection. apart from considering them only in

very genuine and unavoidable circumstances. we must interalia insist that these are received by the department sufficiently before the expiry of the warehousing period/other previous extension granted, if any, failing which these would be liable for straight away rejection. the concerned trade interests may please be informed suitably.

[c.b.e. & c f.no.473/180/88-cus.vii dt 2.8.88]

(11) Customs bonded warehoused in the interior-procedure regarding transfer of goods from the port of importation-instruction reg.

I am directed to refer to the correspondence resting with ministry's letter f.no.473/157/74-cus.vii dated 23rd April, 1975 (copy enclosed for ready reference) wherein instructions were issued that a quarterly statement of those cases where the requirement of physical warehousing is waived by the assistant collector may be sent to the ministry for post-facto approval. it is re-iterated that all the collectors may please send their statements regularly.

MOF (deptt.of rev.) f.no.473/227/87-cus.vii dt 24.8.1987

(12) Assessment of capital goods at the time of De-bonding of 100% EOU/EPZ units - allowance for depreciation - reg.

(1) Reference to board's instructions f.no.305/52/85- ft dated 15th april,1987 providing for depreciation in value only to such capital goods which have been used by the 100% EOU's through the entire period of export obligations as stipulated by the board of approvals. It was also mentioned that in the case of 100% EOU, no depreciation would be permissible if the unit is being de-bonded without completing the period of export obligation prescribed by the boa.

(2) The export-import policy for 1992-97 vide para 107 permits the 100% EOU/epz units to debond before the normal stipulated period on their inability to achieve export obligation, value addition or other requirements subject to the satisfaction of the board of approval (boa) in the light of the policy changes announced in the exim policy, board's earlier instructions have been reviewed. it has been decided by the board to grant depreciation in value in all the cases of assessment of capital goods cleared by 100% EOU/epz units subject to the units obtaining the permission of boa. the scale of depreciation, however, remains unchanged.

(3) Board's instructions dated 15th april,1987 may deem to have been modified to this extent.

f.no.305/136/92-fft, dt. 5.6.1992.

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POSTAL APPRAISING SECTION

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~ Postal appraising section : working

1. Introduction :- The 'postal appraising' department occupies "key" position in the movement of 'mail' which consists of letters, packets, and parcels etc. The role of the customs department is to charge customs duties on the goods imported through 'post' and prevent smuggling and contravention of the provisions of various 'acts' applicable on the import and export of goods.

The clearance of the goods imported or exported by post is governed by the provisions of section 82,83 and 84 of the customs act. section

82 states that in the case of the goods imported or exported by post, any label or declaration accompanying the goods which contains the description quantities and value thereof should be treated as an entry for import or export as the case may be for the purpose of this act.

Section 83(1) defines crucial date of determination of rate of duty and tariff value applicable to the goods imported by post. the crucial date is the date on which postal authorities present to the proper officer a list

(waybill) containing the particulars of the goods for the purpose of assessing the duty thereon. but if the goods are imported by vessel and the list is presented before the arrival of the steamer the crucial date shall be the date of such arrival. the rate of duty and tariff value, if any, applicable to any goods exported by post shall be the rate and valuation in force on the date on which exporter delivers such goods to the postal authorities for exportation in accordance with section 83(2) of the customs act.

Section 84 empowers the board to make regulations providing for:-

(a) The form and manner in which an entry may be made in respect of any specified class of goods imported or to be exported by post, other than goods which are accompanied, by a label or declaration containing the description, quantity and value thereof;

(b) The examination, assessment to duty, and clearance of goods imported or to be exported by post;

(c) The transit or transshipment of goods imported by post, from one customs station to another or to a place outside India.

2. Functions of foreign post office. :- The foreign post offices have the responsibility of receiving inward foreign mails either by surface or by air and forwarding them to the local post offices for delivery to the addressees. in the foreign post offices two departments of the central government function side by side. by virtue of a long standing association they have developed the systems of working that has by and large stood the test of time.

The post bags are received by the postal department through sea- mail and air-mail and are dispatched to the concerned foreign post offices after sorting the mail/bags. these bags are opened before the customs authorities for appraisal and delivery of mail. the Bombay foreign post office has the jurisdiction of the post offices in the Maharashtra circle, Andorra upto Hyderabad, karnataka-hubli and dharwar madhya pradesh and goa.

3. Customs examination department.:-The customs examination department of any foreign post office is the department which deal exclusively with detained parcels. this department is manned by both post office and customs staff, the former concerning themselves with the custody and presentation of the

parcels/packets and the latter with the examination and assessment.  
assessment  
work is done at "table". each table being generally manned by an  
assessing/examination officer on the customs side and an attending clerk and  
a  
packer from the postal side.

#### 4. Rules and procedure regarding clearance of mail.:-

(i) The post master shall on receipt of the parcel mail, handover to  
proper officer of customs i.e. the Asstt. collector of customs

(a) A memo showing the total number of parcels received by that mail  
from each country of origin.

(b) Parcel bills, or the senders declaration and any other relevant  
documents that may be required in connection with the preparation of the  
parcel  
bills by the customs department.

(c) The relative customs declaration required in connection with the  
preparation of the parcel bills which the post office is able to furnish.

(ii) The post master shall on receipt of letter mail bags and in  
consultation with the Asstt. Collector get the bags opened and scrutinised  
under  
the supervision of the customs appraiser with a view to detain packets  
suspected  
to contain dutiable articles.

(iii) On receipt of these documents the appraiser shall  
scrutinize the particulars given therein and shall mark on the relative  
declaration or the parcel bill in the following manner:-

(a) Customs declarations or parcel bills of the parcels required  
to be detained for examination either for want of necessary particulars or  
defective description or suspected mis-declaration of value or contents, shall  
be marked with the letter 'd'

(b) Customs declaration or parcel bill of the parcel containing  
trade goods or other goods for which further information, invoices or  
documents  
are required shall be marked with the letter 'c'.

(c) The remaining parcels will be released after assessing to

duty. by indicating the rate of duty and the letter `r' on the custom declarations or the parcel bills and initialling the same.

(iv) The customs clerks shall then transcribe on to the parcel bill whenever necessary the values from the declarations and after converting them into Indian currency at the ruling rates of exchange shall calculate and enter the amount of duty. the parcel bills with declarations so completed, shall then be audited by the audit clerks and the original and duplicate copies shall be returned to the post master as soon as possible, the triplicate being retained in the custom department.

(v) The post master shall then detain all parcels marked for detention in the manner indicated above, and shall allow the rest to go forward for delivery to addresses on payment of the duty marked on each parcel.

(vi) For each retained parcel/ packet a notice of call-cum show cause memo shall be issued calling for all necessary required documents for the purpose of assessment and clearance thereof.

(vii) As soon as the parcels detained at the time of the sheet checking (marked with letter `d') are ready for examination they shall be submitted together with the parcel bill to the customs assessing officer, who after examining these, if necessary, will fill in details of contents, value, rate of duty and amount of duty against each entry in the parcel bill. the remarks `examined' shall be entered by the assessing officer against each entry in the parcel bill in case the parcel has been examined by him. the parcel bill shall then be audited and the original and the triplicate copies returned to the postal deptt., the duplicate being retained in the customs deptt. if for any reason the parcels of the aforesaid category cannot be released and some further information or documents are required, the assessing officer will deal with the parcel in the following manner.

The parcels of the aforesaid category and parcels containing trade goods (marked `c') will be examined in detail by the assessing officer who will prepare a call cum show cause notice, indicating on the office copy the contents, quantity, value and c.t.h. classification. there after the call notice will be forwarded to the concerned customs staff for registration and issue.

in case the parcel is addressed to the bank and the address of the ultimate consignee or the importers is indicated on the parcel, a duplicate copy of the call notice will also be prepared and got issued to the consignee or the importers.



In case of gift parcels of value exceeding the value limit mentioned in Section 3(1)(i) of the Foreign Trade Order, 1993 and a parcel wherein the contents/ value are misdeclared or in which there is infringement of allied acts like Drug Control Act, F.E.R.R., Arms Act, etc., The Assessing Officer will after examination of the parcel in the manner indicated earlier, instead of the usual Call Notice a Show Cause notice will be issued to the addressee.

The above procedure about detailed examination and issue of Call notices will be followed for letter mail packets also. As soon as packets detained as per rule (ii) packets are ready for examination and assessment, they shall be submitted together with the relative letter mail bill and assessment memos to the Customs Appraising Officer. He will examine them and fill the details of contents and value in the bill, & will note the rate and amount of duty against each item. He will likewise fill in these details on the Assessment Memo, to be forwarded along with each packet. The bill and the assessment memo shall then be audited.

(vii) All parcels or packets required to be opened for customs examination are re-closed by the post office officials and shall then be sealed by them with a distinctive seal. The parcels or packets will remain throughout in the custody of the post office officials but if it comes to the knowledge of Appraiser/ Examiner the time of examining any parcel or packet that its contents are damaged or short, a note thereof shall be made on the parcel or packet bill as well as submitted to AC/ PAS

(viii) If on examination the contents of any parcel or packet are found to be misdeclared, the value incorrect or it contains prohibited goods, then such parcels or packets shall be detained and reported to the Asstt. Collector. The Post Master shall not allow such parcels or packets to go forward without the order of the Asstt. Collector.

(ix) The duties as assessed by the Customs Appraiser and noted in the parcel bill or letter mail bill shall be recovered by the post man from the addressee at the time of delivery of goods. The credit for the total amount of duty certified by the Customs Appraisers at the end of each bill shall be given by the post office to the customs department in accordance with the procedure settled between the two departments from time to time.

(x) The parcel bills or letter mail bills and other documents on which assessment is made shall remain in the custody of the post office, but the duplicate copy shall be kept in the customs department for dealing with claims for refunds, etc. and shall be preserved for three years. The parcel bill or letter mail bill shall show the following

particulars:-

- (a) Number assigned by office of posting the parcel.
- (b) Name of office of posting.
- (c) Name of office of destination.
- (d) Weight of insured parcels.
- (e) Local number.
- (f) Contents as ascertained by the customs.
- (g) Declared value in foreign currency.
- (h) Rupee value.
- (i) Rate of duty.
- (j) Amount of duty, and
- (k) Remarks.

(c.b.r. notification no. 53-cus. dated the 17th June, 1950 as amended by no. 111-cus dated 8th July 1955)

### 2.1 Procedure for clearance of post parcels- imports

The Import department of the post offices receives an advice of despatch notes together with the customs declaration in duplicate from the foreign postal administration of the post office for each parcel. These are numbered serially. The foreign post office also prepares local parcel bill or way-bills showing particulars such as office of posting, original foreign number, name of the addressee full address and local serial numbers etc. The Way-bills are forwarded to the Postal Appraising Section along with the above documents as soon as possible after the arrival of Mail. The Appraising Department impresses with the stamp on the waybill, the date of its presentation for the purpose of assessment. (the date of presentation should be initialled by the DOS. concerned attached to the PAS)

2.2 Sheet Assessment :- The Way bills are presented to Appraising department for "sheet assessment" by the Appraisers. This Assessment includes, assessment and preaudit of all assessable parcels, "detaining" parcels required for first appraisal, detaining parcels requiring documents and preparations and despatch of notices of call. sheet assessment should be extended to all inward mails. all sheet checking should be attended by Senior

Appraiser and UDC. as and when the way bills are received from the postal authorities. On sheet assessment, the Assessing Officer assesses and releases a few parcels on the basis of declaration, detaining the remaining for the examination and for verification of documents. In all cases for the parcels falling in the last category, the documents from the addressee are called for after customs examination by the groups. With regard to the parcels which can be released on the basis of documents produced for sheet checking, the assessing officer enters the full particulars regarding the description, both CTH and CET classification, value and rate of duty. After the completion of the sheet assessment by the Appraiser, the UDC. should calculate the duty for the parcels assessed and return the way bill sheets to the postal authorities through the audit unit of the P.A.S. the postal authorities should release the assessed parcels and return the way-bill sheets for issue of notices of call in respect of parcels detained for want of documents.

After the declaration and waybills have been dealt with by the postal appraising section the import department of the post offices affixes the original declaration on record for period of two years. It then enters the duty shown in the waybill in the relative duty slip affixed to such parcels as have been released by the appraisers and dispatches the parcels to the various destinations. In those cases where the customs have called for the documents the parcels are classified as "detained" and sent to the strong room for presentation to the customs later on.

2.3 Assessment of current parcels:- Parcels of which documents have not been called for by the customs at the time of sheet checking but which are to be presented for examinations are so presented for examinations for the purpose of assessment for calling further documents on the day following "first appraisement". Assessing officer who examines and assesses the parcels will enter in the bills, in respective columns, the contents both CTH and CET classifications value both in foreign and Indian currency (exchange rates applicable) the rate of duty and the amount of duty. The parcels assessed and released on first appraisement are then released for delivery to the addressees. In respect of the parcels which are released after assessment of duty a fee of Rs. 15/- per parcel and Rs. 2.50/- per packets on which the customs duty is payable is levied. The postal section in the customs examination department enters the amount of duty on the duty slip from the waybill and returns to the import department parcels which have been released by Appraiser

for despatch to their various destinations. In other cases where the parcels are detained for producing the necessary documents by the addressees are sent to the strong room where they lie till the customs call for them.

2.4 Assessment of parcels detained for documents :- For all parcels detained, by the customs, notices are issued to the addressees calling upon them to produce the necessary documents to satisfy that the importation's are duly authorised. After the receipt of reply and necessary papers, the parcels are released if otherwise in order. Where the parcels are found to be unauthorised or in contravention of any regulation in force, the customs will call upon the addressee to show cause why penal action should not be taken against them and the parcels confiscated under the provisions of the Customs Act, 1962 adjudication proceeding then begin and the parcels may be released after imposing fine/penalty or they are confiscated and taken over by the customs. In all cases where the parcels are released by the customs, the fine/penalty if any are recovered by them and foreign post office is allowed to despatch the parcels to the addressees on recovery of the duty assessed. The addressees can go in appeal against the orders of the adjudicating officer and the parcels are detained with the post office till disposal of appeal.

2.5 Assessment of Import duty :- The customs duty is ordinarily assessed on the value declared by the senders, if accepted by the customs or on the value as estimated on examination. In the cases where invoice is found, assessment should be made on the invoice value and if there is difference between the invoice value and customs declaration value then the explanation of the importer should be sought and if explanation is found valid, the assessment may be completed on the invoice value. After completing the assessment, the documents should be handed over to the addressee by a clerk or returned through post, if necessary. If a parcel is received and the duty on it appears to be high to the addressee and he desires re-assessment, he should not take delivery of parcels but return to the postman for being kept in deposit with the post office pending re-assessment. The addressee should then apply to the customs authorities for re-assessment giving all details.

2.6 Re-Assessment of parcels :- Re-assessment of parcels falls into two categories, namely;-

(i) Parcels and packets received in customs examination department:-

the customs examination department will enter the particulars in a reassessment form and submit it to the asstt. Collector or appraiser concerned for reassessment together with the invoice or other requisite documents. after examination, if necessary and reassessment of duty the parcels are forwarded to the post office of delivery for further action.

(ii) Parcels and packets left in deposit at the post office of delivery.:- An intimation is sent to the post master of the delivery to forward the parcels to the customs examination department with a copy of that intimation to the addressee. On the receipt of the parcel in the customs examination department, the same procedure as in (i) shall be followed. The particulars of the reassessment done is recorded in the register and waybill. 2.7 The above procedure of assessment and re-assessment of parcels is applicable mutatis mutandis to letter mail articles also.

### 3.1 Determination of value under section 14 of customs act,1962

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(1) The value under section 14 of the customs act, 1962 of articles imported by air should be calculated on the basis of the freight and other charges ordinarily paid when the articles are imported by sea.

(2) In order to expedite the clearance of the air parcels, where the actual freight and insurance is not stated, an amount of @ 21.125% may be added to the FOB. value for calculating the assessable value for duty purpose.

3.2 Assessment of the gift parcels :- The bonafide gift articles are exempted from customs duty upto the value of Rs.1000/(FOB)(Excluding tobacco, liquor and fire arms etc) while Assessing the value of the gift articles, the declared value may be accepted without being meticulous about the actual freight and insurance, since the prices declared are retail prices of that country. The values declared in the customs declaration accompanying post parcels should not ordinarily be increased unless they are found to be definitely low and any minor variation should be ignored. It should be ensured that in petty cases of gift parcels where there is no reason to doubt the bonafides of the party, the customs house should not be too meticulous about the

valuation unless it is sure that the value is obviously wrong. the value adopted by the Appraisers for articles imported as gift parcels should be re-checked occasionally by the Asstt. Collector to ensure that they may not be unrealistic.

The decision in the case of gifts parcels should be arrived at promptly and any complaint regarding delay should be avoided. the notification exempting the gifts permits importation of gifts by institutions and firms as well. there is no restriction to type or category of recipients.

3.3 Assessment of sample' parcels :- The bonafide samples imported are exempted from customs duty subject to the value limit of RS. 1300/- and not more than 2 piece of each items is allowed. the samples should be supplied free of cost by the supplier. There are no hard and fast rules for deciding the application of exemption notification as far as the `trade goods'are concerned but for consumer goods care may be taken to grant the exemption notification to the genuine samples. The Asstt. Collector should inspect at least 10% of such parcels.

3.4 Assessment of the parcels containing diplomatic bags :- The (a) parcel bags containing diplomatic mail are exempted from duty and examination subject to the declaration made on the bags. These bags under no circumstance be opened and examined by the customs officers. in case of any suspicion, or doubt, the orders of The Asstt Collector incharge should be obtained for examination or detention on any ground. the diplomatic mail bags should be cleared from customs expeditiously and any delay should be avoided.

(b) Parcels and packets containing goods (other than mail, letters) addressed to consulates or consular officers, should not be examined without their prior concurrence. whenever such packets or parcels are presented a call notice calling exemption certificate should be issued and upon production of exemption certificate the goods be allowed duty free under notification 3/57 cus.

3.5 Assessment of parcels containing medicines and life saving drugs:-

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The import of medicines for personal use and 'life saving drugs' # (upto the value of Rs.1000/-) are allowed duty free# as per the Customs Exemption notification these parcels should be released as early as possible taking a liberal view. In case the value of the medicines exceed the exemption limit then the case may be put to The Asstt. Collector for adjudication and imposing the customs duty. Though it is necessary to take no objection from Drug Controller, however in the case of critically ill patient, the drugs can be released on the spot and particulars of import may be furnished to Drug Controller subsequent to the release of the Drug.

### 3.6 Assessment of parcels containing food articles:-the food articles

Imported by the foreigner for their personal use are exempted from duty upto the value of Rs.50000/- in one year vide notification no. 207/89 as amended by notification no. 45/92 cus. similarly import of food parcels (except alcohol and tobacco) by foreign citizen is allowed without ITC Licence upto Rs.1.00 lakh per year. The parcels may be released after making entry in their passport. The parcels containing food articles other than for personal use may be released subject to the clearance from the public health authority. In no case the parcels should be detained longer than these may be spoiled.

### 3.7 Assessment of cinema films/ video films etc.:-

The cinema and video films are to be released on the basis of certificate granted by the central film censor board. Also the video cassettes are released only after screening in the Postal appraising department. The parcels containing such films will be got sealed with customs seal and will be allowed to be removed to the film censor board's office under preventive escort. After screening, the parcels will be returned to the postal department.

### 3.8 Assessment of parcels/packages containing chemicals :-

Parcels and packages containing chemicals in liquid or powder form, imported either as samples or otherwise, which are not branded and/ or are not dispatched by well known manufacturers to well known importers should invariably be, before release, got tested in the customs house laboratory for ascertaining the composition.

### 3.9 Clearance of parcels/packages suspected to contain currency etc.

The parcels/packages containing foreign currency as well as Indian

currency should be detained and cases adjudicated on merits. the parcels/packets containing Indian currency are to be confiscated by the postal authorities under Indian postal act. The parcels/packets containing foreign currency are to be released on the basis of no objection certificate issued by the RBI. However packet/parcels contain foreign currency upto \$500/may be released by the Asstt.Collector on caution subject to his satisfaction of genuineness. The particulars of such release may be forwarded to the RBI. and enforcement directorate for information etc.

### 3.10 Assessment of consignment of precious stones, diamonds and Jewellery.

The assessment of such parcels should be done by the Expert's Appraiser. in case of dispute about the valuation, etc, the case may be referred to the`panel of traders' for ascertain the correct valuation.

### 3.11 Clearance of parcels/packets contain live plants,seeds etc.

As soon as the parcels containing plants,seeds,or raw cotton, etc, are received which require fumigation, a call notice will be issued to the addressee asking to arrange for necessary fumigation. when such arrangement is made,the parcel/package will be allowed to be taken away for fumigation under preventive escort.after the contents have been fumigated the parcel/ package will be assessed in usual manner and returned to the postal authorities.

### 3.12 Import of labels,price tags and like articles for export product

Supplies made by foreign buyers of labels,price tags and trimming materials like buttons and belts to be attached to the goods against specific orders placed by them on Indian exporters may be allowed clearance without a licence provided the customs authorities are satisfied with the bonafides of the case. This will also cover the import of "hangers" supplied free of charge to be re-exported with the garments, are exempted from import licence.

These goods are also exempted from customs duty for value upto Rs.10,000/- in each case as per exemption notification no.219/89 cus. as amended by notification no.183/93-cus dt 6.12.93.



3.13 Free improbability for certain category of imports not involving foreign exchange remittance.

Subject to compliance with the provisions of any other law for the time being in force, imports may also be made without a licence by the categories of importers specified below provided the imports do not involve foreign exchange remittances :-

- (1) Import of goods by officials of u.n.o. and its specialized agencies who are exempted from payment of customs duty.
- (2) Paintings and other display articles required for competitions or exhibitions;
- (3) Food-stuffs, medicines, clothing and blankets received by any charitable organisation or any individual as a gift from any philanthropic organisation or individuals abroad, for free distribution either by themselves or other charitable organisation or individuals to the poor and needy without any distinction of caste, creed or colour ;
- (4) Goods received as free gifts by the Indian red cross society from abroad provided such goods are exempted from customs duty ;
- (b) Relief supplies and packages received as gift through a government agency or any other approved agency covered by an agreement entered into by the govt. of India with a foreign Govt. provided they are exempted from customs duty ; and articles donated to national defence fund or to the govt. of India for use of the defence personnel.
5. Equipment and raw materials imported by foreign TV companies coming to India on visits sponsored by the Ministry of External affairs/ Ministry of information and broadcasting or deptt. of tourism on re-export basis.
6. Imports of exhibits, including constructions and decorative materials required for the temporary stands of the foreign exhibitors at the exhibitions/ fairs for period of six months on re-export basis.
7. Bonafide technical and trade samples of items appearing in the negative lists of imports (restricted items) supplied free of charge for value not exceeding rs.30,000/-(CIF) in one consignment except vegetable seeds, bees and new drugs by any importer.
8. Bonafide technical and trade sample of tea supplied free of charge not exceeding RS. 2000/-in CIF value, in one consignment, by any person connected with the tea industry on the recommendation of tea board, calcutta.
9. Import of prototypes and samples not exceeding 5 in numbers in a year by actual users engaged in the production of of item for which the prototype/ sample is sought for, upon a self-declaration to that effect to the

satisfaction of the customs authorities.

3.14 Prohibition by post :- The import of dutiable goods by post is prohibited as per notification no. 151/38 and 44/41 otherwise than complying with the following conditions.:-

- (a) Such letter or packet shall
  - (i) Bear on the front a declaration stating the nature, weight and value of the contents of the letter or packets; or
  - (ii) Is accompanied by a declaration as aforesaid either enclosed therein or fastened to the outside by a string tied crosswise and shall in the former case bear on the front a label indicating that the letter or packet may be opened for customs examinations.
- (b) Such parcel shall comply with clause (1) of condition (a) except when the declaration referred therein is sent separately attached to the parcel bills, and
- (c) The Customs Collector is satisfied that the nature, weight, and the value of the contents of such letter, packet or parcel are correctly stated in the declaration.

To give effect to the above orders, all letter mail packets or parcels containing dutiable goods which do not bear a green label or other declaration showing correctly the nature, weight and value should be detained and reported for orders as regards confiscation, with a note as to when the last warning was issued and whether there are any obvious signs of attempted evasion. For the purpose of the notification, a declaration of value on the label need not be insisted upon, if the label indicates that invoice is enclosed in the packet.

The following goods are prohibited for import by foreign post :-

- (1) Arms, ammunition and military stores including toy, dummy or imitation revolvers or pistols.

Definitions-- "Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows, also cannon and parts of arms and machinery for manufacturing arms. "ammunitions" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, litho-fracture and other explosive or fulminating material, gunflights, gun-wads, percussion-caps or fuses and friction

tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead sulphur or saltpetre.

"Military stores" means any military stores to which the central government may from time to time, by notification in the official gazettes, specially extend such section in such part of India and includes also all lead sulphur, saltpetre and other material to which the central government may from time to time, so extend such section (section 4 i.a.act).

Note:-1. Where the collector of customs is satisfied that the addressee is lawfully entitled to import or possess the arms and that there has been bonafide error, he may release the package on payment of penalty which, if he thinks fit, may be nominal for delivery to the addressee by post.

Note:-2. The prohibition on the importation of arms applied only to those articles which requires an import licence from the police. articles such as cleaning rods, pull-throughs, turnovers, recappers, powder and shot measures, toy and dummy revolvers, and pistols not capable of conversion as lethal weapons are not actually arms as defined in section 4 of the Indian arms act, and their importation by post should not therefore be challenged.

Note:-3. Post parcels containing arms etc. addressed to or dispatched from ordinance establishment should not be detained.

(2) Explosives, inflammable or dangerous substances such as magnesium wadertapers, sparkelers, amorces, chinese crackers, fireworks pyrotechnic matches rockets, spirits.

(3) Coin or bullion exceeding (rs.65/-) in value except coin clearly intended for the purpose or ornament.

(4) Anything which, from its nature is likely to injure postal articles of officials.

(5) All plants including bulbs, American cotton and seeds of cotton, bersin and flax are prohibited from being imported by letter post.

(6) Prohibition/ restriction also exists in the import or export of various articles by post, such as intoxicants, obscene literature, crude drugs, antiquities, etc.

The examiners working in the letter packet section will bring immediately to the notice of the postal staff any infringement of the types mentioned above.

Instructions regarding the release of following articles when imported by post.

1. Explosives, etc.: - As per the provisions of articles 60 of universal postal convention, explosives, inflammable or dangerous substances are prohibited from transmission by post.

2. Unloaded weapons (rifles and pistols): - If imported by post can be allowed for clearance on payment of a redemption fine in lieu of confiscation under section 125 of customs act, provided the addressee is in possession of an arms licence. Ammunition should, however be confiscated absolutely as it falls under act 60(3) of the universal postal convention.

3. Sulphur: - Should not be allowed to be imported by post parcel, whether in pure or crude form.

4. Plants: - No relaxation should be made in enforcement of rules issued under government of India prohibiting importation of plants other than sugar cane for planting intended to be grown under conditions specified under rules, by means of the letter or sample post. Accordingly, the plants so imported should not be released even on payments of penalties and even if accompanied by health certificates.

4. Coins, as articles of curio or hobby: - The coins received as articles of curio or hobby may be released for onward delivery to the recipient without any action after satisfying about the bonafide of case.

5. Magnesium wire and ribbon: - Importation of magnesium wire and ribbon by post parcel is not prohibited.

6. Fictitious stamps: - If any postal article received in India is found to contain such stamps it should not be delivered to the addressee and should be confiscated under section 111 of the customs act.

7. Opium,morphine,cocaine and other narcotics:- The bringing into India through the medium of the post office is prohibited of any narcotics drugs other than

(i) Those which are dangerous drugs within the meaning of the dangerous drugs act 1930 and

(ii) The Medicinal preparations which have been declared by a notification for the time being in force under clause (g) of section 2 of the dangerous drugs act,1930 not to be manufactured drugs. This prohibition is in addition to and not in derogation of the prohibitions and restrictions imposed by the dangerous drugs (import,export and transshipment rules) as amended. The postal authorities have been empowered under the section 25 of the Indian post offices act to search or cause to search to be made for those goods in the postal articles in transit referred above. such postal articles whether received for delivery in India or for transmission to foreign territory should not be confiscated but should be returned by the post offices to the country of origin.

9. Prohibited publications:- An up-to-date copy of the list of prohibited or objectionable publications should be maintained in the postal appraising department and this list should be referred to when parcels and packets are examined for prohibited publications. such prohibited literature and books should be confiscated after issuing the show cause notice to the addressee under section 124 of the customs act,1962.

#### 4.1 Confiscation of post articles.

It is mandatory to issue show cause notice to the addressee under section 124 of the customs act before passing the orders of the confiscation of the articles imported by post etc. reasonable opportunity may also be given for personal hearing and incase there is no response from the addressee than ex-party order can be passed by the adjudicating authority. The order confiscating the article or parcel and imposing a redemption fine should be sent to the addressees. A copy of the order of confiscation should be sent to the superintendent ,foreign post. the parcels or articles will be detained by the post office till their redemption by the party or till the end of the appeal period. If they are not redeemed within the appeal period or any extended time,they should be taken over from the post office and forwarded to the disposal section for disposal.

#### 4.2 The manner of disposal of confiscated parcels.

It shall be the duty of the adjudication cell/ offences unit of the Postal Appraising department to keep a close watch over all adjudication cases registered by them. The parcels which are confiscated but not redeemed by the addressees and which are ripe for disposal shall be sorted out and a detailed inventory in the form prescribed vide appendix-p shall be immediately prepared of the contents of each parcel in the presence of the responsible postal official and Appraiser of the P.A.S. the parcel duly sealed with the seals of both the departments shall then be delivered to the customs house officer/ warehouse officer as the case may be alongwith the files. these goods shall thereafter be dealt with in the same manner as other seized/ detained goods.

Parcels or letter mail packets containing confiscated currency should be taken over and remitted to the reserve bank only by the customs. in other cases, the parcels should be taken by the customs once a month. The statement of detained parcels prepared by the post office should be received by the Assistant Collector every month and such statements should be compared first with the detention register maintained by the table clerks in counter for finding out the cause of delays and this may be discussed with the superintendent, foreign post during the monthly meeting.

#### 4.3 Sales proceed of the post parcel

The sale proceeds of all abandoned and confiscated goods sold by the Customs house are being credited under the head "Customs Misc." The sale/disposal section should record the sale proceeds in the respective files and forward the same to the IAD The Postal Appraising department will maintain a register in the form prescribed in annexure 'a' vide appendix 'l'. On receipt of the respective files from the sale/disposal section, after PAD., will record the particulars of sales in register meant for the purpose. The PAD will then send the credit advice to the P&T in the proforma after naming relevant entries in each file and in the register that credit has been given to the post office.

#### 5.1 Refunds--procedure

- (i) An application for refund, on receipt be stamped with the date stamp

of the department and submitted to the OS. who after marking it for one of the refund clerks, will pass it on to the registry clerk. the claim duly registered will be handed over to the refund clerk, concerned for issuing post card of acknowledgment to the party. he will next note down the particulars of the parcel as shown in the relative postal way bill and also see whether duty slip and customs declaration have been received and mark against the relative postal duty slip or certificate obtained from the post office of delivery that amount of duty charged on the articles has been duly recovered.

(ii) The case papers will then be forwarded to the Appraiser concerned for examination of the claim and submission to the Asstt. Collector with his recommendation. after approval by the Asstt. Collector as the case may be the refund clerk will impress on the papers the refund order stamp, prepare a money order for the amount of refund and obtain the signature of the Assessing Officer. The papers will thereafter be entered in a transit book and forwarded to the IAD. for pre-audit and return of all the papers in the same transit book with the exception of those which may be held under objection. On the receipt of the claim duly pre-audited, the despatch clerk, P.A.S.-- will despatch the money orders and prepare a list as described in the above paragraph. A note of the amount of refund shall be made against the relative item in the parcel/ Way bill of letter mail register, as the case may be under the attestation of the Asstt. Collector of Customs or Appraiser.

If a money order issued in respect of a refund order is returned unpaid, the appraiser should see that the refund is cancelled and the amount is recredited in the accounts. refunds of fees or duty paid directly into the customs treasury should be made by the issue of a refund order to a party. no money order should be issued of a refund. Claims for re-assessment and refund in respect of importation's by post parcels by private individuals, after delivery of the goods has been taken may be admitted and sanctioned by the Asstt. Collector of Customs for P.A.S. provided they are made within the time limit, and supported by documentary evidence. The refund files after issue of the money orders must invariably be sent to CRA. through IAD. within one month from the date of issue of the money orders after completing the necessary endorsements in the relative way bills.

Export and Drawback procedure relating to post parcels.

### 6.1 Export by post parcels

All export parcels shall be attended to by the examiner in the postal appraising section who is incharge of export work. the examiner shall make a physical examination of all parcels before they are passed. all the parcels suspected to infringe the regulations and those under claim for drawbacks should be opened and examined. The post office will be responsible for opening and repacking the parcels. all the parcels opened will be entered in the error book maintained in the foreign parcel department and the entry will be countersigned by the customs officer. similarly an entry will be made and counter intialled by the examiner of parcels detained for breach of export trade control regulations, customs act,etc. or for obtaining the Asstt. Collector's orders or for verifications of exporter's documents etc. The entry will be cancelled when parcels are finally released by customs for onward transmission or return to senders. export parcels which are confiscated will be dealt with in the same manner prescribed for import parcels.

### 6.2 Export assessment, guidelines and instructions.

(1) The rate of duty and tariff value, if any, applicable to any goods exported by post shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

(2) The articles exported by post are required to be covered by a declaration in the prescribed form.

(3) All exports by post where the value exceeds Rs.50/- and payment has to be received, must be declared on the exchange control form PP. but when the postal article is covered by a certificate issued by the RBI. with or without limit or by an authorized dealer in foreign exchange that the export does not involve any transaction in foreign exchange upto Rs.500/-, the declaration in a PP form is not necessary.

(4) Export by post of Indian and foreign currency, bank drafts, cheques national saving certificates and such other negotiable instruments is not allowed unless accompanied by a valid permit issued by the RBI. except in cases where such negotiable instruments are issued by an authorised dealer in foreign exchange in India.



(5) Export of all goods are allowed under OGL to all destinations except those which are covered by the negative list of exports. goods upto the value of RS. 15,000/- are allowed for exports as gifts in a licensing year. items covered under negative list are not allowed as gifts without a licence except in the case of edible items.

(7) Prohibition/ restrictions exist on the export of various articles by post. some of these articles are :- arms and ammunition, explosives, inflammable material, intoxicants, obscene literature, certain crude and dangerous drugs, antiquities etc.

(8) Export of purchases made by the foreign tourists are allowed subject to proof that the payment has been made in foreign exchange.

### 6.3 Procedure regarding export of "jewellery" by post parcel.

There is separate section in P.A.S. known as " jewellery section" which deals with import & export of jewellery, semi-precious, precious, stones.

the procedure for export of these items is as under :-

(i) Export certificate (jewellery) :- The export of jewellery post parcels is done on the basis of an application from the exporter accompanied by four copies of export invoices, and PP. form in duplicate and declaration that the goods are under "consignment sales basis" i.e. " out right sales " the application letter is affixed with Rs.2/- revenue stamp and 20 paise court fee stamp and is submitted to the export clerk. the export clerk after scrutiny, registers the same in the export register with details like export certificate no., exporter/ buyer name, description of the goods, net wt. value, p.p.form no.

etc. thereafter the export clerk affixed all the four copies of the export invoice with stamp as "original", "duplicate", "triplicate", and "quadruplicate" respectively and also enters export certificate no.and date on all the copies of the export invoice with stamp as under :-

out right sales basis	
consignment sales basis	
-----	
-----	
Bombay customs house	Bombay
customs house	
outright sales of jewellery	export
certificate	
export no.....	
jewellery.....	
date .....	

sl.no.....

(ii) Thereafter, the goods along with the documents are presented by the exporter/his authorised representative to the appraiser/jewellery who after examination of 25% of lot, and if description of the goods and value found correct and fair, the AO/jewellery records his examination report on the reverse

of the original invoice and also given examination order to the examiner (jewellery), to check description and net.wt. of 25% lots. the examiner conducts

physical weight check in the presence of the exporter/his authorised representative and if weight are found as declared the goods are permitted to be

packed by the exporter/ his authorized representative and sealed by the sepoy of

the customs under the supervision of the examiner. the examiner checks the export marks and nos. PP.form no. shown on the wrapper. the sealed parcel is thereafter affixed with custom round stamp with date and EO. puts his signature

with date on the said round stamp. thereafter, the sealed parcels are handed over to the party under proper receipt under e.o.'s signature as under:

    ` the goods covered by the export invoice packed by me  
and received the parcels with customs seals intact.

        sig. of the exporter/ authorised rep./CHA

        under my supervision.    customs examiner.'

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(iii) Thereafter, the documents are forwarded to the Asstt. Collector of customs, for counter signature of the valuation report and permitting the export. after the signature of the Asstt. Collector the export/ his authorised representative takes the P.P. Form to their banker for counter signature by the

banker on the original p.p. form. thus, completed documents along with sealed parcel are presented to the postal authority, who after taking the parcel with documents, book the same and in token of that issues necessary postal receipt and retains the original P.P. form for forwarding to the RBI. and rest of the documents are handed over to exporter/ his authorised representative. The exporter/ authorised representative then writes, the postal receipt no. and date and all the copies of export invoice and presents the documents to the AO./ jewellery for `out of charge' which is accorded by affixing stamp on the face of

the invoice as under :

Out right sales basis

Consignment sales basis

Examined for exchange control

Examined for export

certificate

and seal

and sealed

Appraiser (jewellery)

Appraiser

(jewellery)

(iv) Thereafter, the exporter/ authorised representative hands over the original invoice and covering letter to export clerk, who obtains the signature of the exporter/ authorised representative in the export register in token of having completed the export procedures and rest of the documents are retained by the exporter the duplicate p.p. form alongwith quadruplicate copy of the export certificate are forwarded to the RBI. etc. for realizing foreign exchange. duplicate export certificate is given to the exporter and triplicate copy is meant for claiming benefits from DGFT.

(v) The exporter while exporting gems and jewellery parcel should give the correct description of the goods, no. of stones / stones per carats, shape of stone, size of stones, rate per carats. in the case of diamonds they should also state the colour of diamonds, purity etc. in the case of pearls, they should state whether the pearls are half,whole, drilled, stringed or loose, size of pearls. and if stringed then size of strings etc. in case of gold jewellery, the exporter should state the nature of stones used in the studded jewellery. no. of stones used, their weight and value should be stated clearly to facilitate the speedy export. The Exporter should in their own interest should show in the invoice as much as details as possible for each lots, so as to facilitate easy identity of goods at the time of re-import. The lots should be made of well sorted goods and not of unsorted/ invoiced goods.

6.4 The procedure to be followed in respect of parcels exported under the claim of drawback of duty under section 75 of the customs act,1962

(i) The drawback application should be submitted in prescribed form,in triplicate and should be signed by the exporter, giving full address, accompanied by one copy of invoice and P.P. form or "no objection" letter from RBI. with a forwarding letter addressed to the asstt. collector of customs, P.A.S.

(ii) The application should show the following particulars, i.e. (1) No. of parcels to be exported. (2) Duty, Net weight, gross weight of each parcel separately (3) Value of all parcels, (4) The raw material from which the goods

are manufactured.

(iii) The applicant should bring all parcels ready except for stitching the top side of the parcels as 5% of the parcels are to be checked at random for verification of the contents. The applicant has to make his own arrangement for closing and packing of the parcels. the parcels have then to be posted under customs escort.

(iv) The original application along with invoice is received back by the department duly stamped by the post office. Duplicate is retained by the post office of booking after the party has affixed stamps worth 25 paise per parcel and the triplicate is given to the party for his record. After the parcels leave India, the duplicate drawback application is given back to the party duly endorsed by the post office of exchange for submission to the drawback section.

(v) After the duplicate form duly certified is given to drawback section of P.A.S., drawback amount is calculated and audited and intimation is sent to the party for collection of the drawback amount. In case the duplicate application is not submitted within three months, the application is liable to result in rejection of drawback claim.

(vi) On the receipts of the certificate of posting and other documents connected with the drawback claims, the Appraiser will note the fact of identification of the articles on the original duty receipt as well as on the drawback application, complete the application note the grant of drawback against the original credit entry in the parcel bill or letter mail register and on the counterfoil of the relative duty receipts, if any and endorse the application "drawback" noted against the original credit entry GPO. no. in parcel bill or letter mail register no ..... dated..... over his signature and date. the application and the connected documents will then be sent to the customs audit clerk in the post audit for pre-audit. After audit, they are submitted to the Asstt. Collector for sanction of the drawback claim and to the Asstt. Collector of Customs (Audit) for counter check and issue of intimation to the claimant, to the effect that claim has been passed. the post office receipt for the parcel will be retained in the file of the drawback claim.

#### 6.5 Drawback under section 74 of the customs act,1962 on the goods

exported by post parcel.

The drawback procedure is same as under section 75 of customs act except that in this case Examiner/ Appraiser dealing with the Export work will see the Export invoices and identify the goods under export with reference to import documents and they will see whether goods are used after importation and also market value of goods. they will record examination report specifying all above points and take approval of Asstt. Collector of Customs, P.A.S. the drawback claims filed under this section will be allowed at the rate which are specified by different notifications from time to time.

7.1 Miscellaneous :- There are various provisions, rules and procedures relating to the clearance of post parcels. Some of the special provisions are outlined as under :-

(1) Gift parcels :- Gift parcels upto monetary limit of Rs.2000/- are exempted from the provision of the foreign trade regulation under section 3(1) (i) when imported by post provided the goods imported are for private and personal use. thus the trade and commercial goods are not allowed under this provision.

(2) Exemption from duty on post parcels. :- The post parcels, packets and letters on whose contents duty is not more than Rs.100/- are exempted from from duty leviable thereon under notification no. 94/ dt. 1.3.94  
cus.

(3) Exemption from duty on the parcels received back as unclaimed, refused,or redirected. the contents of postal articles which having originally been posted in India and not having left the custody of the post office at any time since their original posting, and are imported into India on return to the post office in India as unclaimed refused or redirected are exempted from duty provided that no drawback of duty was obtained when the articles were exported.  
(not. no. 273/58 cus.)

(4) Issue of call notices :- This should be issued in respect of all detained parcels and letter mail by registered post giving 10 day time to the addressee for production documents etc. The call memo should bear the table

number to which the parcel relates in addition to the parcel no. The call memo should be registered in the register maintained by the table clerk. The table clerk should attend to all customs work till the disposal of the call memo.

(5) Damaged goods section 22 :- If at the time of examination of a parcel, or letter main the contents are found broken or otherwise damaged, a slip showing the nature and extent of damage will be placed in the parcel or l.m. for the information of addressee. This slip will be signed by the Assessing Officer concerned and countersigned by a responsible postal official.

The same procedure shall be observed in the case of shortages found while examining the goods. If damage is suspected before delivery is taken from post office, the addressee can open the parcel in the postmaster's presence and obtain his certificate as to the condition of the contents and submit along with the claim for refund, if any. If damage is discovered after delivery takes place refund cannot ordinarily be allowed but a claim, if made would be dealt with on its merits.

(6) Return of parcels after payment of duty :- If the addressee take delivery of parcels on payment of duty and then wish to have them returned to the senders they can do so only under claim for draw back provided the procedure laid down in the postal guide is followed. Permitting an addressee to open a parcel and take the delivery of part contents on payment of duty and recap the balance of the contents for re-export without payment of duty thereon is not authorised by the existing orders and is irregular.

(7) Demand under section 28 of customs act :- All parcels dealt with in the same way bill and covered by one invoice or a set of invoices should be treated as a single importation and accordingly when the duty short levied on the parcels exceeds Rs.25/- in the aggregate, it shall be demanded under section 28 of Customs Act.

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Duties and powers delegated to the Appraisers and Examiners

8.1. Powers delegated to the Appraisers.

1. Power to issue shortage and breakage certificates.

2. Power to sign certificate of examination reports and shortage reports which are copies or original documents.
3. Power to accept the rupees value in invoice and assessment of duty.
4. Power to sign refund orders so long as the decision has been taken on the file by the Asstt. Collector.
5. Power to condone excesses upto RS. 10/- over prescribed ITC limits.

8.2 Duties of the Appraisers and Examiners :- Without prejudice to the standing orders and departmental orders issued in this regard by the various customs houses from time to time following shall include the duties of the Appraiser and Examiners.

(1) To enter the Assessable rate of duty on declaration forms for such parcels as in their opinion can be assessed on the strength of particulars shown in the forms and therefore do not require detention for examination. In the absence of declarations the rate should be entered in the way bill.

(2) To detain such parcels as require examination on account of incomplete declarations or defective description or suspected misdeclaration of contents or value and to examine them when presented by the post office and then to enter particulars of contents, value in Indian currency, rate and amount of duty in their respective columns and against the relative item in the way bill to initial and date in the remarks column all such items as are finally assessed to duty.

(3) To detain further any parcel regarding which invoice or export evidence or other documentary evidence is to be called for from the addressee and to write out a memo, in duplicate to the addressee concerned calling for these particulars. These parcels will be examined and assessed and their particulars recorded as soon as documents are available.

(4) When dealing with post parcel Assessing Officer will ensure that all queries relating to valuation, licencing etc are raised at together at one time and not piece-meal. The effect of the latter results in unnecessary delay in the release of the parcels and any complaints received on this account will be viewed seriously.

Power source under the customs act 1962.

1. Section 2(16) of C.A. 1962. Definition of the word "entry" includes Shipping bill, Bill of entry And weigh bill in case of goods

imported or exported by post.

2. Section 12 of C.A. 1962. Regarding dutiable goods.

3. Section 14 of C.A. 1962. Valuation of goods for

Purposes of assessment.

4. Section 15 of C.A. 1962. Date of determination of Rate of duty and Tariff valuation of imported goods.

5. Section 16 of C.A. 1962. Date of determination of Rate of duty and Tariff valuation of export goods.

6. Section 17 of C.A. 1962. Assessment of duty.

7. Section 20 of C.A. 1962. Reimportation of goods

Produced or manufactured in India.

8. Section 27 of C.A. 1962. Claim for refund of duty.

9. Section 28 of C.A. 1962. Notice for payment of duties Not levied, short-levied or erroneously refunded.

10. Section 44 of C.A. 1962. Chapter-VII "clearance of Imported and export goods" these provisions not to Apply for goods Imported or

Exported by Post.

11. Section 82 of C.A. 1962. Label or declaration accompanying the goods to be treated as entry.

12. Section 83 of C.A. 1962. Rate of duty and tariff Valuation in respect of goods imported or exported by Post.

13. Section 84 of C.A. 1962. Power of Board to make regulations regarding goods Imported or Exported by Post.

14. Section 107 of C.A. 1962. Power to Examine persons.

15. Section 108 of C.A. 1962. Power to summon persons to give evidence and produce documents.

16. Section 110 of C.A. 1962. Power of seizure of goods, documents and things.

17. Section 111 of C.A. 1962. confiscation of improperly imported goods.

18. Section 112 of C.A. 1962. Penalty for improper importation of goods.

19. Section 113 of C.A. 1962. Confiscation of goods attempted to be improperly exported.

20. Section 114 of C.A. 1962. Penalty for attempt to Export goods improperly.

21. Section 124 of C.A. 1962. Issue of show-cause notice before confiscation of goods.

22. Section 128 of C.A. 1962. Appeals to Collector (Appeal)

#### Standing orders and public notices

1. So. no. 6718 dated 4-6-1979

Sub:- Procedure for clearance of foreign post parcels through foreign post office counter at SEEPZ.



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 2. So. no. 6780 dated 26-4-1983  
 Sub:- Import of Video cassettes -screening of  
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? Refund department

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#### ? REFUND DEPARTMENT: WORKING

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The Refund Section in the Customs House works under the supervision of the Asstt. Collector of customs to process the refund claims filed by the importers under the Section 27 of the Customs Act The Asstt. Collector of customs incharge of the refund section is empowered to grant the refund of custom duty in case he is satisfied That excess duty has been paid by the importer. He has also to grant consequential refund as a result of the orders passed by the Appellate Collector, CEGAT, Courts etc. The Asstt Collector of customs is assisted by the Appraising officers and the ministerial staff under the super- vision of the Office Superintendent. The Asstt. Collector grants

personal hearing to the importer and decide the case on the basis of the facts put up by the refund section. In cases where the Asstt. Collector is not satisfied with arguments advanced by the importer than he passes order-in-original, an appealable order. the importer can file appeal against the order before appellate collector in case he is not satisfied.

Section 27.(1) Claim for refund of duty :- Any person claiming refund of any duty, including the interest, if any paid on the duty,

- (i) paid by him in pursuance of an order of assessment; or
- (ii) borne by him,

may make an application for refund of such duty and interest, if paid on such duty to the Assistant Collector of Customs-

(a) In the case of any import made by an individual for his personal use or by government or by any educational, research or charitable institution or

hospital, before the expiry of one year;

(b) In any other case, before the expiry of six months, from the date of payment of duty in such form as may be specified in the regulations made in

this behalf and the application shall be accompanied by such documentary or other evidence (including the documents referred to in sec. 28-c) as the applicant may furnish to establish that the amount of duty in relation to which such refund is claimed was collected from, or paid by, him and the incidence of

such duty has not been passed on by him to any other person:

Provided that where an application for refund has been made before the commencement of the Central Excises and Customs Laws (Amendment) Act, 1991, such application shall be deemed to have been made under this sub-section and the same shall be dealt with in accordance with the provisions

of sub-section (2) :

Provided further that the limitation of one year or six months, as the case may be shall not apply where any duty has been paid under protest.

Explanation.- for the purpose of this sub-section, "the date of payment of duty" in relation to the person, other than the importer shall be construed as "the date of purchase of the goods" by such person.

(2) If, on receipt of any such application, the Assistant Collector of customs is satisfied that the whole or any part of the duty paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the fund;

Provided that the amount of duty as determined by the Assistant Collector of Customs under foregoing provisions of this sub-section shall, instead of being credited to the fund, be paid to the applicant if such amount relatable to--

- (a) The duty paid by the importer, if he had not passed on the incidence of such duty to any other person ;
- (b) The duty on imports made by an individual for his personal use;
- (c) The duty borne by the buyer, if he had not passed on the incidence of such duty to any other person;
- (d) The export duty as specified in Sec. 26
- (e) Drawback on duty payable under sec. 74 and 75
- (f) The duty, borne by any other such class of applicants as the central government may, by notification in the

gazette

specify :

Provided further that no notification under CL.(f) of the first proviso shall be issued unless in the opinion of the central government the incidence of duty has not been passed on by the persons concerned to any other person.

(3) Notwithstanding anything to the contrary contained in any judgement, decree, order or direction of the Appellate tribunal or any court or in any other provision of this act or the regulations made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (2).

Section 28-B. Duties collected from the buyer to be deposited with the Central Government.

This section has been recently inserted by way of Central Excise and Customs law (Amendment) act, 1991. it reads as under

28B (1) Notwithstanding anything to the contrary contained in any order or direction of the appellate tribunal or any court or in any other provision of this act or the regulations made there under, every person who has collected duty, any amount from the buyer of any goods in any manner as representing duty of customs, shall forthwith pay the amount so collected to the credit of the central government.

(2) The amount paid to the credit of the central government under sub-section (1) shall be adjusted against the duty payable by person on finalisation of assessment and where any surplus is left after such adjustment, the amount of such surplus shall either be credited to the fund or, as the case may be, refunded to the person who has borne the incidence of such amount, in accordance with the provisions of sec. 27 and the application under that section in such cases shall be made before the expiry of six months from the date of the public notice to be issued by the Assistant Collector of Customs.

Salient features regarding admissibility of the Section 27 of Customs Act.

1. Applicability of Section 27(1)

Refund claim under section 27(1) lies only in cases where duty has been paid in pursuance of an order of Assessment made by an officer lower in rank than an Assistant Collector of Customs. The Assistant Collector countersigning the Assessment made by the Appraiser on the bill of entry cannot be said to be the Assessment done by the Assistant Collector however, if the Assistant Collector changes the assessment in any manner, by way of revised classification, valuation, rate of duty, then the order of assessment will be that of Assistant Collector and in this case the recourse to the Section 27 is ruled out and the appellate procedure shall be followed. thus no refund under this section lies in cases where the duty has been paid in pursuance of an order of Assessment made by an Assistant Collector of Customs.

2. Issue of order necessary in respect of the assessment made under the orders of Assistant Collector.

In the cases where the value of the goods has been enhanced, or Assessment is changed in any manner by the Assessing officer under the orders from Assistant Collector, and the grounds for such assessment has not been communicated to the party, nor that the Assessment has been done by the officer of the rank of Assistant Collector, the assessee in such case cannot take recourse under Section 27(1). In all such cases a formal order should be issued to the assessee so that he could know the grounds of such decisions and the

appellate procedure to be followed in getting his grievances redressed.

3. Refund of duty paid in pursuance of notice of demand under Section 28- admissibility of-

In cases where the party has paid the less charge demand against the notice of demand under section 28 of customs act, it shall be regarded as having paid the dues in the same way as he have paid it at the time of original assessment was made. where there is no decision or order preceding the demand notice, then the procedure of refund claim shall follow under the section 27(1) of the customs act. if the collector or any other officer who receives the refund claim, gives decision that such a refund claim is not maintainable, then an appeal there from will have to be considered under section 128 of the customs act.

4. Loading of invoice-instructions regarding admissibility of refund.

(i) In the cases where the value of the goods has been loaded by the Appraising officer on the basis of the A.C's orders or on the basis of departmental instructions/circular etc. And is known to the party through intimation letter then in such cases, the party can choose to appeal against the decision itself. If the appeal is admitted, then the refund shall be granted to the party in terms of section 27(3). technically there is no communication of the A.C's order by the Group Appraisers in individual cases and the circulars are supplied for the guidance of the Appraisers. Accordingly in such cases the order of assessment of the Assessing Officer himself would be based on the information he possess. in such cases, the party chooses to apply for refund, the department need not insist on submission of an appeal. The claim of refund should be examined in the light of previous decision of the customs house and rejected, if it is found that the Assessing officer has correctly proceeded according to the department's instructions.

(ii) In the cases ,where the value of the goods has been arbitrarily enhanced, on account of pending final decision, by the SVB or Investigation branch, etc, then the claim of refund of the duty shall be admissible only after the finalisation of the Assessment.

In cases, where an importer files appeal against the main loading, then the consequential refund shall be allowed in accordance with

section 27(3) of the customs act. if however, an importer choose to file separate claims for individual bills of entry without filing an appeal against the main valuation decision such claims will have to be filed within the time limit given in the section 27(1) of the customs act.

#### General Principles of Refund.

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[i] Where goods have been exempted from duty under extra legal executive orders of the Government of India, but duty was recovered at the time of import, no refund of the duty shall be admissible under section 27 of the customs act. special orders of the government of India will be necessary for the purpose of granting refund in such cases.

[ii] No refund of duty, unless made in accordance with definite statutory provisions, can be allowed without the general or special sanction of the government; even if this is in respect of a claim that appears enforceable in common law. further, the actual payment of duty is a condition precedent to any claim for refund under section 27 of the customs act.

[iii] The claim for refund should be definite and the grounds stated expressly. if however, a subsequent claim is made on an account different from that mentioned in the original application, the second application should be treated as a fresh claim and dealt with on merits under provisions of section 27. the minor discrepancies in the refund application may be ignored in deciding the claim.

[iv] The refund claims should be decided on the basis of principle of "unjust enrichment" whereby while allowing any refund of duties it should be decided that whether the duties being refunded to the manufacturer or importer are being passed on to the same buyer from whom these duties has been collected. The burden of proof that the incidence of the duty has not been passed on to the buyer shall be on the person claiming the refund. in such cases where the party cannot prove that the incidence of the duties has not been passed on to the

buyer, the refund of duties granted shall be credited to the `consumer welfare fund'.

[v] The time limit prescribed under the section 27(1) of the customs act does not apply in the following cases :-

(i) In the cases where the duty has been paid "under protest"

(ii) In the cases where the duty has been illegally collected.

i.e. duty has been wrongly collected without authority of law.

(iii) In the cases where the refund is due on account of the order passed in appeal or revision or orders of the courts

(iv) In the cases where the duty has been paid as `deposit'.

the section 27 bars only the remedy and does not extinguish the right to get the repayment. it does not lay down the circumstances under which refund is permissible or the grounds on which refund could be sought, but it only prescribes the procedure for claiming the refund and also provides the period within which refund should be sought.

[vi] For granting of refund under section 27 of the customs act,

it is necessary for the claimant to file an application for

`specific claim'. in case the claim has been filed in time,

then minor discrepancies such as incorrect

classification, notification, refund amount etc may be ignored in

deciding the

claim.



Procedure of disposal of refund claims in Appraising Refund department.

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The Directorate of Inspection (Customs and Central Excise) has evolved a procedure for expeditious disposal of refund claims. this procedure contemplates a centralised section for processing all claims. The Board recommends its adoption with whatever changes may be found necessary in the light of local conditions and experience.

Procedure for processing of refund claims

The receiving clerk in the (centralised) refund unit shall:-

- (a) Receive all the claims in prescribed proforma.
- (b) `Stamp' them with date and serial number.
- (c) Enter them in the "refund register" having serially numbered pages duly certified.
- (d) Fill up a cyclostyled acknowledgment memo.
- (e) At the end of each day put up to the supervisor all the claims received during the day together with filled in acknowledgment memos and refund register.
- (f) Pass on to the despatch clerk for issue of all signed acknowledgment memos as soon as they are received back from supervisor.
- (g) Receive all correspondence pertaining to refund, enter them in the inward diary, put them up to the supervisor for being marked to the concerned dealing clerk or officer as the case may be.

(2) The Ministerial supervisor on his part shall sign all the acknowledgment memos, put up to him alongwith refund claims and return the same for issue. he shall then mark each claim to the dealing clerk/officer strictly according to the predetermined allocation of the work and at the end of each day

sign the last entry in the refund register after checking and immediately submit the same to the Asstt. Collector in charge for his attestation after the last entry on the date. No claims shall be received on the date after such attestation.

(3) As soon as each claim is received by him as allotted the dealing clerk shall enter the particulars thereof in the 'case file register'.he shall then arrange the case file and submit the same to his refund appraiser.

(4) The Refund Appraiser shall scrutinise each claim received from dealing clerk without any delay. in particular, he shall:-

(i) Verify if the claim is within time--and if time barred straightway sign rejection order.

(ii) Verify if the claim is fully covered by any general decision already taken and accordingly rejected or admitted as the case may be and if competent pass final orders; if not put up,after obtaining the relevant papers containing the general decision, the case file to the Asstt.Collector in-charge for orders.

(iii) Verify if the claim calls for rejection in terms of section 149 of the customs act and if competent pass and sign rejecting the same and signing the rejection order.

(iv) Verify in respect of other claims where:-

(a) Any further information or documents are required from the claimant

(b) Any document other proceeding like original or duplicate bill of entry, similar case dealt with in the past.case containing a decision on similar issue or having a bearing on the claim,test report etc.required from the department. and then fill up a requisition for such documents and return the case file to the concerned dealing clerk for necessary action. if he finds on scrutiny that any other action is necessary in respect of any particular claim he will initiate such action accordingly,keeping in view the need for completing the scrutiny and taking or obtaining a final decision in the matter as expeditiously as possible.

(5) As regards category (iv) above he shall,further call for the relevant files at least once in a month and verify if the required information,documents have been received and if not so received,consider again whether they are still necessary or whether the case can be proceeded with for a conclusion without them. in case he finds that they are still necessary he shall sign a reminder to the claimant or address a special

requisition to the Asstt. Collector of the department concerned as the case may be.

(6) As soon as all the information/documents required become available he shall finalise the scrutiny of the claim and either take a final decision himself if he is competent or submit the case file together with his recommendations direct to the competent officer. However, before, any claim is sanctioned by him or is put up to other competent officer for sanction, he shall obtain the original/duplicate bills of entry on which duty was paid and scrutinize the same for ensuring that the claim has been made in respect of the correct bill of entry and the same duly merits admission. If on such further scrutiny, the Appraiser finds that additional information and documents not called for initially are required, he will put up the case to the officer competent to decide the claim and obtain his approval for calling the additional information or documents so that the competent officer gets a chance to satisfy himself that the additional information and documents are really necessary and that they could not have been called for earlier.

(7). The dealing clerk will take all necessary clerical action in respect of his case files. among others he will

(a) Arrange for the issue of all letters, requisitions, reminders, etc. signed by the Appraisers.

(b) Draft other letters as required.

(c) On receipt of document received in response to a requisition, arrange the same appropriately, indicate if any document or information is still wanting, and put up the same to the Appraiser for orders. however, in any event at the end of one month after issue of a requisition he will submit the case files to the Appraiser for further orders.

(8). If not competent to decide the case himself, the Appraiser shall submit the case directly to the competent officer, who will take a decision on the basis of the evidence made available to him. if he consider it necessary that some further scrutiny is called for or some further information or documents are to be obtained either from the claimant or from department of the custom house he will ask for the same. but before doing this,

it should be ensured that nothing, which is not absolutely necessary is asked for.

(9). If essential information or documents are not supplied by the claimant within a reasonable period, the claim may be rejected as unsubstantiated by the asstt. collector in his discretion.

(10) In respect of the rejected claims, the dealing clerk will draft the rejection order, where necessary and submit directly to the competent officer for approval.

(11) In respect of the sanctioned claims, a refund order in the prescribed form will be prepared by the dealing clerk and the case file with the refund order shall be forwarded to the pre-audit department after obtaining the signature of the Appraiser/Asstt. Collector.

(12) All sanctioned claims have to be sent to the audit department for pre-audit. these will be sent in a special transit register by the dealing clerk to the pre-audit unit. the audit clerk will conduct necessary scrutiny of the claims within the prescribed time limit and put up along with other claims he has scrutinized to the ministerial supervisor, in the audit department for conducting a percentage review. this review should be completed within the prescribed time limit and all the claims so reviewed should then be submitted to the Asstt. Collector audit for conducting second-review. the second review should be completed within prescribed time limit and the cases finally passed in audit should be sent back with clear indication of passed in pre-audit to the refund unit for taking further action

(13) After audit the refund voucher prepared in the prescribed form shall be dispatched by the dealing clerk in the refund unit to the claimant, for obtaining payment or getting credit in his deposit account (if such an account exists) from the customs house treasury, by presenting it after pre-receipting in the cash and accounts department of the custom house. obtaining credit in deposit accounts should be encouraged as it involves less work and less delay. the dealing clerk shall at this stage obtain the counter signature of the appraiser against the relevant entry in his case register.

(14) The relevant case file shall then be sent back to the audit department for post-audit, after the refund has been paid or credited to deposit

account as the case may be, and the concerned voucher or credit entry is received from the cash and accounts department for audit of daily transactions. after auditing the file with the voucher etc. the complete case file will be passed on to the c.r.a. also for post-audit.

(15) On return the file shall be closed and recorded under the orders of the ministerial supervisor and the entry in the case register closed accordingly under countersignature of the ministerial supervisor. similarly the relevant entry in the claims register shall also be closed.

Types of claims and by whom dealt with :-

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The group or the department concerned with different type of claims or correspondence is indicated below:-

- |   |  |                               |
|---|--|-------------------------------|
| (1) Refunds arising out of modification of adjudication orders. department. |  | concerned group of appraising |
| (2) Other appraising refunds. section                                       |  | appraising refund             |
| (3) Refunds relating to the section post parcels.                           |  | postal appraising             |
| (4) Shortlanding refunds. deptt.  |  | manifest clearance            |
| (5) Refunds relating to the export duty and cess.                           |  | export department.            |

Instructions regarding payment of refunds:- the following Instructions may be adhere regarding payment of refunds.

(i) Payment of refund orders to the clearing agent:- The importer can authorise his clearing agent to receive the payment of refund. the payments upto rs.1000/- can be made to the clearing agent if they give undertaking to the effect that they will produce required authorisation from the importer. however payments above rs.1000/- shall be made only after producing satisfactory authorization from the importer to receive the refund amount. when refund amount is sent to the clearing agent, an intimation should simultaneously be sent by registered post to the importer concerned. the payment of refund to any other third party should be avoided.

(ii) Payment of refund amount to banks :- In cases where duty is paid by the banks on account of importers, payment of refunds may be made to the banks under intimation to the importers provided the banks furnish a declaration to the effect that they have a lien on the goods.

(iii) Payment of refunds to insurance companies:- The payment of refunds to the insurance companies shall be subject to the other provisions of the sec. 142 of the customs act. And subject to the production of specific authorisation from the importer.

(iv) Payment of refund order should be sent by registered post. The refund order shall be sent to the importer/clearing agent by registered post and under no circumstances it should be handed over personally.

(v) Issue of duplicate refund order in case original is lost. In case of the original refund order being lost, a duplicate refund order may be issued provided the party in whose favor the original was issued executes an indemnity bond.

(vi) Checking of documents accompanying claims. On registration of claim, if it is found that the claim is not supported by necessary documents the claimant should be addressed to produce the same within 10 days from the date of customs house memo calling for them. if he fails to do so within the period a reminder is to be issued asking him finally to submit the documents within 10 days from the date of issue of the reminder, on the expiry of which the claim will be taken up for disposal on the basis of the available records without further reference being made to the claimants.

#### Instructions regarding determining time limit for granting refund

(1) Date of receipt of refund application.:- Section 27 of the customs act requires that the claim for refund should be made in writing at the proper Custom House before the expiry of six months from the date of payment of duty, of which refund is claimed. the date on which the refund application is

received in the custom house is the date of making the claim for the purpose of calculating the time limit of six months prescribed. the date of payment should be excluded. where the time limit expires on public holidays, application received on the first subsequent working day shall be deemed to be in time.

(2) Interpretation of 'date of adjustment of duty' under Sec.27 & 28

The adjustment referred to is when the recovery is actually made or the refund is actually granted, at the time of final assessment.

(3) Fresh application is necessary in cases where refunds not covered by the first claim.:- In case the first refund claim is disposed off, it cannot be reopened by the Asstt. Collector. fresh application should be entertained in case it is within the time limit.

(4) Relaxation of the time limit under section 27(1) of customs act.

Though there is no scope for relaxation of the statutory provisions for the time limit, yet there may be genuine cases where the case merits refund. in such cases a reference should be made before formal order of rejection in appeal is issued instead of taking it up when the revision application is tendered to the Government of India. Sec.27(1) operates to extinguish the remedy of the importer but not extinguish the claim. in such genuine claims where it is recognised that the duty has been illegally recovered and the refund is due to the importer but for the time bar, such cases may be referred to the ministry recommending the waiver of time bar for granting the refund.

Gist of the order passed by CEGAT in order-in-appeal no.cd(t). (mas)7/82 dated 15-4-83. reg. scope of relaxation of time-limit

The time limit prescribed under section 27 Customs Act, 1962 is specific and cannot be relaxed by any statutory authority functioning under the customs act. a statutory authority cannot entertain an application for refund of duty under Section 27 of the customs act beyond the period of limitation prescribed there under even though the duty has been realised illegally and without jurisdiction or without the authority of law. A statutory tribunal created under the provisions of a statute has to function within the framework of the statute and cannot traverse beyond the confines of the statute which has

created it. only the high court or the supreme court which in exercise of the prerogative under the article 226 or article 32 of the constitution of India that can grant relief in such situation.

(5) Calculation of time limit in cases where the duty has been collected twice. There is no law permitting the collection of duty twice on the same goods. The time limit prescribed under the Customs Act is applicable in any claim for refund lodged and in such cases the time limit should be calculated from the date of payment, which is refundable.

#### Instructions regarding Suo Moto Refunds.

1. As soon as it is noticed that an error in assessment has been made resulting in excess levy the concerned group/unit will if the excess levy has been detected within the time stipulated under section 27(1) customs act.1962,intimate the party about the excess recovery and advise them to file a regular refund claim. the department dealing with refund claim will take the further action when the claim is filed by the party.

2. As regard the cases where the excess levy is noticed by the audit,and an objection has been raised the objection after preliminary verification be admitted by the concerned group and intimation will be sent as indicated above. The audit department will forward all the papers including the B/E to the refund department who will process the claim. Care should be taken to intimate the party in time so that the party gets sufficient time to file the refund claim in time.

3. It has been decided by the Board that in addition to the intimation being sent to the individual parties,a list of such cases where excess recovery has been detected should be published by the group /unit concerned and displayed on the notice board so as to enable the importers to file their claim within stipulated time limit.

#### Miscellaneous cases relating to the granting of refund.

1. Refunds in cases of reshipment of prohibited goods.:-  
In the cases where re-export of goods has been ordered,the whole of the duty paid should be refunded.all such re-exports must be supervised by a preventive officer and refund shall be allowed only after examination on



the duplicate shipping bill under which the re-shipment was effected. the claim should be held over until EGM. i.e outport report is received from the export department.

Where the importer decides to re-ship for the reasons other than because the importation of the goods has been prohibited, full duty should be taken and shipment allowed under the ordinary drawback procedure, unless the goods have been entered for bond.

2. Refund of duty and fine if the goods are not re-shipped.

In cases where the goods are ordered to be confiscated under the customs act but an option is given to the party to re-ship the goods within the time limit specified in the adjudication order on payment of fine. but the party fails to re-ship the goods than the party is entitle to get the fine paid refunded because the payment of the fine is the condition attached to the re-shipment of the goods. even the duty paid shall also be refunded in the case of re-shipment and such cases may be decided by the collector without reference to the board.

Safeguards against double refunds of CVD.

The following procedure for coordinating grant of proforma credit under rule 56-a of the central excise rules,1944 and refund of countervailing duty of the customs.(CVD.) may be followed.

(i) While presenting the bill of entry for clearance of any goods chargeable to the CVD. for which the importer intends to avail proforma credit under rule 56-a., the importer should subscribe to a declaration on all copies of the bill of entry that he intends to avail of proforma credit under rule 56-a of the central excise rules,1944 in respect of the goods covered by that bill of entry.he should also state the name and address of the factory and jurisdictional Supdt. of central excise incharge the importer's declaration will be confirmed by the customs house by pin-point type writing on all copies of the bill of entry including the triplicate copy of the Bill of entry. The confirmation of the declaration will be done by the DOS. Of the Appraising refund section.

(ii) Where the importer has given a positive declaration,the concerned central excise officer may grant proforma credit on the strength of

bill of entry copy without any reference to the custom house. the custom house will not grant refund of CVD. On such Bill of entry unless the importer produces a confirmation from Supdt.of Central Excise concerned that proforma credit has not been given or the account of the manufacturer has been debited to the extent of refundable amount.the board has decided that in such cases the custom house concerned should straightway send intimation to the concerned central excise formation about the positive declaration made by the importer on the bill of entry with regard to his intention to avail of proforma credit under rule 56-a of the central excise rules,1944 in respect of the goods covered by the bill of entry.

(iii) If the importer has given no such declaration,the Central Excise officer will not grant proforma credit unless he has informed the custom house and has verified from the custom house that no refund has been granted in respect of CVD. On receipt of such an intimation the custom house will keep a suitable note on its copy of the bill of entry and will not sanction any refund of the CVD. in future. If in any case it is found that a positive declaration was not made in the Bill of Entry and the Assessee has taken credit of CVD., the necessary demand should be raised.

(iv) In cases where no such declaration appears on the Bill of entry the customs house will sanction refund of CVD, if due without making any enquiry about proforma credit so long as it has not received any enquiry from the central excise officer about the particular bill of entry.

(v) Before issuing any refund order,the Group/ units concerned should ensure from ` key register' maintained in the Appraising section that no such certificate has been issued.the Appraising refund section will then note down the following particulars in the aforesaid key register, viz. file no.,amount of refund etc,such entry will enable the custom house to see that no certificate is issued to the Central Excise Department,on receipt of a similar enquiry from them.the Groups/units should also ensure that necessary notes have been kept in the key register of the refund section, before a refund order is issued.

3. Refund of fine, penalties or duties arising from the decisions in Appeals/revision petition in customs cases.

(i) In all cases when Appellate or revision order results in a refund of duty, penalty or any other charge paid by the Appellant or the applicant, refund order should invariably be issued within a week from the date of issue of the order in appeal by the appellate collector of customs or from the date of the receipts in the customs house of the board's orders in appeal, or Govt. of India's orders on revision application.

To ensure expeditious disposal of these case a register should be maintained by the appraising refund section and put up to the assistant collector of customs for scrutiny of cases where refund has not been issued within 15 days from the receipt of the orders in appeal or revision petition.

(ii) Refund of duty should be noted on the original copy of the Bill of entry. where however, the original bill of entry is not available, the duplicate bill of entry may be noted and refund action taken thereon, provided it is verified from the accounts and cash department that no previous payment was made in respect of the same bill of entry on the original copy. When such refund action is taken in duplicate bill of entry, the concerned deptt. should first verify from the register maintained by them and certify that no refund orders were issued against the same bill of entry before file is referred to accounts/cash for further verification. similar verification should be done where the bill of entry is reconstructed for noting of refund in the absence of the original as well as duplicate bill of entry.

4. Concept of "unjust enrichment" in granting refund.

The customs act, 1962 has been suitable amended by amendment act

1991 (act 55/91) which came into force from 23.12.91 introducing new sub-sections i.e. 27(c), 28(b), 28(c), 28(d), incorporating the concept of "unjust enrichment". this new concept in the customs act, relates to the said duties, that any refund of these duties made to any manufacturer or importer, who may have initially paid these duties but had passed on the same to the buyers would be in the nature of a windfall gain to such manufacturer or importer. the main amendments in the said act is as follows:-

(a) The manufacturer or importer of goods shall not be entitled to refund of the duty of excise or as the case may be the duty of customs if he has already passed on the incidence of such duty to the buyer.

(b) The burden of proof that the incidence of the duty has not been passed on to the buyer shall be on the person claiming the refund

(c) Every person who is liable to pay duty of excise or as the case may be the duty of customs on any goods shall be under an obligation to prominently indicate, at the time of clearance of the goods, in all the documents relating to assessment etc., the amount of duty which will form part of the price at which such goods will be sold.

(d) The refund of any of the said duties is proposed to be made only to the person who has ultimately borne the incidence of such duty.

(e) It is proposed to establish a consumer welfare fund wherein the duty of customs which is not refundable to the manufacturer or importer or the buyer in accordance with the proposed provisions shall be credited. In addition any income from investment of the amount credited to the fund and any other monies received by the central government for the purposes of the fund will be credited to the fund. The fund will be utilised by the central government for the welfare of the consumers in accordance with the rules to be made in this behalf.

(f) It is also proposed to provide that notwithstanding anything to the contrary contained in any judgment decree order or direction of the appellate tribunal or any other court or in any provision of the said acts, etc no refund shall be made except as provided in sub-section of 27 (2) of the customs act.1962

(g) It is also proposed to provide that where any manufacturer or importer of goods has collected any amount in any manner from the buyer as representing the duty of excise or as the case may be as the duty of the customs he shall pay the said amount to the credit of the central government and the said amount shall be utilised in adjusting the duty payable by the manufacturer or importer on finalisation of assessment. The surplus in any will be dealt with in accordance with the aforesaid provisions of the section 27 of the customs

act. 1962.

However in the following cases the application of "unjust enrichment" will not be applicable.

- (a) Where the excess duty paid is not passed on to any other person.
- (b) The import is made by individual for personal use.
- (c) If the claim has been made by any other person other than the importer if he has not passed on the excess duty paid to others.
- (d) Export duty as specified in section 26.
- (e) Drawback of duty under section 74 and 75
- (f) Persons notified by Central Government whom it considers has not passed on duty incidence to others. Even refund due on account of court decision, tribunal decisions are also subject to the above provisions. The Importer/ claimant is required to produce the proof that the incidence of duty has not been passed on to the buyer within a period of 1 month from the passing of the order. the actual/ sanction/disbursement would be made only after production of such proof within the stipulated time limit, failing which the refund amount will stand forfeited and will be credited to the consumer welfare fund. (p.no. 144 dated 27.8.92)

Other instructions.

1. In case the Assessee's claim is not found in order after examining the same on the above lines it should be explained adequately by giving specific reasons on each aspect. whenever, a claim is found otherwise admissible on grounds of (i) merits of the refund claim and (ii) time bar aspect of the refund claim, but cannot be paid to the applicant on the grounds of unjust enrichment, the findings to that effect should be recorded in writing in order to be passed and the amount eligible for refund must be ordered to be credited to the consumer welfare fund. The applicant should be granted a refund only after the claim is found admissible on merits as well as within time and the question of unjust enrichment is decided in his favour.

- 2. Adjudicating officer may please be advised accordingly.  
[ f.no. 268/44/92-cx.8. dt. 7-12-1992 ]  
( cir. 23/92-cx.8.)

Refunds of duty paid in pursuance of notice of demand under

section 28-admissibility of

As regards cases whether the party pays the duty without making any representation against the original notice of demand under section 39 of the sea Customs Act, 1948 (now section 28 of custom act, 1962), the matter has been considered by the Board in consultation with the Ministry of Law,. The Board has ruled that the notice of demand is not a decision or 'order' within the meaning of section 188 (now section 128 of the customs act, 1962). Accordingly no appeal against the notice lies. the party having paid the short levy in pursuance in the fact of sort be considered to have acquiesced in the fact of sort levy and should be regarded as having paid the dues in much the same way as he would have paid it at the time the original assessment was made section 188 sea customs act (now section 128 of the customs act, 1962) does not seem to have any relevancy in the matter. when there is no decision or order preceding a demand notice, it can hardly be said that the claim for refund amounts to an appeal. Even though the communication is styled as an appeal, it can only be treated as a claim for refund under section 40 (now section 27 of the Customs Act, 1962). If the collector or any other officer who receives the claim for refund gives a decision that such a refund is not allowable, then an appeal therefrom will have to be considered under section 188 (now section 128) (board's letter no. 39/61/60-cus iv dated 9.3.1961 customs technical bulletin vol. vii no. 1 pages 50-51

Valuation-appeal against main valuation decisions-  
question whether separate refund claim necessary for each importation

After careful consideration of all aspects, the question whether in addition to the relief obtained in an appeal revision petition against the decision of the valuation branch of the custom house to load the invoice values, it was necessary for an importer to file separate rate refund claims within the time limit prescribed under section 27(1) of customs act '62, for each individual bill of entry it has since been decided as follows:-

(a) If an importer files appeal or a revision application against a main loading decision and if such valuation decision is set aside or modified in appeal or in revision, then the consequential refund will be allowed to the importer (in respect of the goods for which the general

valuation decisions was passed) without his having to file a separate refund claims for each individual importation. this will apply to all assessments which were finalised after the date of the main valuation decision. the benefit of a revised loading in terms of the decision in appeal or in revision will accrue to the importer irrespective of the port in which the importation was effected. this will be in accordance with section 27(3) of the customs act

(b) If, however, an importer chooses to file separate claims for individual bills of entry without filing an appeal against the main valuation decision such claims will have to be filed within the time limit given in section 27(1) of the customs act.

(c) The main valuation decisions will continue to be appealable as now, since such orders are in fact, decisions under the Customs Act. The above decision should be strictly adhered to in the customs houses with immediate effect. (ref:c.b.e. & c. letter f.no. 493/28/72-cus.vi dt.18.8.72)

General principles of refund grant of refund and applicability of section 27, customs act in the case of goods exempted from duty under executive order of the govt. Of India

Where goods have been exempted from duty under extra legal executive orders of the Government of India but duty has been recovered at the time of importation, no refund of duty is admissible nor are the provisions of section 40 of the Customs Act (now section 27, customs act, 1962) applicable. Special orders of the Government of India will be necessary for purpose of granting refund in such cases. (ref. Govt. of India.min. of fin. (r.d.) ir. no. 10/(107)-Customs Act, 1962 iv/50 dated 21.7.52)

Actual payment of duty is a condition precedent to any claim for refund

No refund of duty, unless made in definite accordance with statutory provisions, can be allowed without the general or special sanction of the Government even if this is in respect of a claim that appears enforceable in common law. Further, the actual payment of the duty is a condition precedent to any claim for refund under Section 27 of the Customs act. accordingly by implication, all protests to be valid under the law, should be made concurrently

with or after payment of the duty. (c.b.r.r. dis.no.1078 cus. 1/25  
mdt.7.11.1925  
g.i.m.f. (r.d.) no. 40(115)cus. 11/48 dt.17.9.1948)

Claim for refund should be definite and the grounds stated expressly.

In a recent case a party's claim for Assessment the goods under item 71 (now under chapter 73 or 82 of c.t.a. '75) of the tariff was rejected by the Customs house on the ground that the goods were assessable under item 75(10) (now 87.04/06(1) of c.t.a. of the goods under item 72(3) (now ch. 84 of c.t.a. '75). the appeal was rejected on the ground that the claim for assessment was barred under Section 40 sea customs act (now section 27, customs act. 1962) even though that was held to be the correct classification of the goods. The Board has been advised in this connection that section 40 sea customs act (now section 27, customs act, 1962) not only prescribes the period of limitation but also defines the extent to which the claim can be made. The claim for repayment of duty should state the amount of refund to be received and the grounds on which it is admissible and it is not open to the party to make larger claim after the prescribed period even if it is found that the party is entitled to a larger amount than claimed. On the other hand the contrary view has been urged that it is not obligatory on the importer who files a claim for refund to give what in his opinion is the correct classification of the articles and a claim for refund arising from a correct classification would be specific if the importer brings to the notice of the department within 3 months (now six months) of payment of duty that the department has erred in the classification refund can therefore be granted on the whole of the amount due and not merely that claimed within the period of 3 months (now six months). (c.b.r. no. 39/24/55-cus iv dated 13.9.55)

The Board is advised that the amount of refund required must be expressly mentioned and that the excess over the amount claimed cannot be refunded as the claim in respect of such excess is barred under section 40(now section 27, custom act, 1962).

As the above order may operate somewhat harshly, the Board has further decided that 'protests' or 'adinterim' claims made in time indicating clearly the ground on which they are made, i.e. whether they are in



respect of freight, war risk insurance charges. discounts or rate of duty etc. to be followed up by regular claims which should be substantiated by the production of documentary evidence may be entertained. For administrative reason it may continue to be insisted that such substantiation is made within 3 months (now six months) of the noting of such 'protest' or 'ad interim' claims. if however a subsequent claim is made on account, different from that mentioned in the original, application, the second application should be treated as a fresh claim and dealt with on merits under provisions of section 40 sea customs act (now section 27, customs act) provided a "specific" claim has been made within time, minor discrepancies such as incorrect tariff item or refund amount as shown in the refund application may continue to be ignored in deciding the claim. in such cases further clarification should be obtained from claimant whenever discrepancies of this nature are detected, before the claims is finally decided.

(c.b.r. no. 39/24/55-cus.iv dated 27.8.56 and 14.12.56)

Note (i): Where identity is sufficiently established The Board has decided that where identity of the particular consignment can be sufficiently established, the provisions of section 40 sea customs act (now Sec.27, customs act, 1962) should not be invoked merely because some information which is wanting in the refund application is supplied by the party after the time limit.

(c.b.r. lr. no. f. 39/24/55-cus iv 10.3.57.c.42/55)

Note (ii) Where claim is in time-minor discrepancies may be ignored.

"The Ministry of Law have opined that since the correct amount was refunded the objection of CRA. is not valid and that the government should not take undue advantage of a mistake committed by the claimant for refund. so long as a specific claim has been made within time, minor discrepancies such as incorrect tariff heading or amounts refundable as shown in the claim are to be ignored in deciding the claim as already stated in the letter dated 14.12.1956 (vide para 8 above.)

(ministry of finance (department of revenue and insurance)  
f.no.16/53/65-lci dated 23.9.1966 cus. technical  
bulletin vol.xii no. 3 paes 307-308)

## Refunds not exceeding Rs.25/-

(a) Notice of the existence of a claim for refund of duty or miscellaneous receipts such as fees, rent penalties, etc. is not given unless the amount involved exceeds RS. 25. This holds where the rate of duty applicable

is changed after the examination of the goods. payment, however, shall be allowed if a claim is made. (g.i.p.d. (c.r.)lr. r. dis.no. 1005cus/26 of 11.11.26. c.b.r.d. dis. no. 184-cus.i/34 of 24.2.34c.b.r.d. dis. no. 184-cus, i34 of 24.2.34 g.i.m.f.(d.r.) lr. no. 39/117/56-cus.iv dt. 10.11.56 and f.22/3/57 cus.iv dt.21.2.57)

Note 1:When an importer has applied for the test of spirituous preparations but the goods have nevertheless been assessed at the 'untested' rate, the application for test should be regarded as an implied claim of the amount excess levied. i.e. refunds of less than Rs.25/-may be granted.

Note : By arrangement with all local governments and administrations no claim in respect of government stores will be made or granted unless it exceeds RS. 25. the Government of India has decided to extend this arrangement to importation's by Central Government departments.

(g.i.c.b.r. lr.no. d. dis. no. 384-cus i/29 dt. 25.11.29)

Shortlanding certificates and allied certificates required for the purpose of settling claims with customs, insurance and under writers-instructions regarding.

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 In the 25th meeting of the Customs & Central excise advisory council held at Delhi in December, 1982, a representation was received from the trade that the time limit specified under section 27(1) of the customs act, 1962 may be amended to extend the period to 12 months from the present period of six months. The request was made in the context of the Custom House rejecting the claims of refund of the importer as unsubstantiated after issue of one of two letters calling for submission of complete documents including the captioned ones. it was further stated that the importers/clearing agents are compelled to file the claims without complete documents to comply with the stipulation of time limit as provided under section 27(1) ibid. Since, in case of rejection of refund claims the importers have to file an appeal, there is an increase of work all round for the importers as well as the custom house. The matter has been examined. it was not found desirable to amend the period for filing refund

claims as stipulated in the customs act '62. However, in order to mitigate the difficulties of the importers, it has been decided that the importers should submit the required documents within two months of the date of filing the claims and when such documents are not submitted within the aforesaid time limit the claims will be treated as provisionally closed by the customs house and the cases will be transferred for record in a separate register. Correspondingly, the claimant will be informed that his claim has been closed for want of the listed documents but his claim will be revived if the required documents are submitted within three months from the date of issue of the letter on receipt of the shortlanding certificate or other relevant documents as the case may be within the above noted time limit, the cases will be re-opened by the concerned departments and the claims examined on merits. In order that the relevant records are easily located for re-examination of the claims. the custom house letter will incorporate a suitable reference number in this respect and the same should be quoted by the importers in their correspondence with the customs house. If the required documents are not re-submitted within three months as specified above. the case will be finally closed and the claim rejected as unsubstantiated. this decision will be communicated to the claimants in the form of an appellable order.

The register to be maintained by the departments concerned may be named "provisionally closed claims registers" and shall incorporate the following columns:

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Sr. no. Line	Date of entry	importers & grounds and clearing agents amount of names claim	description and value of the goods	date of claim (vessel, tion	
no.)					
-----					
-----					
1	2	3	4	5	6
-----					
nature of documents			custom house letter no.		Remarks

called for and not  
submitted

and date

7

8

9

The serial number will be assigned annually and will start with number (1) every year. The custom house letter closing the claim provisionally closed register. The register should be checked by the assistant collector concerned every month in order to ensure timely closure of the pending cases. All these provisionally closed claim cases will be shown as outstanding in the arrears statement. However, a separate column should be incorporated in the said arrears statement for the number of such provisionally closed cases.

The above procedure will also apply in respect of drawback claims and other categories of refunds in similar situation. this comes into force with immediate effect.

(reference board's letter f.no. 523/124/82-cus.(tu) dated 31.1.88)

Payment of refund orders to the parties/clearing Agent-procedure regarding

Disputes have arisen sometimes between the importers and the clearing agents regarding the payment of refunds by the custom house. even when the agent pays the duty it is quite obviously paid on behalf of the importer as per section-147(1) and it is therefore the importer who is entitled to get the refund. the importer can of course authorise his agent to receive payment of refund but without this authorisation it will not be permissible for the custom house to pay refunds to the clearing agents.

However, to avoid too much of work in regard to petty cases of refunds, the custom house will be prepared to make payments of small amounts of refunds to the clearing agents if they give an undertaking on a stamp paper of RS. 22.50 in the specified form (form no. 44 of the appendix) to the custom house that in the event their being not able to produce the necessary authorisation from the importer, if the when so required, the custom house may recover the amount from their security deposit or may take any other steps to recover the same. payments of bigger amounts of over RS. 1,000/- will have to be done only after the clearing agents have produced satisfactory authorization

from the importer to receive the refund amount.

The above procedure will apply to all types of refunds on imports and exports.

(c.b.of ex & cus. f.no. 55/19/68-cus.iv dated 24.4.68 and 55/19/68 cus iv dated 30.12.69)

#### Payment of refund and drawback to clearing agent

Instructions contained in board's letter f.no. 55/19/68-cus. iv dt. 24.4.1968 lay down that payment of refund amount of less than rs.1000 could be made to the clearing agents on their furnishing an undertaking for the production of authorisation, if required, and in case of failure to produce such an authorisation the amount shall be recovered from them. where amount of over rs.1,000 are involved, payments could be made to a clearing agent only after he has produced a specific authorisation from the importer.

Board's subsequent instructions contained in letter f.no. 59/19/68-cus. iv dt. 30.12.69 also lay down that the person who has made the declaration as an importer whether it is the real owner or the clearing agent should be treated as the importer and refund should be made to him, unless he specifically authorizes the clearing agent to receive the refund. It has also been clarified in the board's letter f.no. 450/18/73 cus.iv dt.7.4.73 that where an importer signs the declaration prescribed for the importer. refund should be paid to him, except where the importer specifically authorises the clearing agent.

The above instructions clearly preclude the payment of refund/refund of any amount to any third party other than an importer/exporter or a custom house agent. payments of refunds arising on different accounts such as appraising, shortlanding, appeals, drawbacks etc. pertaining to the particular custom house and in the air cargo complex. foreign post office etc. should therefore, be carefully scrutinized to ensure that such payments are not made to any third party and the board's instructions in this regard are correctly adhered to.

(directorate of inspection & audit (customs & central excise))

letter f.no. 1210/185/78 dt. 21.4.1978)

Refund intimation issue of-under registered post to the parties when refund order is sent to the clearing agent

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The Board has decided that when a refund order has to be sent to a clearing agent, an intimation should simultaneously be sent by registered post to the importer or exporter concerned.

(c.b.r. letter no. f. no. 55/10/62-cus iv dt. 22.23-5-62)

#### Payment of refunds to banks

In cases where duty is paid by the banks on account of importers, payment of refunds may be made to the banks under intimation to the importers provided the banks furnish a declaration to the effect that they have a lien on the goods.

(board's letter f.no. 55/19/68-cus. iv dated 25.9.68)

Payment of refunds to insurance companies by virtue of subrogation rights-question regarding

Consistently with the principle underlying the board's orders in their letter no. 55/19/68-cus. Iv dated the 24th April, 1968, the insurance companies could be recognised for making payments of refunds provided they, like the clearing agents, produced a specific authorisation from the importers in this behalf. however, it is clarified that the payments of refund, in this manner, to insurance companies would be subject to the other provisions of the customs act, 1962, such as section 142. (board's letter no. 55/19/68-cus.iv dated 21.11.68)

#### Loss of original refunds orders

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In case of the original refund order being lost, a duplicate refund order may be issued provided the party in whose favour the original refund order was issued executes an indemnity bond (from no. 40 of the appendix).

#### Protest

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Payment of duty must, no doubt, have taken place before any claim for its refund, in whole or part can be entertained. a protest in such a claim may be either simultaneous with or subsequent to the payment of duty, but

can never be prior to such payment. However when a protest against levy of the duty assessed proceeds on some general ground and raises a question of customs law the decision which will be application cable not only to that case but also in the case of other consignments which may be assessed to duty thereafter, it would be a mere repetition of formula to require the protest to be reiterated at or after each subsequent assessment and payment of duty. After such a protest, which is called a general protest, has been made, all subsequent payments of duty in similar cases would be subject to the same objection and thus claim for refund must be deemed to be involved in every subsequent payment made. hence such a general protest can be accepted as coming into operation on for the benefit of the claimant in other impending transactions also.

(c.b.r. f.no. 60/50/5-cus i of july 8,1955,c.b.r. customs technical bulletin, vol.i no. 2pages 78-79)

#### Review of cases of payments of excise duty under protest

Public Accounts Committee in their 83rd report 1972-73 have suggested that case involving substantial amounts where duty is paid under protest should be specifically brought to the notice of the Board who may review such cases if necessary and that suitable instructions should be issued to this effect.

(2) Whenever duty is paid under protest by an assessee normally it is expected that he would file a refund claim or an appeal. It may, however, at times happen that an assessee may pay duty under protest and yet not file refund claim or appeal and may subsequently obtain fortuitous benefit of refund in case it is held that the goods are not liable to duty at all. Board desire that in such cases collectors should ensure that where duty is paid under protest and yet no appeal or refund claim is filed within six months, are brought to their notice and they may, in turn, after examining such cases, refer them to the board for review, if necessary.

(f.no. 210/9/73-cx-6 dt.24.7.73)

Note

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All protests made on the bills of entry concurrently with or after payment of duty should be sent by the Appraiser for registration of the claim. the bill of entry will be released by the appraiser for clearance of the

goods after the claim is duly registered. the importer should also be informed of the registration of his claim.

The omission on the parts of the appraising department to have the protest made on the bill of entry registered at the time of assessment, does not invalidate the claim for refund. inst. (cus) no. 1 or 1944.

d.o.c. no. 40(115)-cus. 11/48 of 13.7.49.

### Short Shipment Refunds

Short shipped goods-application of section 149 of the customs act. 1962-clarification reg.

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While agreeing with the views of the Law Ministry in regard to applicability of provisions of section 149 of the customs act, 1962, the Board considers that it is not necessary to completely change the existing concept regarding acceptability of evidence for allowing refunds on short-shipped goods. Evidence which was in existence prior to clearance ITC. would naturally be more reliable, and when such evidence is produced, it could

be accepted after reasonable scrutiny as to its authenticity. But when post clearance evidence is produced, it should normally be rejected on the ground that since the goods have already been cleared it cannot be ascertained whether

the goods were shortshipped; and that evidence of a date after clearance from persons (exporters, importers, clearing agents) who were parties to the transaction, cannot be fool-proof beyond reasonable doubt of the short shipment

of the goods. However, there may be some instances, in which, independent evidence may be available to clinch the issue and prove beyond reasonable doubt

that the goods were short-shipped. In such cases, refunds may be granted if the

Collector/ Additional Collector is satisfied that independent evidence which can be relied upon without reasonable doubt, has been produced to prove short

shipment. (central board of excise and customs in their no. f.

no. 1/9/68-cus vi 27.12.68)

Note: the above clarification has been given by the board on the following point:-

Importers often claim refund of duty on goods which they find have not been supplied by the suppliers even though they have been invoiced and charged for

such short shipments of goods in consignments could be noticed either (a) at the time of examination before clearance through Customs or (b) as is more



likely, after clearance through customs when the importers examine the goods at their own premises. It is the practice of the Custom House to examine such claims for refund in the light of section 149 of the Customs Act, 1962. In terms of the concluding sentence of section 149 Customs Act, 1962 the Custom House insists on documentary evidence in existence at the time goods were cleared through customs for consideration of the claim. in cases as at (a) above the Examination report by the Customs before clearance certifying the shortage is deemed to provide the documentary evidence in existence before clearance in terms of section 149 of the Customs Act, 1962. On the basis of such evidence supported by correspondence and/or credit notes from the suppliers in respect of the short shipped goods refund claim in cases type (a) are being allowed under section 149. In cases as at (b) above, where the Short shipment was not noticed before clearance through Customs and evidence by way of a customs shortage report is not available to the claimants, it is the practice to insist of some documentary evidence of a date prior to clearance through customs in terms of Section 149 of the said act. such evidence, it may be observed the importers may not be in a position to furnish because, normally speaking, in cases of short-shipment, there will be no evidence about the fact till after (1) The supplier notices the short shipment or (2) as is more likely, the importer notices the same and notified the suppliers regarding the same. In either case however, if this happens after the clearance through customs, any correspondence in the matter would be of a date subsequent to clearance and, therefore, it is deemed inadmissible evidence under Section 149 of the Customs act, 1962 and consequently such claims for short shipment as at (b) above are being rejected on the ground that there is no evidence in existence before clearance as required under section 149. Section 149 of the Customs act, 1962, it may be observed, refers to amendments of documents under conditions prescribed by the proviso to the said section. In types of cases discussed above there is no physical amendment effected in the bill of entry by customs nor do the claimants request any such amendments. hence a doubt had arisen whether Section 149 would apply to such cases.

Bar under section 36 Sec Customs act (now section 149 customs act 1962) in cases where physical verification held.

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In a case in which, out of a consignment of 4 cases, 3 cases were cleared and the examination of the 4th case showed shortage, refund allowed on the alleged shortage in the other three cases, on the basis of this examination, after the clearance of three cases was held to be irregular, being barred by the provisions of section 36 c.c.a. (now sec,149 customs act) (bd's lr.no. 141-cus. 1/25 of 9.3.25 c.b.r.compilation of of rulings under the s.c. act, page 108)

In a case in which commercial travelers' samples were assessed without examination on the basis of an invoice produced and cleared after payment of duty, re-assessment allowed on examination after delivery was taken, was held to be not permissible under the existing orders. (bd's letter no. 141-cus. 1/25 of 9.3.25 c.b.r. compilation of rulings under the s.c. act, page 108)  
time limit  
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Refund claim should be made in writing time calculation thereof.

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Section 40 of the sea customs act (now section 27 customs act, 1962) requires that the claim for refund should be made in writing at the proper custom house before the expiry of three months (now six months) from the date of payment of duty, of which refund is claimed. the date on which the refund application is received in the custom house is the date of making the claim for the purpose of calculating the time limit of six months prescribed in the aforesaid section.

(c.b.r.d. dis. no. 776 cus. 1/36 dated 6.6.1936  
c.b.r.no. 18(885) cus 11/53 dt.14.5.54)

The Customs Act 1962- Section 27- expression 'the date of adjustment of duty' appearing in explanation to section 27-interpretation of.

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The scope of the expression 'date of adjustment of duty' appearing in the 'explanation' under the proviso to section 27(1) and in sub-section 3(b) of section 28 of the customs act, 1962, has been examined by the Board.

The words used in sections 27 and 28 are 'the date of adjustment of duty after the final assessment thereof'. Section 102 also clearly specifies that there will be a final assessment and then there will be adjustment of duty. it is, therefore clear that the adjustment referred to is

when the recovery is actually made or the refund is actually granted. The ministry of law were also consulted in the matter and they have agreed with this view. (f.no. 1/5/67-cus.vi dated the 5th april, 1968)

#### Calculation of time limit

In calculating the time limit of 3 months (now six months) laid down in section 40 of the sea customs act, (now section 27 customs act), the date of payment should be excluded. where the time limit expires on public holidays, applications received on the first subsequent working day shall be deemed to be in time. (f.d.(c.r.) d. dis. no. 498 cus. 1/37 dated 13.8.1937)

#### The date of making the claim

The date of receipt of the refund application in the custom house is the date of making the claim as contemplated by section 40 of the sea customs act, 1878 (now sec. 27 of the customs act, 1962). (para 8 (iii) on page 129 of "compilation of rulings under the sea customs act-1953 edition)

Period of limitation-applicability of section 10, general clauses act.

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Section 10 of the general clauses act has no application to decisions and orders made under the sea customs act. the principle of this section. However should be applied to refund claims under section 40 sea customs act (now section 27 of the customs act). (g.i.f.d.(c.r.)c.no. 1240-cus-i/39 of 1.9.39 file r. 1371/39 para 8(i)b), page 121, compilation of rulings under s.c.a.)

#### Partially admitted refunds-calculation of time limit

In the case of refunds partially admitted, as the refund order ordinarily only specifies the amount payable and does not in any way indicate that it is a final order, the letter subsequently sent explaining the position in detail should be treated as the starting point of limitation for the purpose of section 188 sea customs act (now sec.128 customs act,1962). (m.f.(r.d.)no. 6(83) cus. 11/54 dated 10.02.55)

Application for refund-cancellation and subsequent revival

In case an application for refund is withdrawn by the applicants and if the claimants subsequently request to treat their letter of withdrawal as cancelled their request should be accepted. the letter of withdrawal should be treated as cancelled, i.e. as if it was never written and the date on which the original claim was made should be reckoned as the date for the purpose of counting the time-limit prescribed under section 27 customs act.

(AP. am. 90/54 govt. of India, min. of finance (rev.divn.)

no. 10(341) cus. 11/52 dated 9th December, 1953.)

A claim for refund of duty, when withdrawn by the claimants should not therefore merely be closed informally but a formal order-in-original rejecting it as unsubstantiated should issue so that imitation under section 188 customs act (now sec, 128 customs act act '62) would apply.

(Govt. of India letter no. 10/341) cus. ii/52 dated 9.12.53)

Fresh claims necessary for refunds not covered by the first claim.

In a case in which refund was refused because the assessment was in accordance with the then existing practice and was again allowed because of the change in practice, taking the first application for refund as being within the time-limit prescribed by section 40. sea customs act (now sec. 27 customs act, 1962) the central board of revenue held that the assistant collector was not justified in re-opening the case relating to the bill of entry on which he had already passed order. the first claim having been disposed of, the second application to the assistant collector should have been treated as a fresh claim and was therefore time-barred. (c.b.r. letter r. dis. no. 721-cus./25, dated the 14th July, 1925)

Refund-duty paid in anticipation of the arrival of the vessel which did not arrive-applicability of section 40 of the sea customs act-instruction regarding

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The Government of India have decided in consulting with the Ministry of Law that the provisions of section 40 of the sea customs act (now section 27 customs act 1962)are attract in such cases. (m.f.(d.r.)f.no. 39/58-cus.iv dated 5.7.1960

Relaxation of time limit should be resorted to charily

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It is the general intention of the government of India that

the relaxation of statutory provisions in the matter of time-limit, should be resorted to very charily. ad-hoc recommendation for such relaxation should therefore be avoided as a matter of principle. When however, such relaxation is considered essential i.e. in cases which present really special features a reference should usually be made before formal order of rejection in appeal is issued instead of taking it up when a revision applications tendered to the government of India, unless of course new facts have come to light since the time the order-in- original or order-in-appeal was passed.

Instruction regarding refund of duty collected twice on the same goods-calculation of time.

In all cases in which duty on any goods is collected twice on account of any circumstances whatsoever, it is refundable as there is no law permitting collection of duty twice on the same goods. the time limit prescribed under the customs act is no doubt applicable in any claim for refund lodged with the custom house, and in such cases the time limit should be calculated from the date of payment (which is refundable.)

(extract from central board of excise and customs letter  
f.no. i/3/70-cus.vi dated 16.2.1970)

Indian limitation act inapplicable to cases falling under section. 40 (now section 27 customs act) the Indian limitation act 1908 has no application to claims presented to Customs Officer for refunds these being regulated exclusively by section 40 sea customs act (now sec. 27 customs act).

the provisions of this section apply to cases in which a claim for refund of the excess duty is made by the importer. (g.i.f.d. (customs) d.o.no. 389 of 8.6.23 c.b.r.

compilation of rulings under the s.c. act, page 124)

Suo moto refunds-revised instructions regarding

Attention of all concerned is invited to ministry's letter f.no. 443/2/80-cus. iv dated 1.8.1980 (reproduced below):

The following procedure will be observed in regard to cases involving Suo moto refunds. as soon as it is noticed that an error inassessment

has been made resulting in excess levy the concerned unit will, if the excess levy has been detected within the time stipulated under section 27(1) customs act, 1962, intimate the party about the fact of the excess recovery as per proforma attached and advise them to file a regular refund claim. after the intimation has been issued by the concerned department, the department dealing

with refund claims will take further action on refund claim when filed by the

party.

In regard to cases where the excess levy is noticed by the audit and an objection has been raised the objection will after preliminary verification, be admitted by the concerned group and thereafter the intimation will be sent to the party as indicate above. after despatch of the intimation by registered a.d. the papers will be returned to the audit deptt. For necessary action. the audit department will, after necessary action has been taken, detach the original B/E and forward these papers to the refund department or other department dealing with refund claims. the audit department will forward the original B/E to the MCD.

Care should be taken to ensure that each intimation sent within the shortest possible time, so that the party has sufficient time to file the refund claim within the period stipulated under section 27(1) C.A.'62 and that the claim does not become time barred because of the delay on the part of the department. if the time available for sending intimation to the party is not sufficient the c/a, concerned should be contacted and informed orally and his acknowledgment taken in the case file.

(also please see vol. iii ch-2 f no. 443/2/80-cus iv dt1.8.80

#### Suo moto refunds-instructions regarding

The issue relating to the grant of Suo moto refunds was once again raised by the trade in the forum of the 26th meeting of the customs and central excise advisory council which was held on 30th & 31st January, 1984. After examining the issue the Central Board of Excise and Customs decided that in all cases of Suo moto refunds, in addition to the intimation which are presently sent to the concerned parties, a daily list of such cases where excess recovery has been detected should be published by group/unit concerned of the custom house and displayed on the notice board, so as to enable the importers to file their claim within the stipulated time limit. The above instructions should be followed scrupulously by all the departments of this custom house.

(authority ref. board's letter f.no. 443/1/84 cus iv of march, 1984)

#### Goods imported by air-lost in transit:

In a case in which goods imported by air were lost in transit after assessment, the government of India ruled that under rule 58 of the Indian aircraft rules, duty on the goods became payable at the customs aerodrome of importation and any subsequent accident was the risk of the

carrier, just as it would have been if the plane has stopped long enough for duty to be paid and had then carried on the parcels, duty is therefore leviable in such case.

(g.i.f.d. (c.e.)d.a. dis. no. 125-cusi/37 of 11th Feb.  
1937, c.b.r. compilation of rulings under the s.c.act)

#### Short-landing

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General instructions regarding of value of shorthanded goods  
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When claims for refund on account of packages short-landed as are lodged, reference is made to the Appraising department only to assign the value of the short-landed packages. the manifest clearance department does remainder of the work. However, if the whole consignment under a bill of entry is shorthanded, references to the appraising department to assign the value of the packages short-landed should not be made but the value should be assigned by the manifest clearance department.

In cases of short-landed goods which cannot be identified the value settled and paid by the Steamer agents should be taken to represent the correct value and refund granted on that basis after verification of the original documents, wherever a corresponding penalty is to be levied for the short-landing on the steamer agents. in other cases the refund may be granted on the lowest value as a measure of precaution.

(ref.m.f.(r.d.) letter no. 76(142)-cus. 1/52dt. 3.9.1953)

Where the claim is based on the certificate from the steamer agents.

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When an Importer substantiates a definite claim with an accepted claim bill or a letter or a certificate from the steamer agents showing the value of a short- landed package, the value to be assigned is that shown in such documents.

Claims for refund of duty in respect of goods pilfered, lost or destroyed.

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Scope of Sections 13 and 23 of the customs act,  
1962-clarification regarding.

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The scope of Section 13 is and 23 of the customs act, of

section 23. whereas section 13 refers to pilfered goods, section 23 applies when the goods are lost or destroyed. under section 13 the importer is not liable to pay duty if any imported goods are pilfered after unloading but before the order for clearance for home consumption or deposit in a warehouse is made. on the other hand under section 23, if the imported goods have been lost or destroyed, the duty will have to be remitted, even if the loss or destruction has occurred after the aforesaid order is made but before the physical clearance for home consumption direct or ex-bond is allowed. The two sections have to be read together and since specific remedies have been provided for the goods "pilfered" under section 13 and for goods "lost or destroyed" under section 23, it would imply that the terms 'pilfered' on the one hand and "lost or destroyed" on the other have different meanings and are mutually exclusive. the term "pilferage" will apply to goods which have been stolen and are available for consumption whereas the words 'lost' or 'destroyed' will mean that the goods have been totally lost or destroyed and are not available for consumption for example, if they are lost in a fire.

Sometimes, it so happens that though the goods have been landed, at any particular moment they are found to be untraceable. in regard to cases where it is shown that the packages are missing before the out of charge order is given, there would be no difficulty because relief can be given under provisions of section 13 of the customs act. where, however, the fact of package being missing comes to notice only at the stage of the clearance of the goods by the importer, relief under section 23 would, however, be admissible only if evidence is adduced to show that the package was missing before the out of charge order was given. relief under section 23 would, however, be admissible only if it is shown that the goods were lost or destroyed before their clearance for home consumption. if any untraceable goods are subsequently found, clearance would be allowed on payment of duty only. It has been noticed that certain customs houses insist upon the importer or his agent to specify whether the claim is being preferred under section 13 or section 23. as stated above, in the case of goods not traceable, it is seldom possible for the importers to indicate at the time of making the claim whether the goods were pilfered or lost or destroyed.



as such it may not be proper to insist on the ab-initio specification of the particular section viz., 13 or 23. (board's letter no. f. 2/3/67-cus.vi dated 23.3.68 customs

technical bulletin vol.xiv no. 1 pages 190-191)

Section 13- scope of the term "pilferage"

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According to shorter oxford dictionary which is considered authentic by high courts, pilferage means "stealing, specially in small quantities". the scope of the section is therefore, wide enough to cover pilferage's of a part of a package or entire packages. (c.b.r's d.o. letter no. 1/(4)63-gar dated 13.2.63)

scope of section 13 of the customs act, 1962 -

Claims for refund of duty on goods landed under qualified receipt-clarification regarding.

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It has come to the board's notice that claims of refund of duty on goods missing from packages landed under a qualified receipt are being rejected on the assumption that the pilferage would have occurred before the unloading of the goods and therefore, not covered by section 13 of the customs act, 1962.

(2) The Board desires that in such cases the claims of the importers should be dealt with as claims on shorthanded goods provided the shortage is established by steamer agents' survey. action on the steamer agents should also be taken under section 116 of the customs act for recovering the duty involved. Shortages noticed after the agents'survey but before the order for clearance should, however, be dealt with as pilferage in terms of section 13, customs act.

(c.b.e. & c.f. no. 2/5/69-cus.vi dated 15.5.1970)

Section 23(1)-scope of term "remission"

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Doubts have been expressed in certain quarters as to whether section 23(1) of the customs act, 1962. authorise, apart from remission of duty on imported goods that have been lost or destroyed at any time before clearance for home consumption, the payment of refund of the duty already paid on such goods. the doubt presumably arose in view of the use of the express "remission"

and not "refund" . the matter was referred to the Ministry of Law who have advised as follows:-

"The Collector's view that 'since duty has already been paid the question of remission does not arise. does not seem to be correct. under section 23,remission of duty on goods shown to the satisfaction of the assistant collector to have been lost or destroyed is mandatory. "to remit", in the context of section 23, literally means to refrain from exacting, or inflicting or executing a debt, demand, penalty etc. under that section therefore, once the assistant collector is satisfied that the imported goods have been lost or destroyed the assistant collector must refrain from exacting the duty. the refund of the duty already paid in advance in respect of goods lost or destroyed before clearance for home consumption is only a necessary consequence of remission of duty under section 23. hence if the condition laid down in section 23 is satisfied the duty paid must be refunded." The Board agrees with the above views. (board's f.no. 55/86/64-cus. iv dated 22.7.65-customs Technical bulletin vol. xi no. 3, page 362) refund/remission of duty on packages shorthanded or not traceable at the time of port

#### Clearance of goods-procedure regarding

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On the basis of the deliberations of the sub-committee appointed in pursuance of the recommendations of the customs and central excise advisory council to suggest simplification of the procedure for grant of refund/remission on goods not traceable, it has been decided that the importers should not be required to obtain the usual certificate from the port commissioners regarding shortlanding or indicating the state of goods at the time of landing and the details of the lodgment of the report regarding pilferage with the police authorities. the basis of refund will be that in cases where whole packages are not traceable prior to the grant of out of charge order by customs. the non-availability of the packages can either be due to pilferage's or due to the shortlanding and in either case the importer is not liable to pay duty.

(2) The simplified procedure applicable in cases where prior to the order of clearance whole packages are found missing will be as indicated below:-

(1) The importer will obtain an endorsement on the bill of entry from the shed superintendent indicating marks and numbers of the packages that are not available for delivery.

(2) On the basis of the endorsement of the shed superintendent the importer will prepare a part bill of entry for the packages that are not available for delivery. all particulars will be shown in the part bill of entry. however, if the packages are not uniform, it will not be necessary to indicate the value in the part bill of entry.

(3) The part bill of entry will be taken to the office of the concerned assistant collector (docks) where a record of all part bills of entry shall be maintained in the following form.

Post parcels-interpretation of the word "clearance" for determining the eligibility for remission of duty u/s 23 of c.a. '62.

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A question arose as to what continues 'clearance' in regard to postal articles for the purpose of determining relief under section 23 of the customs act. 1962. as the customs act does not indicate as to when an article imported by post is deemed to have been cleared, advice of the ministry of law was obtained, a copy of which is enclosed for information and guidance of all concerned. the d.g.p. & t., new Delhi have also concurred in the interpretation of the 'term'. 'clearance' as expounded by the ministry of law.

The term 'clearance', in accordance with the scheme of the customs act, would apply only when the goods are ready to be released from customs control i.e. when duty is paid. 'clearance' can be said to have been permitted only when the postal authorities are empowered to deliver the articles to the addresses which, in many cases, would be after payment of duty. when the goods are not liable to duty and have been handed over to the postal authorities for delivery to the addressee, they would be said to have been cleared at that stage itself.

Advice of the ministry of law vide their u.o. no. 24066/70-adv(f) dated 24.9.70.

The question for consideration is the stage at which articles imported by post can be said to have been cleared for home consumption for the purpose of determining the eligibility for remission of duty under sec.23 of the customs act. it would appear from the proceeding note that whatever be the mode of assessment, whether it is set assessment or otherwise, the duty is

paid to the postal authorities at the time the goods are delivered to the party. presumably, if the duty is not paid, the postal authorities would refuse to deliver the article to the addressee. the addressee, therefore, does not secure any control of the articles till duty is actually paid and the goods are delivered to him by the postal authorities. It may also not be correct to regard the postal authorities as the agent of the addressee, particularly in the event of his declining to accept the articles.

In the scheme of the act, the term 'clearance' would apply only when the goods, so to speak, are considered to be in a proper condition to be released from the customs' control altogether, and are merged with the general mass of the property in the country this is not possible till the duty is paid.

In the circumstances, it would be preferable to proceed upon the basis that clearance has been permitted only when the postal authorities are empowered to deliver the articles to the addressee which, in many cases, would be after the payment of the duty.

If, of course, the goods have been passed at the appraising stage as not being liable to duty and have been handed over to the postal authorities for delivery to the addressee, then they could be said to have been cleared at that stage itself.

(ref:f.no. 6/42/70-cus.vii dt. 25.3.71 from central board of excise & customs, new Delhi, file no. cvii-59/71)

Refund of import duty in respect of goods pilfered on board the steamer-clarification regarding

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 The refund of duty on goods proved to have been pilfered before the ship's arrival in India or on board the vessel before landing flows out of the premise that duty is leviable on imported goods, this would exclude levy of duty on goods lost before import. in fact refund of duty on short-landed goods is on this basis, apart from the common law premise that the duty received on short-landed goods is really not due to the government and so is refundable.

(ref. gimf (d.r.) letter f.no. 55/8/65-cus.iv, dated 3.8.65)

Section 23 of the customs act, 1962 provides for remission of duty on imported goods lost or destroyed at any time before clearance for home consumption. section 13 ibid provides that the importer shall not be liable to pay duty on goods which are pilfered after their unloading and before the

proper officer has made an order for clearance for home consumption or deposit in a warehouse except on restoration of the subject goods to him. if the importer can satisfactorily establish that the pilferage of the goods occurred prior to its unloading, he shall not be liable to pay the duty thereon. if a package is discharged in broken or empty condition and it is proved that the pilferage took place on board the vessel, refund of duty would be granted by the customs authorities. It will be noticed that the loss as it stands adequately covers the contingencies. if in any particular case, that custom house has not acted in accordance with law, it is suggested that the appellate and revisionary remedies provided in the Customs act, 1962 may be resorted to. (ref:g.i.m.f. (d.r.) letter f.no. 55/8/65-cus.iv. dated 8.6.65)

Refund of duty on part contents of packages which are found missing.

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 The Board have had under consideration a point made by the importers that they should be paid refund of duty on part contents of packages which are found missing before the out of charge order is passed by the customs. the practice so far has been that on the port trust certifying that the packages were landed in sound condition the refund is granted to the importer. wherever, however, the packages are landed in damaged condition, instead of the customs refunding the duty to the importers and then recovering the same from the steamer agents as short landing penalty the importers recover the duty from the steamer agents along with their claim for value the importers have stated that some steamer agents do not meet their claim for duty in such cases.

(2) The Board are of the view that merely because some steamer agents do not meet their obligations, it is not necessary to change the existing practice for all steamer agents because it will merely increase work all around. this question may be raised at the meeting of the local advisory committees and ask the importer's representatives to indicate the names of those steamer agents who do not fulfill their obligations. where the goods are carried by such steamer agents the custom house should pay the refund on the missing contents to the importers even if the packages were landed in damaged condition

and the duty thereon may be recovered from the steamer agents by imposition of penalty under section 116.

(3) The importer's representative have further stated that they are not in a position to ask for survey of the damaged packages prior to the passing of the out of charge order by the customs because they are not aware whether the packages were landed in damaged condition or not to meet this difficulty the port authorities may be requested to display at a central place like c.d.o. the list showing the packages landed in damaged etc. condition. the port trust representative on the local advisory committee may also be requested to do the needful.

(4) The Board also wish to reiterate that before granting refund for missing contents or for that matter for untraceable packages, the custom house should not insist upon a report having been lodged with the police. there should, however, be local arrangements with dock police that if any stolen packages are restored to the importers they should do so only after checking up with customs so that in case the duty has been refunded the same may be recovered.

(c.b.e. & c.f. no. 511/5/72-cus.vi, dated 23.5.73)

Computation of time limit u/s 13 in provisional Assessment cases.

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As per D.O. letter no. c.19/4/67ap dated 8.3.72 addressed to member (customs) on the above subject as per letter f.no.20/36/70 cus i, dated 15.3.72 it is clarified that the provisional assessment is provisional not only in respect of classification and valuation but also in all respect, and therefore, the practice followed by some customs houses in computing the time limit from the date of final assessment only ignoring the secondary stage of assessment at which recovery more appropriate to the circumstances of each importation is effected, is correct. In view of this there would not be any case for with- holding refunds on the ground of shortlanding by computing the time limit from the date of the second stage assessment, even though the final assessment has still to be completed. the board desires that pending claims may now be finalised accordingly.

## MISCELLANEOUS

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Refunds in cases of reshipment of prohibited goods  
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The Government of India, while recognising that the practice of refunding the whole import duty on goods subsequently re-exported on account of breach of the provisions of the merchandise marks act or other enactment's prohibiting the importation of goods as technically incorrect, as in such cases the goods being strictly liable to duty under the sea customs act (now customs act '62) the importer is legally entitled on re-export only to a refund of 7/8ths of the duty paid. as provided in section 42 of the sea customs act, (now 98% u/s 74 c.a. '62) have ruled that when re-export of goods have been ordered on account of the breach of the provisions as aforesaid the whole of the duty paid should be refunded. the import of the goods being prohibited, the government of India do not consider it equitable that any portion of the duty should be retained by government on their re-export specially as the goods which are so allowed to be re-exported are usually imported in good faith.

All such re-exports must be supervised by a preventive officer and refund shall be allowed only after examination the duplicate shipping bill under which the re-shipment was effected. if this shows that an advice of re-shipment has been issued to an outport, the claim should be held over until the outport's report that the goods were on board at the time of the vessel's departure for foreign ports is received from the export department. note: where the importer decides to re-ship for reasons other than because the importation of the goods has been prohibited, full duty should be taken and shipment allowed under the ordinary drawback procedure, unless the goods have been entered for bond. (c.b.r.r. dis. no. 717/cus./25 of 24th July, 1925)

Refund of duty and re-shipment fine if goods are not re-shipped  
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The Board is advised that where the goods are ordered to be confiscated under the customs act but an option is given to the party to re-ship the goods on payment of fine and the party fails to re-ship the goods within the time limit specified in the adjudication order the reshipment fine is refundable because the payment of the fine is a condition attaching to the shipment of the goods. while it could be held that where reshipment has taken place, import has also technically taken place and as such duty is payable and only a drawback is

normally admissible. the board agrees on general grounds of equity that the duty should be refunded in full both where such reshipment is effected and where it is not. the board further confirms that the refund in cases of the nature referred to above may be granted by the collectors without reference to the board

(c.b.r. no. 39(90)-54-cus.iv dated 13.10.55.customs  
rechnical bulletin, vol. i no. 3 page 58)

Extra duty and refund-same bill of entry adjustment of.

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When refund and extra duty are not involved in the same bill of entry, adjustment may be effected in one operation. the refund vouchers must, for the information of the statistical department be clearly endorsed to show that adjustment is being made in one operation. in cases where excess collection is higher than short collection, the appraising department should indicate the items of the tariff, if adjustments relate to different items. in cases of recovery also the same action should be taken for statistical purposes.

The importer must invariably be served with a notice of demand for extra duty recoverable from him within three months (now six months) from the date of payment of duty and before adjustment and informed that the extra duty is being deducted from the amount of refund due to him.

(c.b.r. letter no. 45(14)-cus.i dated 14.3.54)

Safeguards against double refunds of countervailing duty.

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The central board of excise and customs have prescribed the following procedure for coordinating grant of proforma credit under rule 56-a of the central excise rules, 1944 and refund of countervailing duty of customs .

(i) While presenting the bill of entry for clearance of any goods chargeable to counter valuing duty for which he intends to avail proforma credit under rule 56-a . the importers should subscribe to a declaration on all copies of the bill of entry that he intends to avail of proforma credit under rule 56-a of the central excise rules, 1944 in respect of the goods covered by the bill of entry. he should also state the name and address of the factory and address of the jurisdictional superintendent of central excise in-charge. the importer's declaration will be confirmed by the customs house by pin-point type-writing on all copies of the bill of entry including the triplicate copy of the importer.

(ii) Where the importer has given a positive declaration, the



concerned central excise officer may grant proforma credit on the strength of bill of entry without any reference to the custom house. the custom house will not grant refund of countervailing duty on such bill of entry unless the importer produces a confirmation from the superintendent of central excise concerned that proforma credit has not been given or the account of the manufacturer has been debited to the extent of refundable amount.

(iii) If the importer has given no such declaration the central excise officer will not grant proforma credit unless he has informed the custom house and has verified from the custom house that no refunds has been granted in respect of the countervailing duty. on receipt of such an intimation the custom house will keep a suitable note on its copy of the bill of entry and will not sanction any refund of the countervailing duty in future unless the importer produces a confirmation from the superintendent of central excise that proforma credit account of the manufacturer has been debited a sanctioned by the custom house before the receipt of letter from the central excise officer, the custom house will send him the particulars of refund and the central excise officer will then allow proforma credit of the net amount only after deducting the amount refunded.

(iv) In cases where no such declaration appears on the bill of entry, the custom house will sanction refund of countervailing duty if the without making any enquiry about proforma from the central excise officer about the particular bill of entry.

(boards letter no. 2/20/68-cix dated 16.11.68)

Note: As regards (i) the confirmation of the importers declaration will be done by the Deputy Office Superintendent of the Appraising refund section. The Deputy office superintendent should personally check up whether the requisite declaration is given by the importers in cases where countervailing duty was being paid and if so he should confirm the same by having pinpoint type-writing on all copies of the bill of entry just below the declaration in the following manner. "the above declaration is confirmed.

(full signature and date)  
for Assistant collector of customs

Note (ii).-Attention is invited to para (ii) above wherein it has been laid down that "where the importer has given a positive declaration. the concerned central excise officer may grant proforma credit on the strength of the bill of entry without any reference to the custom house. "the matter has

been re-examined, and it has now been decided by Board that the custom house concerned should straightway send intimation to the concerned central excise formation about the positive declaration made by the importer on the bill of entry with regard to his intention to avail of proforma credit under Rule 56-a of the Central Excise Rules, 1944 in respect of the goods covered by that Bill of Entry all such intimation about the positive declarations made by the credit will be admitted only after due verification of positive declaration on the bill of entry with the intimations received from the customs house, where, however, no such intimation has been received from the custom house, due verification from the custom house concerned should made before proforma credit is allowed.

(boards f. 2/20/68 cx. 6 dated 15-12-1969)

Note (iii):-It has been observed from the reports received from the collectors of central excise that there have been delays in many cases in receiving intimations of positive declarations from the custom houses. the trade has also been persistently complaining against the delays as the assesses are not able to take credit of countervailing duty in their proforma accounts unless the intimation about positive declarations from the custom houses is received by the concerned central excise officers. the matter has, therefore, been reconsidered and it has been decided that instructions issued under f.no. 2/20/68-cx.i dated 16th November, 1968 may be followed and the proforma credit given on the strength of the bill of entry indicating positive declaration without receiving an information from custom houses. custom houses, however, should continue to send intimation about positive declaration made by an assesee and central excise officer should get in touch with the concerned custom houses in cases in intimation is not received within three months of the intimation of receipt of goods sent by the assessee working under proforma credit procedure. if in any case it is found that a positive declaration was not made in the bill of entry and the assessee has taken credit of countervailing duty, the necessary demand should be raised. collectors should specifically report the working of this aspect of the procedure regarding receipt of intimation in case any difficulty is experienced.

(c.b.e. & c.f. no.6/23/70-cx.6,dated 4-12-1972)

Issue of refund order in respect of countervailing

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 duty by the different groups?units of the customs  
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house-checking up with a key register in the

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 refund section before a refund order is issued-  
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procedure regarding.  
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In view of the fact that the central excise authorities grant proforma credit on the basis of a certificate issued by the refund section to the effect "the no claim for refund of countervailing duty has been made against a particular bill of entry, the following procedure should be adopted by all the sections concerned before issuing any refund order in respect of refund of countervailing duty."

Before issuing any refund order, the Group/units concerned should ensure from the key register maintained in the appraising refund section that no such amount of refund etc. such entry will enable the custom house to see that no certificate is issued to the central excise department, on receipt of a similar enquiry from them. the groups/units should also ensure that necessary notes have been kept in the key register of the refund section, before a refund order is issued.

Refund of fines, penalties or duties arising from decision in appeals/revision petition in customs cases-expeditious payments of

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 In all cases when an appellate of revisionary order results in a refund of duty, penalty or any other charge paid by the appellant or the applicant, refund order should invariably be issued within a week from the date of issue of the order in appeal by the Appellate Collector of Customs, or from the date of receipts in the custom house of the board's orders in appeal, or government of India's orders on revision application.

(board's f.no. 24/2/65-cus.iv dt. 16.9.65)

Refunds of duty allowed by the board/government of India in their orders in appeal/orders in revision-expeditious disposal-instruction regarding

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 To ensure expeditious refund of fines and penalties arising out of orders in appeal or revision a register in the appended proforma should

be maintained by the appraising refund section. It shall be the responsibility of the ministerial supervisory head of the concerned department to submit this register once a week with an abstract to the Assistant Collector for scrutiny of cases where refund order have not been issued within 15 days from the date of receipt of the orders in appeal or revision petition. in cases of delay over 15 days the Assistant collector should take suitable measures for expediting the action involved. Register of refunds arising out of orders in appeal revision petition

- (1) S.no.
- (2) Date of receipt of appeal/revision petition order
- (3) Appeal/revision petition order no.
- (4) Name of appellant/petitioner.
- (5) Custom house file no.
- (6) Date of issue of refund order.
- (7) Signature of supervisory head
- (8) Remarks.

#### Weekly abstract

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Number of cases pending for more than 15 days as on Monday the ..... are.....0000extract from (m.f.(d.r.)f.no. 39/29/61-cus iv dated 16.8.61-customs technical bulletin, vol.vii no. 3 page 311).

Note (i) -Similar action should be taken in respect of cases where refund of duty, fine or penalty has been allowed by the appellate collector on appeal and these cases should be entered in the same register.

Note (ii)-Deputy Superintendent of the concerned section will be personally responsible to see that the weekly report is submitted to the assistant collector on Monday in order that the assistant collector is in a position to submit a report to collector on the same day after making a review of the cases.

Note (iii)- Refund of duty should be noted on the original copy of the bill of entry. where, however, the original bill of entry is not available, the duplicate bill of entry may be noted and refund action taken thereon, provided it is verified from the accounts and cash department that no previous payment was made in respect of the same bill of entry on the original copy. When such refund action is taken in duplicate bill of entry, the concerned department should first verify from the register maintained by them and certify

that not refund orders was issued against the same bill of entry before the file is referred to accounts/cash for further verification. similar verification should be made where both the original and the duplicate copies of the bill of entry are not available and the original copy is reconstructed for noting of refund.

(c.b.r. letter no. f.39/45/60-cus iv dated 17.5.61)

Note (iv) - The Board has decided that noting the refund in the original bill of entry would satisfy the requirements of t.r. 400 and the refund claim need not be delayed merely for noting on duplicate bill of entry. (C.b.r. Letter no. F.39/101-56-cus. Iv dated 10.8.57)

Standing orders issued by the Bombay customs house  
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1978

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1. S.o. No. 6645                      dated 7-3-1978  
Sub:- Refund claims in respect of goods cleared from

bond-

1988

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1. S.o. No. 6870                      dated :- 19.2.1988  
Sub;- Issue of refund order and encashment by the cash

section.

2. S.o. No. 6872                      dated :- 22.3.1988  
Sub;- Instructions regarding refund procedure when original bills of entry are not traceable.

3. S.o. No. 6875                      dated :- 7.7.1988  
sub;- Production of triplicate bills of entry in refund

cases.

1989        ----

1990        ----

1991        ----

1992        ----

S.o.no. 7024                      dated:- 30-11-92

Sub:- Instructions regarding the type of claims to be processed by the refund section.