



सत्यमेव जयते

भारत सरकार / Government of India
 वित्त मंत्रालय / Ministry of Finance
 आयुक्त सीमाशुल्क एन.एस.-II का कार्यालय
 Office of Commissioner of Customs NS-II
 Jawaharlal Nehru Custom House, Nhava Sheva,
 Dist.- Raigad, Maharashtra - 400 707



F No CUS/DBK/SCN/6/2026-DBK/NS-II/JNCH

Date- 29.01.2026

SCN No.: 1916 | 2025-26 | ADC/DBK/NS-II/CAC/JNCH

DIN:

SHOW CAUSE NOTICE UNDER SECTION 124 OF THE CUSTOMS ACT, 1962

Subject: Show Cause Notice under Section 124 of the Customs Act, 1962 to the exporter M/s Gharda Chemicals Ltd. for recovery of erroneously sanctioned Special Brand Rate Duty Drawback vide F. No. S/12-Gharda-BR-219/2019-20 DBK/JNCH dated 04.12.2019- reg.

BRIEF FACT OF THE CASE

M/s Gharda Chemicals Ltd. (hereinafter referred to as "the Exporter"), having IEC- 0388080680, situated at Gharda House, 48, Hill Road, Brandra West, Mumbai- 400050, had filed application for fixation of Special Brand Rate of Duty Drawback of under rule 7(1) of the Customs and Central Excise Duty Drawback Rule, 2017, vide exporter's application no. OM/Gharda/01/24/19-20 dtd 11.09.2019.

2. Accordingly, Special Brand Rate of Duty Drawback amounting to Rs. 7,89,81,074/- was fixed by the competent authority in respect of the aforesaid restricted quantity. The Special Brand Rate fixation letter was issued vide F. No. S/12-Gharda-BR-219/2019-20 DBK/JNCH dated 04.12.2019 (RUD-1).

3. AUDIT OBSERVATION:

During the audit conducted by the Audit Department, an audit objection was raised vide Audit Memo No. 68/Audit Para No. 04 (RUD-II), involving tax effect of Rs. 7,89,81,074/-, on the ground of incorrect payment of Special Brand Rate Duty Drawback. Vide the audit objection, the Audit Department expressed their audit as below-

"Para 'c' of Circular No. 38 / 2017 dated 22.09.2017 stipulates that, for claiming general AIR duty drawback the relevant tariff item number of goods have to be suffixed with suffix 'B' in shipping bill e.g. in instant case export of goods covered under tariff item 380899, the drawback serial No. should be declared as 380899B. Further, para 2 of Annexure-1 attached to Circular No. 29/2015-Customs dated 16/11/2015, recommends that, the exporter opting for claim of brand rate under Rule 7 of Drawback Rule 1995 shall declare the figure 9807 as identifier along with tariff item number of goods followed by character 'B' in shipping bill under drawback details e.g. in instant case export of goods covered under tariff item 8702, the drawback identifier should be declared as 9807380899B. Also, rule 7(1) of Customs and Central Excise Duties Drawback Rules, 2017, stipulates

that where, in respect of any goods, the exporter finds that the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, for the class of goods is less than eighty per cent of the duties paid on the materials or components used in the production or manufacture of the said goods, he may, except where a claim for drawback under rule 3 or rule 4 has been made, within three months from the date relevant for the applicability of the amount or rate of drawback in terms of sub-rule (3) of rule 5, make an application to the Principal Commissioner of Customs or Commissioner of Customs.

The competent authority vide O-I-O No. F.No. 5/12- Gharda-BR-219/ 2019-20-DBK/JNCH dated 04.12.2019, sanctioned DBK claim of ₹7,89,81,074.

Audit scrutiny of DBK claim documents and Shipping Bills revealed that in 78 number of Shipping Bills against which Brand rate DBK claim of ₹7,89,81,074 (including AIR claim of ₹2,97,27,359/-) was sanctioned, para 2 of Annexure-1 attached to Circular No. 29/2015- Customs dated 16/11/2015 was not complied with. In all the 78 shipping bills, the exporter had claimed drawback under Tariff Item 380899B of the schedule in terms of Rule 3 of the Drawback Rules commonly known as the All Industry Rate of drawback. For claiming special brand rate under Rule 7, the exporter was required to claim drawback under tariff identifier 9807380899B.

Exporter had to decide at the time of the export of the goods whether to claim drawback at the notified rate under Rule 3, or at the Brand Rate under Rule 7 by using prescribed tariff identifier. Once drawback claim has been preferred under rule 3, thereafter the exporter cannot make a claim for the determination of the Brand Rate of drawback under Rule 7. Therefore, the drawback of an amount of ₹ 4,92,53,715 (excluding AIR claim of ₹2,97,27,359/-) claimed by exporter and allowed by the department under Rule 7 is irregular and should be recovered."

4. RELEVANT LEGAL PROVISIONS:

The legal provisions relevant to the present case are as under:

(A) Circular No. 38/2017-Customs dated 22.09.2017

"c) For claiming drawback under the All Industry Rates, the exporter shall declare the drawback serial number corresponding to the tariff item of the exported goods as given in the Drawback Schedule. The drawback serial number shall be suffixed with the character 'B'."

(B) Circular No. 29/2015-Customs dated 16.11.2015

"2. For shipping bills filed on or after 23.11.2015, the exporters opting for claim of brand rate under rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 shall declare the figure 9807 (instead of 9801) as an identifier in the shipping bill under the drawback details. Immediately after the said identifier, the tariff item number of goods as shown in column (1) of the Schedule shall be declared followed by the character 'B'."

(C) Rule 7(1) of the Customs and Central Excise Duties Drawback Rules, 2017

"7. Brand rate of drawback. – (1) Where in respect of any goods, the exporter finds that the amount or rate of drawback determined under rule 3 or, as the case may be, revised under rule 4, for the class of goods is less than eighty per cent. of the duties

paid on the materials or components used in the production or manufacture of the said goods, he may, except where a claim for drawback under rule 3 or rule 4 has been made, within three months from the date relevant for the applicability of the amount or rate of drawback in terms of sub-rule (3) of rule 5, make an application to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, having jurisdiction over the place of export, for determination of the amount or rate of drawback thereof stating all relevant facts including the proportion in which the materials or components or input services are used in the production or manufacture of goods and the duties or taxes paid on such materials or components or input services."

(D) Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017

"17. Repayment of erroneous or excess payment of drawback and interest. – Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper 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)."

(E) Section 75A(2) of the Customs Act, 1962

"(2) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay, in addition to the said amount of drawback, interest at the rate fixed under section 28AA and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback."

5. FINDINGS ARISING FROM THE AUDIT:

a) From the aforesaid facts, audit observations vide Audit Memo No. 68/Audit Para No. 04, and legal provisions, it is evident that the exporter has incorrectly filed a Special Brand Rate claim despite having claimed AIR in the shipping bill and without mentioning the mandatory identifier "9807" in the drawback declaration, as required under Circular No. 29/2015-Customs dated 16.11.2015 for filing Special Brand Rate claims under Rule 7(1) *ibid*. Accordingly, the drawback amount of Rs. 7,89,81,074/- (excluding the eligible AIR Drawback) sanctioned to the exporter is recoverable under Rule 17 of the Duty Drawback Rules, 2017, along with applicable interest under Section 75A(2) of the Customs Act, 1962.

6. Now, therefore, the exporter M/s Gharda Chemicals Ltd., having IEC-0388080680, is hereby called upon to show cause to the Additional Commissioner of Customs, Adjudication Section (CAC), NS-II, JNCH, within 30 days of receipt of this notice, as to why:

i) the erroneously paid Special Brand Rate Duty Drawback of Rs. 7,89,81,074/- (excluding the eligible AIR Drawback) should not be recovered under Rule 17 of the Drawback Rules, 2017;

ii) interest payable thereon should not be recovered under Section 75A(2) of the Customs Act, 1962; and

7. The noticee is required to specifically mention in their written reply as to whether they wish to be heard in person before the case is decided. In case the noticee does not submit a written reply within the aforesaid period or if they fail to attend the personal hearing, whenever it is fixed by the adjudicating authority, the case will be decided on the basis of material evidence available on record, ex-parte, without any further reference to them.

8. This Show Cause Notice is issued without prejudice to department's right to amend, modify, supplement and revise the Show Cause Notice with additional facts in support of allegation contained in the Show Cause Notice. This Notice is issued without prejudice to any other action that may be initiated against the noticee or any other person under the Customs Act, 1962 or any other Act or law for the time being in force in India in relation to the goods covered in this Show Cause Notice also.

Digitally signed by
Wagh Chittaranjan Prakash
Date: 29-01-2026 17:40:24

CHITTARANJAN PRAKASH WAGH
Additional Commissioner of Customs
Drawback Section, NS-II, JNCH

To,
Noticee:

M/s Gharda Chemicals Ltd. (IEC- 0388080680),
Gharda House, 48, Hill Road,
Brandra West, Mumbai- 400050, ✓

Received Party copy
Prathant
30/1/2026

Copy to:

1. - The Commissioner of Customs, NS-II, JNCH;
2. - Asstt. Deputy Commissioner of Customs, CAC Section, JNCH;
3. - Asstt./Deputy Commissioner of Customs, IAD Section, JNCH;
4. - CHS Section (to display on notice board); R-17
5. - EDI Section (to upload on website);
6. - Office Copy.

Annexure - I
(Relied Upon Documents)

Sr. No.	List of Relied Upon Documents
RUD-I	Brand Rate Fixation Order/letter
RUD-II	Audit Objection Memo

