



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.: 1918/2025-26/AJCL/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-323/2018-19 DBK/JNCH dated 05.09.2018- 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 claim dated 14.06.2018 for the period 14.06.2017 to 30.09.2017.

2. Accordingly, Special Brand Rate of Duty Drawback amounting to Rs. 3,09,82,284/- 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-323/2018-19 DBK/JNCH dated 05.09.2018 (RUD-1).

3. **AUDIT OBSERVATION:**

During the audit conducted by the Audit Department, an audit objection was raised vide Audit Memo No. 56/Audit Para No. 05 (RUD-II), involving tax effect of Rs. 3,09,82,284/-, 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 must be suffixed with 'B' in shipping bill. Further, para 2 of Annexure-1 of Circular No. 29/2015-Customs dated 16/11/2015, specifies 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.

Further, 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 is less than eighty per cent, he may, make an application to the Principal Commissioner of Customs or Commissioner of Customs 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, except where a claim for drawback under rule 3 or rule 4 has been made.

During audit examination of the Drawback claim file in respect of M/s GHARDA CHEMICALS Ltd (F.No. S/12- GHARDA-BR-323/18-19/DBK/JNCH), it was noticed that the exporter has applied for Drawback under Rule 7(1) of Customs and Central Excise Duties Drawback Rules, 2017 and the claim of ₹3,09,82,284 was sanctioned for the export of the restricted quantity of goods 259800 (IN KGS), to be exported during the validity period 14.06.2017 to 07.09.2017 vide 02 shipping bills and the department had granted duty drawback of amount of ₹3,09,82,284 to the exporter.

Further audit scrutiny revealed that, as per the Shipping Bill no.-6729619 dated: 14.06.2017 and Shipping Bill no.-8517257 dated: 07.09.2017, exporter had claimed the drawback under Drawback tariff identifier 3808B of the schedule in terms of Rule 3 of the Drawback Rules commonly known as the All-Industry Rate of drawback.

As the exporter had initially filed claim of duty drawback based on All Industry rate as per rule 3 of the drawback rules, the claim of duty drawback under rule 7(1) after export of goods was irregular. Thus, non-observance of the Rule 7(1) has resulted into incorrect sanction of duty drawback of ₹3,09,82,284."

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:

From the aforesaid facts, audit observations vide Audit Memo No. 56/Audit Para No. 05, 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. 3,09,82,284/- (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.SCN

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. 3,09,82,284/- (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 notice 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 17:34:43
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, ✓

Keval and Parity Copy
Prashant
30/11/2026

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);
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

