

sd / 5.7.2007

***** (SANJEEV
BEHARI)

COMMISSIONER OF CUSTOMS (X)*****

*****JNCH,
NHAVA SHEVA.

Encl: Circular No. 64/2003-Cus. dated 21st July, 2003

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21st July, 2003

F.No.605/142 /2002-DBK
Government of India
Ministry of Finance
Department of Revenue

Sub: Limit for payment of agency commission on exports - reg.

It has been observed that some Indian exporters appoint agents abroad for securing their export contracts and such agents are paid agency commission as a percentage of the f.o.b. value by the Indian exporters. For various Export Promotion Schemes including Duty Drawback and DEPB, the f.o.b. value is reckoned for granting the export benefits. In terms of the Policy Circular No.55(RE-98) 98-99, dated 10.12.98 of the Director General of Foreign Trade, it has been prescribed that the foreign agent's commission upto the specified limit prescribed by the Reserve Bank of India be included in f.o.b. value for calculating DEPB entitlement. In this regard the Department of Revenue permits duty drawback benefits to the exporters on the element of agency commission.

2. Customs field formations so far have been permitting agency commission to the extent of 12.5% of the f.o.b. value by following RBI's Circular No.AD (MA Service) 17, dated 19.5.1999.
3. However, of late, instances have been noticed where the Indian exporters are paying agency commission much higher than the above limit, which in some cases has exceeded even 50% of the f.o.b. value. Doubts have arisen in the minds of the field officers whether in the wake of Circular No. 12, dated 9.9.2000, issued by the RBI, the limit of 12.5% of the f.o.b. value regarding payment of agency commission is superseded.
4. The issue has been examined in the Board. It is observed that RBI has not revised its earlier instructions as regards the limit of payment of agency commission. Therefore, it is clarified that the field formations may continue to permit export benefits on f.o.b. value without deducting agency commission if such commission is upto the limit of 12.5% of f.o.b. value. Agency commission exceeding this limit should be deducted from the f.o.b. value for granting export benefits under Drawback/DEPB/Advance Licences /DFRC Schemes.
5. Suitable standing orders for guidance of the staff may kindly be issued accordingly.
6. The receipt of this Circular may kindly be acknowledged.

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