

F. No. 609/46/2017-DBK
Government of India
Ministry of Finance, Department of Revenue
Central Board of Excise & Customs

New Delhi, dated 30th June, 2017

To,
Principal Chief Commissioners / Principal Directors General,
Chief Commissioners / Directors General,
Principal Commissioners / Commissioners,
all under CBEC

Madam/Sir,

Subject: Fixation of Brand Rate of drawback under Rule 6 and Rule 7 of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995 in the GST scenario

As you are aware, in terms of Rule 6 and Rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, the work pertaining to fixation of Brand rate of Drawback is undertaken by the Central Excise Commissionerate having jurisdiction over the factory where export goods are manufactured. In this context, Board's Circular No. 14/2003-Cus dated 6.3.2003, DO letter No. 609/110/2005-DBK dated 26.8.2005, Instruction No. 603/01/2011-DBK dated 11.10.2013, Circular No. 29/2015-Cus dated 16.11.2015 and Circular No. 54/2016-Cus dated 22.11.2016 governing the procedure for handling of Brand rate work may be referred. Once the Brand rate letter (provisional or final) is issued by such Commissionerate, the respective ports of export are required to calculate and disburse the drawback amount to the exporter. This Circular explains the changes being brought about in Brand rate mechanism in the context of introduction of Goods and Services Tax (GST) w.e.f. 1.7.2017.

2. The input tax incidence of taxes covered in GST regime are to be neutralized through the refund mechanism provided through the GST laws. At the same time, a transition period of three months from date of introduction of GST has been provided i.e. from 1.7.2017 to 30.9.2017 by continuing the extant Duty Drawback scheme and amending the Drawback Rules, 1995 vide Notification No. 58/2017-Cus (N.T.) dated 29.6.2017. For exports made during this transition period, the exporter can claim All Industry Rate (AIR) or Brand rate of drawback for Customs, Central Excise Duties and Service Tax subject to certain additional conditions. These conditions aim to ensure that the exporter simultaneously does not avail input tax credit of Central Goods and Services Tax (CGST) or Integrated Goods and Services Tax (IGST) on the export goods or on inputs and input services used in manufacture of export goods or claim refund of IGST paid on export goods. Further, an exporter claiming drawback during transition period as per extant duty drawback provisions shall also be barred to carry forward Cenvat credit in terms of the CGST Act, 2017 on the export goods or on inputs or input services used in manufacture of export goods. The exporter also has to give the prescribed declaration and certificates (similar to declaration and certificate prescribed in Notification No. 59/2017-Cus (N.T.) dated 29.6.2017 for claiming composite AIR during transition time) at the time of application for fixation of Brand rate of drawback. At the same time, the exporter has the option of claiming the Brand rate of Customs duties and remnant Central Excise duties (in respect of goods given in Fourth Schedule to Central Excise Act, 1944) and avail input tax credit of CGST or IGST or refund of IGST paid on exports.

3. Further, in view of implementation of GST, Board has decided to re-organise the Customs functions hitherto handled by Central Excise formations. In this context, it has been

decided that w.e.f. 1.7.2017, the work pertaining to fixation of Brand rate will be dealt by the Customs Commissionerate having jurisdiction over the place of export from where the export of goods has taken place. In case the exports have taken place from more than one place, exporter shall file Brand rate application with the Principal Commissioner/ Commissioner of Customs having jurisdiction over any one of the places of export. Accordingly, Rule 6 and Rule 7 ibid have been suitably amended vide Notification No. 58/2017-Cus (N.T.) dated 29.6.2017.

4. All Circulars/instructions issued till date w.r.t. fixation of Brand rate shall mutatis mutandis apply for work of fixation of Brand rate to be done by Customs formations in the GST scenario. However, verification of data given in the application if so required shall be got done through the Customs formation having jurisdiction over the factory where the export goods have been manufactured.

5. From 1.7.2017, all fresh applications for Brand rate of drawback irrespective of date of export will be dealt as per these guidelines. The applications already filed with existing Central Excise formations prior to 1.7.2017 and pending shall be transferred along with all relevant documents to the Principal Commissioner/ Commissioner of Customs having jurisdiction over the place of export. In case an already filed application relates to exports from multiple places, the application should be transferred to the Principal Commissioner/ Commissioner of Customs having jurisdiction over any one of the places of export as per choice of the exporter. The exporter concerned may be requested to indicate his choice in this regard before the transfer of his application. For smooth transition of Brand rate related work to Customs formations, it is essential that transfer of documents is undertaken carefully and in close coordination with concerned Customs authorities without disruption, delay etc.

5.1 Some of the Customs formations are at present working under the jurisdiction of Commissioners of Central Excise. It may be noted that Central Excise officers have been designated as officers of Customs under the Customs Act, 1962. Accordingly, till the time jurisdictional Commissionerates of Customs, which will replace Central Excise Commissionerates hitherto performing Customs functions, are notified and become functional, the jurisdictional Central Excise Commissionerates shall continue to discharge Customs functions as required under the Drawback Rules 1995.

6. Suitable Public Notices for information of the Trade and Standing Orders for guidance of the staff may be issued.

7. Problems or difficulty which may be encountered in implementing the Brand Rate fixation work may please be brought to the notice of Board.

Yours faithfully,

(Nitish K. Sinha)
Joint Secretary to the Government of India