

Export Promotion Schemes

1. Duty Drawback Scheme:

Under Duty Drawback Scheme relief of Customs and Central Excise Duties suffered on the inputs used in the manufacture of export product is allowed to Exporters. The admissible duty drawback amount is paid to exporters by depositing it into their nominated bank account. Section 75 of the Customs Act, 1962 and Section 37 of the Central Excise Act, 1944, empower the Central Government to grant such duty drawback. Customs and Central Excise Duties Drawback Rules, 1995 have been framed outlining the procedure to be followed for the purpose of grant of duty drawback (for both kinds of duties suffered) by the Customs Authorities processing export documentation.

2. Under Duty Drawback Scheme, an exporter can opt for either All Industry Rate (AIR) of Duty Drawback Scheme or brand rate of Duty Drawback Scheme. Major portion of Duty Drawback is paid through AIR duty Duty Drawback Scheme which essentially attempts to compensate exporters of various export commodity for average incidence of customs and Central Excise duties suffered on the inputs used in their manufacture. Brand rate of duty drawback is granted in terms of rules 6 & 7 of Customs and Central Excise Duties Drawback Rules, 1995 in cases where the export product does not have any AIR or duty drawback rate, or where the AIR duty drawback rate notified is considered by the exporter insufficient to compensate for the Customs/Central Excise duties suffered on inputs used in the manufacture of export products. For goods having an AIR the brand rate facility to particular exporters is available only if it is established that the compensation by AIR is less than 80% of the actual duties suffered in the manufacture of the export goods.

3. Duty Drawback facilities on re-export of duty paid goods is also available in terms of Section 74 of Customs Act, 1962. Under this Scheme part of the customs duty paid at the time of import is remitted on re-export of the goods subject to identification and prescribed procedure being followed.

A. Scheme for All Industry Rate(AIR) of Duty Drawback:

4. AIR of Duty Drawback for a large number of export products are notified every year by the Government after an assessment of average incidence of Customs and Central Excise duties suffered on Inputs utilized in the manufacture of export products. This facility is generally availed by the

exporters as no proof of actual duties suffered on inputs used is required to be produced.

5. After announcement of Union Budget every year, new AIR of drawback are notified every year usually with effect from 1st June, after factoring in the changes in duty rates effected by the budget. The Directorate of Drawback requests all Export Promotion Councils/Associations, etc. to collect, collate and furnish representative data in respect of the existing export products as also for any new product which the Councils feel have sufficient export from the country. After the announcement of the Budget various Export Promotion Council/Associations are also consulted by the Joint Secretary (Drawback), and their suggestions as well as their requests and justification for suitable enhancement of rates and also any changes sought in the scheme of the Drawback Table or the entries therein are taken note of while finalizing and announcing new AIRs.

6. The AIRs are generally fixed as a percentage of FOB price of export product. Often very good export prices are obtained for a product or class of products which have no co-relation with the actual duties suffered on inputs used – which is sought to be refunded to Exporters as drawback. In order to safeguard Government revenue but also be fair to exporters, reasonable duty drawback caps have been imposed in respect of many export products having rates on FOB basis. These caps essentially reflect the average duty incidence suffered on the inputs used in the manufacture of the particular goods exported by several exporters with different prices and they are fixed on the basis of data supplied by the export promotion councils and collected by Directorate from other sources.

7. The duty drawback claim scrutiny, sanction and payment in 23 Custom Houses is now done through the Electronic Data Interchange (EDI) System. This system facilitates credit/disbursal of drawback within 72 hours from the date of shipment and electronic filing of Export General Manifest (EGM) in respect of related aircraft/vessel, directly to the exporter's, accounts in the specified bank branches.

8. Customs notification Nos. 29/2001(NT) dated 1.6.2001 and 30/2001(NT) dated 22.6.2001 refer for ascertaining the details of current All Industry Rates of drawback for various export products.

B. Brand Rate of Duty Drawback Scheme:

9. In respect of export products where AIR of duty drawback is not notified or where the AIR of duty drawback is considered by the exporter to be insufficient to fully neutralize incidence of duties suffered on the inputs utilized in the production/manufacture of the export product, the exporters opt for Brand Rate Duty Drawback Scheme. Under this Scheme, the exporters are compensated by paying the amount of Customs & Central Excise Duty incidence which is actually incurred on the inputs used in the manufacture of export products. For this purpose, the exporter has to produce documents/proof about the actual quantity of inputs utilized in the manufacture of export product along with evidence of payment of duties thereon.

10. The exporter has to make an application to the Directorate of Drawback in prescribed format along with enclosures (in the form of 3 drawback statements called DBK-I, II & III), within 60 days from the date of export of goods. The application has to be submitted to Directorate of Drawback with copies to the concerned Central Excise Commissionerate which has jurisdiction over the factory of production of export product. The Central Excise Authorities conduct verification of the authenticity/fact of utilization of inputs/payments of duties on the inputs on the basis of records maintained by the factory of the exporter, current production of identical goods, if being effected, etc. A verification report has to be sent to the Directorate of Drawback. The Directorate of Drawback, on the basis of verification report and other relevant documents submitted by the exporter, process and issue drawback Brand Rate Letter to the exporter on the basis of which the concerned Custom House (from where the goods were exported) makes payment of duty drawback. The Brand Rate Letter may be valid for particular export shipment or series of shipment and may also be extended for future shipments for one or more ports on request subject to proof of availability of related raw materials and duty evidence, etc., when verification was carried out.

C. Simplified Scheme of Brand Rate:

11. Under Brand Rate of Duty Drawback Scheme, a “Simplified Scheme” is also available to limited companies and registered partnership firms. Under this Scheme, a rate letter for duty drawback is issued prior to receipt of verification report from the jurisdictional Central Excise Authorities on the basis of application made by the exporter subject to certain certification etc. For this

purpose, besides application in the prescribed format along with enclosures, the exporter is also required to submit Chartered Accountant/Chartered Engineer's certificate about the authenticity of consumption pattern and duty payments as claimed. An indemnity bond undertaking to pay back the duty drawback being claimed by him if it is found later on verification that the drawback amount paid to him is in excess of the admissible amount, has also to be furnished. In all cases where duty drawback is paid under Simplified Scheme, after receipt of the verification report from jurisdictional Central Excise Authority, the veracity of the application is counter checked with the said verification report and recovery action taken, where ever found necessary.

D. Section 74- Drawback:

12. In case of goods which were earlier imported on payment of duty and are later sought to be re-exported within a specified period, customs duty paid at the time of import of the goods with certain cut can be claimed as duty drawback by the exporter at the time of export of such goods. Such duty drawback is granted in terms of Section 74 of the Customs Act, 1962 read with Re-export of Imported Goods (Drawback of Customs Duty) Rules, 1995. For this purpose, at the time of import, the identity particulars of the goods are recorded at the time of examination of import goods; at the time of export, cross verification of the goods under export is done with the help of related import documents to ascertain whether the goods under export are the very ones which were imported earlier.

13. Where the goods are not put into use after import, 98% of duty drawback is admissible at the maximum under Section 74 of the Customs Act, 1962. In cases where the goods are put into use in India after import (and prior to its export), duty drawback is granted on a sliding scale basis depending upon the extent of use of the goods. No duty drawback is available if the goods are put into use for a period exceeding 36 months after import. Application for duty drawback is required to be made within 3 months from the date of export of goods.

E. Limitations on Drawback Admissibility:

14. The Customs Act lays down certain limitations and conditions which exporters claiming drawback have to meet/fulfill. Thus, no drawback is admissible under Section 75 if the market price is less than the amount of drawback claimed. Drawback is also not admitted if the claim is less than

Rs.50/- in individual shipments. Government has also powers to deny or admit drawback claim subject to laid down conditions where there is likelihood of goods exported being smuggled back. These powers have been used for exports to Nepal where normal provisions of duty drawback are not applied. The Drawback Rules also further lay down in Rule 8 some further limitations, where rate is less than 1%, and this may be referred to. Government has also powers to deny drawback facility in such cases where export of goods if less than the value of imported material used in their manufacture. If necessary, certain minimum value addition over the value of imported materials can also be prescribed before granting drawback.

15. It is also pertinent to note that the drawback is permitted to encourage exports and essentially there must be export proceeds repatriation. Though prior repatriation of export realization is not pre-requisite, the law prescribes that if sale proceeds are not received within the stipulated period, the drawback paid will be recoverable by the Government as per procedure laid down in drawback.

F. Procedure for Claiming Drawback:

16. The drawback on export goods – whether under AIR or Brand Rate is to be claimed at the time of export and requisite particulars have to be filled in the prescribed format of shipping bill/bill of export under Drawback. Triplicate copy of the Shipping Bill is treated as claim for Drawback. The claim is also to be accompanied by certain documents as laid down in the Duty Drawback Rules. If the requisite documents are not furnished or there is any deficiency, the claim may be returned after shipment for complying with the requirements and furnishing requisite information/documents (e.g. Brand Rate letter which may not be available at the time of export but becomes available after shipment).

(Reference: Customs notification No.19 dated 6.2.1965)

2. Duty Exemption Scheme:

17. Duty Exemption Scheme is an export promotion scheme and it enables import of inputs required for export production free of Customs duty. Advance Licences are issued under Duty Exemption Scheme to allow import of inputs, which are physically incorporated in the export product (after making normal allowance for wastage). In addition, fuel, oil, energy catalysts, etc., which are consumed in the course of their use to obtain the export product can also be allowed under the scheme. Value and quantity of each item permitted duty free

import are specified in the Advance Licence. Standard input-output norms (SIONs) notified by the DGFT under para 7.8 of the Handbook of Procedures (Vol.I) or as modified under para 7.10 of the said Handbook facilitate determination of the proportion of various inputs which can be used or are required in the manufacture of different resultant products.

18. Advance Licences are issued for Physical exports, Intermediate supplies and Deemed exports. Advance Licences are also issued on the basis of annual requirement for exports/supplies. This enables the exporter to plan out his manufacturing/export programme on long term basis. Advance Licences for deemed exports are issued to (i) manufacturer exporter or main contractor in case of deemed exports, and (ii) Merchant exporter having supporting manufacturer.

19. All Advance Licences and/or materials, imported thereunder are not transferable even after completion of export obligation. Advance Licences are issued with a positive value addition stipulation. However, for exports for which payments are not received in freely convertible currency, the same are subject to higher value addition.

20. In order to ensure proper monitoring and utilisation of inputs imported against Advance Licences (except Advance Licence for deemed exports), a Duty Entitlement Exemption Certificate (DEEC) Book is issued alongwith the Advance Licence by DGFT authorities. At the time of import and export against Advance Licence, entries are made in the DEEC Book by Customs to keep record of the import/export made against it. After completion of export obligation and imports against the Advance Licence, the DEEC book, Advance Licence and relevant export/import documents are submitted to Customs for logging (reconciling) of DEEC Book. Thereafter the Advance Licence, DEEC book and export/import documents are submitted to DGFT authorities for issue of export obligation (EO) discharge certificate. On the basis of EO discharge certificate issued by DGFT, redemption of bond/B.G. filed by the Advance Licence holder with Customs is allowed.

21. Advance Licence are issued on pre-export or post export basis in accordance with the Export/Import Policy and procedure in force on the date of issue of licence and are subject to the fulfillment of a time bound export obligation as in the licence. The Advance Licence holder fulfils export obligation (EO) by exporting the resultant product specified in the Advance Licence upto specified quantity/value. In order to ensure fulfillment of such

export obligation, the Advance Licence holder executes a bond with or without Bank Guarantee (B.G) with Customs undertaking to fulfill the specified export obligation. In the event of failure to fulfil the specified EO., the licence holder becomes liable to pay differential Customs duty with interest @ 24% per annum on such duty. Exemption from furnishing of bank guarantee is given in the following categories of cases :-

- (i) where the licence holder is a manufacturer exporter having export turnover of Rs.1 crore or above during preceding financial year and he has a clean track record; and
- (ii) where the licence holder is certified as a super star trading house, star trading house, etc. by DGFT.

In such cases a bond is considered sufficient. In all other cases the Advance Licence holder is required to furnish 100% bank guarantee for the duty difference.

22. Advance Licence holder for intermediate supply is required to fulfill his export obligation by supplying the intermediate goods, which are required in the manufacture of resultant export product to the advance licence holder. In order to ensure such fulfillment of EO the licence holder is required to give bond with or without bank guarantee and in the event of failure to fulfil the EO he becomes liable to pay differential Customs duty with interest @ 24% per annum on such duty.

23. Advance Licence holder for deemed export is permitted import of materials which are required in the manufacture of resultant product free of Customs duty. The licence holder is required to fulfil his EO by supplying the resultant product to the project, specified in the said licence, in India and in the event of failure to do so, he is required to pay differential Customs duty with interest @ 24% per annum on such duty.

24. All Advance Licences are normally valid for import of goods upto 18 months from the date of issue and the relevant DGFT authority (who issues the licence) is competent to grant revalidation. DGFT authority (who issues the licence) is also competent to grant extension of EO period beyond the normal EO period of 18 months. No duty drawback is normally admissible to an Advance Licence holder. However the licence holder is entitled to claim brand

rate of duty drawback in respect of inputs which are not imported against the advance licence and on which Customs/excise duty has been paid.

25. Since Advance Licence Scheme involves technicalities, its operation has been restricted to limited ports, airports, ICDs, etc. which are notified for the purpose. Commissioners of Customs have, however, been empowered to permit export/import under the Scheme from any other place which has not been notified, on case to case basis by making suitable arrangements at such other places.

(Reference: Customs notification No.48/99-Customs, dated 29.4.99 and 50/2000-Cus., and 51/2000-Customs, both dated 27.4.2000)

3. Duty Remission Scheme:

Duty Remission Scheme consists of ;

- (a) Duty Free Replenishment Certificate and
- (b) Duty Entitlement Passbook Scheme.

A. Duty Free Replenishment Certificate(DFRC) Scheme:

26. DFRC Scheme was announced on 1.4.2000 under the EXIM Policy 1997-2002. It is an export promotion scheme under which DFRC licences are issued permitting duty free import of inputs which were used in the manufacture of export product on post export basis as replenishment.

27. Duty Free Replenishment Certificate (DFRC) Licence is issued to a merchant-exporter or manufacturer-exporter. DFRC licences are issued only in respect of export products covered under the Standard Input Output Norms (SION) as notified by DGFT. DFRC Licences are issued for import of inputs, as per SION, having same quality, technical characteristics and specifications as those used in the export product and as indicated in the shipping bills. The validity of such licences is normally 18 months and relevant DGFT authority (who issues the licence) is competent to grant extension of validity period. DFRC licence and or the material(s) imported against it are freely transferable.

28. Exporters operating under DFRC Scheme are entitled for availing AIR of duty drawback in respect of those duty paid materials, whether imported or indigenous, used in the export product, which are not specified in the DFRC

licence. Brand rate of duty drawback can also be availed in respect of such inputs.

29. Since DFRC Scheme involves technicalities like Advance Licence Scheme, its operation has been restricted to limited ports, airports, ICDs, etc. which are notified for the purpose. Commissioners of Customs have, however, been empowered to permit export/import under the Scheme from any other place which has not been notified, on case to case basis by making suitable arrangements at such other places.

(reference: Customs notification No.48/2000-cus., dated 25.4.2000)

4. Duty Entitlement Pass Book(DEPB) Scheme:

30. DEPB Scheme was first announced on 1.4.1997 under EXIM Policy 1997-2002. It is an export promotion scheme and envisages grant of DEPB Credit Entitlement to an exporter at the time of export at an ad-valorem rate notified by DGFT, in relation to FOB value of the export product. The DGFT have so far notified DEPB rates for nearly 2000 export products. These rates are based on the computation of Basic Customs Duty suffered by the exporters on the inputs listed in the Standard Input-Output Norms (SION) applicable to the export product. The crucial feature of the DEPB Scheme is that all the inputs listed in the Standard Input-Output Norms are deemed to have been imported and to have suffered Customs duties. DEPB rates are finalised by the DEPB Committee, chaired by Additional DGFT and consists of representative from Ministry of Finance also. Value caps have been imposed on export products having DEPB rates of 15% or more to curb the tendency of unscrupulous exporters to avail most of the runaway benefits by over-invoicing export.

31. The normal validity period of a DEPB Scrip is 12 months and DGFT authority (who issues the scrip) is empowered to grant revalidation. These scrips are for a certain amount of DEPB credit and can be utilised for adjusting Customs Duties (Basic or CVD) against import of any products into India, without the necessity of any co-relation between the export product and the import goods, i.e. it is not necessary to import only the relevant inputs corresponding to the export product.

32. Since DEPB Scheme also involves technicalities like DFRC Scheme, its operation has also been restricted to limited ports, airports, ICDs, etc. which are notified for the purpose. Commissioners of Customs have, however, been

empowered to permit import/export under the scheme from any other place which has not been notified, on case to case basis. The DEPB and/or the items imported against it are freely transferable. Import against DEPB scrips is allowed at the port specified in the DEPB which is the port from where exports have been made. Imports from a port other than the port of export are also allowed under TRA (Telegraphic Release Advice) facility as per the terms and conditions of the notification issued by Department of Revenue.

33. No duty drawback is allowed on exports made under DEPB Scheme. However, in cases where CVD is paid in cash on imported inputs, or where indigenous duty paid inputs, not specified in SION, are used in the manufacture of export product, in such cases brand rate of duty drawback is admissible as per circular issued by the Ministry of Finance, provided CENVAT Credit in respect of such duty incidence is not availed.

(Reference: Customs notification No.34/97-cus., dated 7.4.97)

5. Export Promotion capital Goods (EPCG) Scheme:

34. Under EPCG Scheme import of capital goods which are required for the manufacture of resultant export product specified in the EPCG Licence is permitted at concessional rate of Customs duty. This Scheme also enables upgradation of technology of the indigenous industry. For this purpose EPCG Licences are issued on the basis of approval granted by EPCG Committee. The EPCG Committee comprises of officers from DGFT, MOF and concerned Administrative Ministry. At present the EPCG licence holder is permitted to import capital goods at 5% or 10% Customs duty. Whereas under 5% duty EPCG Scheme the licence holder is required to undertake to fulfill export obligation equivalent to 5 times the CIF value of imported capital goods within a period of 8 years reckoned from the date of issue of licence, under 10% duty EPCG Scheme, the licence holder has to fulfill export obligation equivalent to 4 times the CIF value of imported capital goods in five years. EPCG licences are issued to manufacturer exporters and merchant exporter with or without supporting manufacturer, and service providers. The licence specifies the value/quantity of resultant export product to be exported against it. In the case of manufacturer/merchant exporters, such Export Obligation (EO) is required to be fulfilled by exporting resultant products manufactured with the help of imported capital goods. In the case of service providers the export obligation is required to be fulfilled by earning foreign exchange through rendering service. In order to ensure fulfillment of specified export obligation as also to secure

interest of revenue, the licence holder is required to file bond with or without bank guarantee with the Customs Authority prior to commencement of import of capital goods. Bank guarantee equal to 50% of the differential duty is required to be filed by the licence holder excepting the following cases;

- (iii) where the licence holder is a manufacturer exporter having export turnover of Rs.1 crore or above during preceding financial year and he has a clean track record; and
- (iv) where the licence holder is certified as a superstar trading house, star trading house, etc. by DGFT.

In such cases, a mere bond is sufficient.

35. Capital goods imported under EPCG Scheme are subject to actual user condition and the same cannot be transferred/sold till the fulfillment of export obligation specified in the licence. In order to ensure that the capital goods imported under EPCG Scheme are utilized in the manufacture of resultant export product, after importation/clearance of capital goods from Customs, the licence holder is required to produce certificate from the jurisdictional Central Excise Authority(CEA) or Chartered Engineer(CE) confirming installation of such capital goods in the declared premises.

36. The normal validity period of EPCG licence is 24 months and DGFT authority (who issues the licence) is empowered to grant further revalidation. In order to ensure proper accountal of fulfillment of export obligation, the EPCG licence holder is required to indicate the EPCG licence No/date on the body of the Shipping Bill. After fulfillment of specified export obligation, the licence holder submits relevant export documents alongwith EPCG licence to the DGFT authorities for the purpose of obtaining EO discharge certificate. After obtaining EO discharge certificate from DGFT, the licence holder produces the same before Customs for the purpose of obtaining redemption of bond/B.G. filed by him. In order to ensure that the licence holder maintains a specified level of export obligation throughout the EO period of 5/8 years, in addition to overall EO, yearwise/blockwise EO are also specified. A gestation period of 1/2 years is allowed for the purpose of installation of capital goods and commencement of production.

37. In cases where the EPCG licence holder is unable to maintain the specified level of yearwise/blockwise EO or overall EO., extension of

yearwise/blockwise EO period upto a maximum of 1 year/block is allowed by DGFT Authority. Similarly in cases where the licence holder is not able to fulfill overall EO within specified period, extension of 1 year is allowed. In case of default in EO the licence holder has to pay differential Customs duty alongwith 24% interest per annum on such duty.

38. Exporter of goods manufactured with the help of Capital Goods imported under the EPCG Scheme is entitled to input duty incidence neutralisation benefits like Drawback, DFRC, Advance Licence, etc. in accordance with the terms of the individual scheme(s).

(Reference: Customs notification Nos.28/97-cus.,dated 1.4.97 (10% duty) and 49/2000-cus. dated 27.4.2000 (5% duty))
