



सीमा शुल्क (निवारक) के आयुक्त का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS
(PREVENTIVE COMMISSIONERATE)

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C.No.VIII/09/02/2019-Cus.TFC.PF-I

Date: 24.09.2019.

PUBLIC NOTICE NO. 31/2019-Cus

Subject:- Clarification regarding duty drawback allowed in cases of short realisation of export proceeds due to bank charges deducted by foreign banks - reg.

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Attention of all the Importers, Exporters, Customs Brokers, Steamer Agents, Custodians/ Customs Cargo Service Providers, Trade Associations / Chamber of Commerce, Members of the RAC/ PGC and the Public is invited to the Board Circular No.33/2019, dated 19-09-2019 on the above subject.

2. Representations have been received by the Board from Export Promotion Councils, Trade Bodies, and individual exporters regarding show cause notices issued by some Customs field formations for recovery of duty drawback on account of short realisation of export sale proceeds due to bank charges deducted from export invoice by the banks. Exporters have contended that these short realisations are actually service charges deducted by intermediary banks while remitting payments from abroad and that said charges are documented by the banks. It has been requested such short realised export sale proceeds may be considered as full realisation and that duty drawback not be recovered for such short realisation.

3. The matter has been examined. In this regard, RBI has clarified that such deductions are enabled under notification No. FEMA 23(R)2015-RB dealing with Foreign Exchange Management (Export of Goods and Services) Regulations 2015. In respect of various export promotion schemes, para 2.52 of FTP 2015-20 also states that free foreign exchange remitted by buyer after deduction of bank service charges are taken as export realisation under export promotion schemes of FTP. Earlier also, in respect of agency commission paid to agents abroad for securing export contracts, Board vide Circular No. 64/2003- Customs dated 21.07.2003 has allowed such commission up to the limit of 12.5% of FoB value to be considered for payment of duty drawback without deducting it from FoB value in line with the RBI's Circular No.AD (MA Service) 17, dated 19.5.1999 and DGFT's Policy Circular No. 55 (RE- 98) dated 10.02.1998.

4. In view of the above, it is clarified that duty drawback may be permitted on FoB value without deducting foreign bank charges. It is further clarified that since agency commission up to the limit of 12.5% of the FoB value has been allowed, such deduction on account of foreign bank charges is allowed within this overall limit of 12.5% of the FoB value. From the average rates of agency commission and foreign bank charges in respect of export shipments, it is seen that these deductions fall within the aforesaid overall limit of 12.5% of FoB value allowed by the Board. Agency commission and foreign bank charges, separately or jointly, exceeding this limit should be deducted from the FoB value for granting duty drawback.

5. Field formations may consider on merits exporter's requests for regularising such short realisation on account of foreign bank charges based on documentary evidence such as export invoice, bank's confirmation regarding foreign bank charges, etc. to justify such deductions. Field formations are also requested to deal with the show cause notices already issued by them accordingly.

6. All the members of the Regional Advisory Committee, Trade and Industry Associations are requested to circulate the Public Notice among their constituent members for implementation and guidance.

7. Action to be taken in terms of decisions taken in this Public Notice should be considered as Standing Order for the purpose of officers and staff.

8. Any difficulty, experienced in the implementation, may be brought to the notice of the undersigned.

Despatched on 27/9/19
GPC, Hqs. Vijayawada

o/c
S. Faheem Ahmed
(एस. फहीम अहमद/S.FAHEEM AHMED)
PRINCIPAL COMMISSIONER

To

All the Importers / Exporters / Customs Brokers Agencies / Customs Brokers Licensees / Customs Brokers Associations under the jurisdiction of Customs Commissionerate (Preventive), Vijayawada through the Additional / Joint Commissioner of Customs, Krishnapatnam Custom House / Kakinada Custom House and the Deputy / Assistant Commissioner of Customs, ICD, Marripalem.

1. Copy submitted to the Chief Commissioner of Customs and Central Tax, Visakhapatnam zone, GST Bhavan, Port Area, Visakhapatnam – 530035 for information.

Copy to :

1. The Additional Commissioner of Customs, Krishnapatnam Custom House, KAPS Building, CVR Complex, Krishnapatnam Port Area, Gopalapuram, MUTHUKURU-524344 S.P.S.R Nellore District for information with a direction to give wide publicity among the exporters under the jurisdiction of KPCH.
2. The Additional Commissioner of Customs, Kakinada Custom House, Port Road, Kakinada – 533007, East Godavari District for information with a direction to give wide publicity among the exporters under the jurisdiction of KKDCH.

3. The Deputy / Assistant Commissioner of Customs, ICD MARRIPALEM – 522233, Guntur District for information with a direction to give wide publicity among the exporters under their jurisdiction.
4. The Deputy / Assistant Commissioner of Customs, Customs Division, VISAKHAPATNAM / KAKINADA / VIJAYAWADA / TIRUPATI for information.
5. Copy to Superintendent (Computers), CPC, Hqrs.office, Vijayawada for display on CPC, Vijayawada website www.apcustoms.gov.in
6. Copy to M/s Krishnapatnam Port Company Ltd., (KPCL) the custodian / Custom Cargo Service Provider of Krishnapatnam Port, Muthukur, SPSR Nellore District (Through the Additional Commissioner of Customs, Custom House, Krishnapatnam) for information.
7. Copy to M/s Kakinada Seaports Ltd.,(KSPL) the custodian / Custom Cargo Service Provider of Kakinada Port, Kakinada (Through the Joint Commissioner of Customs, Custom House, Kakinada) for information.
8. Copy to M/s Leap International Private Ltd, the custodian / Custom Cargo Service Provider of ICD MARRIPALEM, Guntur (Through the Deputy / Assistant Commissioner of Customs, ICD, MARRIPALEM, Guntur) for information.
10. Copy to the Notice Board.