

## Chapter X - Drawback

**SECTION 74. Drawback allowable on re-export of duty-paid goods.** - (1) When any goods capable of being easily identified which have been imported into India and upon which 1[any duty has been paid on importation, -

- (i) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or
  - (ii) are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation; or
  - (iii) are entered for export by post under 2[clause (a) of section 84] and the proper officer makes an order permitting clearance of the goods for exportation,
- ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if -]
- (a) the goods are identified to the satisfaction of the 3[Assistant Commissioner of Customs or Deputy Commissioner of Customs] as the goods which were imported; and
  - (b) the goods are entered for export within two years from the date of payment of duty on the importation thereof :

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

4[(3) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may -

- (a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;
- (b) specify the goods which shall be deemed to be not capable of being easily identified; and
- (c) provide for the manner and the time within which a claim for payment of drawback is to be filed.]

(4) For the purposes of this section -

- (a) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16;
- (b) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

**SECTION 75. Drawback on imported materials used in the manufacture of goods which are**

**exported.** - (1) Where it appears to the Central Government that in respect of goods of any class or description 5[manufactured, processed or on which any operation has been carried out in India]6[, being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer], 7[or being goods entered for export by post under 8[clause (a) of section 84] and in respect of which an order permitting clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the 9[manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2):

10[Provided that no drawback shall be allowed under this sub-section in respect of any of the aforesaid goods which the Central Government may, by rules made under sub-section (2), specify, if the export value of such goods or class of goods is less than the value of the imported materials used in the 11[manufacture or processing of such goods or carrying out any operation on such goods or class of goods], or is not more than such percentage of the value of the imported materials used in the 12[manufacture or processing of such goods or carrying out any operation on such goods or class of goods] as the Central Government may, by notification in the Official Gazette, specify in this behalf :

Provided further that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under the 13[Foreign Exchange Management Act, 1999 (42 of 1999)], such drawback shall 13[except under such circumstances or such conditions as the Central Government may, by rule, specify,] be deemed never to have been allowed and the Central Government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment of the amount of such drawback.]

14[(1A) Where it appears to the Central Government that the quantity of a particular material imported into India is more than the total quantity of like material that has been used in the goods 15[manufactured, processed or on which any operation has been carried out in India] and exported outside India, then, the Central Government may, by notification in the Official Gazette, declare that so much of the material as is contained in the goods exported shall, for the purpose of sub-section (1), be deemed to be imported material.]

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide -

16[(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by manufacturers generally or by persons processing or carrying on any

operation generally or by any particular manufacturer or particular person carrying on any process or other operation, and interest if any payable thereon;]

17[(aa) for specifying the goods in respect of which no drawback shall be allowed;]

17[(ab) for specifying the procedure for recovery or adjustment of the amount of any drawback which had been allowed under sub-section (1) 18[or interest chargeable thereon];]

(b) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary;

(c) for requiring the 19[manufacturer or the person carrying out any process or other operation] to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the 20[Assistant Commissioner of Customs or Deputy Commissioner of Customs] to enable such authorised officer to inspect the processes of 21[manufacture, process or any other operation carried out] and to verify by actual check or otherwise the statements made in support of the claim for drawback.

22[(d) for the manner and the time within which the claim for payment of drawback may be filed;]

23[(3) The power to make rules conferred by sub-section (2) shall include the power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the export goods.]

**24[SECTION 75A. Interest on drawback. -** (1) Where any drawback payable to a claimant under section 74 or section 75 is not paid within a 25[period of 26[one month]] from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said 25[period of 26[one month]] till the date of payment of such drawback:

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28[(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 29[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.]

SECTION 76. Prohibition and regulation of drawback in certain cases. - (1) Notwithstanding anything hereinbefore contained, no drawback shall be allowed -

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(b) in respect of any goods the market-price of which is less than the amount of drawback due thereon;

(c) where the drawback due in respect of any goods is less than 31[fifty rupees].

(2) Without prejudice to the provisions of sub-section (1), if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and

conditions as may be specified in the notification.

1. Substituted by Act 80 of 1985, section 6, for certain words (w.e.f.27.12.1985). Earlier those words were amended by Act 11 of 1983, section 51 (w.e.f. 13.05.1983).
2. Substituted by section 85 (w.e.f.29.03.2018), by Finance Act, 2018 (13 of 2018), for “section 82”.
3. Substituted by Act 27 of 1999, section 100, for “Assistant Commissioner of Customs” (w.e.f. 11.05.1999). Earlier the words “Assistant Commissioner of Customs” were substituted by Act 22 of 1995, section 50, for the words “Assistant Collector of Customs” (w.e.f. 26.05.1995).
4. Substituted by Act 22 of 1995, section 60, for sub-section (3) (w.e.f. 26.05.1995).
5. Substituted by Act 22 of 1995, section 61(a)(i), for “manufactured in India” (w.e.f. 26.05.1995).
6. Substituted by Act 11 of 1983, section 52, for “and exported to any place outside India” (w.e.f. 13.05.1983).
7. Inserted by Act 80 of 1985, section 7, (w.e.f. 13.05.1983).
8. Substituted by section 86 (w.e.f.29.03.2018), by Finance Act, 2018 (13 of 2018), for “section 82”.
9. Substituted by Act 22 of 1995, section 61(a)(ii), for “manufacture of such goods” (w.e.f. 26.05.1995).
10. Inserted by Act 49 of 1991, section 120(1)(a) (w.e.f. 27.12.1991).
11. Substituted by Act 22 of 1995, section 61(a)(ii), for “manufacture of such goods” (w.e.f. 26.05.1995).
12. Substituted by Act 20 of 2002, section 125, for “Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 11.05.2002).
13. Inserted by Act 8 of 2011, section 46 (w.e.f. 08.04.2011).
14. Inserted by Act 25 of 1978, section 10(a) (w.e.f. 01.07.1978).
15. Substituted by Act 22 of 1995, section 61(b), for “manufactured in India” (w.e.f. 26.05.1995).
16. Substituted by Act 22 of 1995, section 61(c)(i), for clause (a) (w.e.f. 26.05.1995). Earlier clause (a) was amended by Act 25 of 1978, section 10(b) (w.e.f. 01.07.1978).
17. Inserted by Act 49 of 1991, section 120(1)(b) (w.e.f. 27.12.1991).
18. Inserted by Act 22 of 1995, section 61(c)(ii), (w.e.f. 26.05.1995).
19. Substituted by Act 22 of 1995, section 61(c)(iii)(a), for “manufacture” (w.e.f. 26.05.1995).
20. Substituted by Act 27 of 1999, section 100, for “Assistant Commissioner of Customs” (w.e.f. 11.05.1999). Earlier the words “Assistant Commissioner of Customs” were substituted by Act 22 of 1995, section 50, for the words “Assistant Collector of Customs” (w.e.f. 26.05.1995).
21. Substituted by Act 22 of 1995, section 61(c)(iii)(a), for “manufacture” (w.e.f. 26.05.1995).
22. Inserted by Act 22 of 1995, section 61(iv), (w.e.f. 26.05.1995).
23. Inserted by Act 22 of 1995, section 61(d), (w.e.f. 26.05.1995).
24. Inserted by Act 22 of 1995, section 62, (w.e.f. 26.05.1995).
25. Substituted by Act 8 of 1999, section 2(a), for “period of three months” (w.e.f. 08.01.1999).
26. Substituted by Act 32 of 2003, section 115(a), for “two months” (w.e.f. 14.05.2003).

27. Proviso omitted by Act 32 of 2003, section 115(b) (w.e.f. 14.05.2003).

28. Substituted by Act 22 of 2007, section 98, for sub-section (2) (w.e.f. 11.05.2007). Earlier sub-section (2) was amended by Act 8 of 1999, section 2(b) (w.e.f. 08.01.1999). Sub-section (2), before substitution by Act 22 of 2007, stood as under:

“(2) Where any drawback has been paid to the claimant erroneously, 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 from the date after the expiry of the said period of two months till the date of recovery of such drawback.”

29. Substituted by Act 23 of 2012, section 125, for “section 28AB” (w.e.f. 08.04.2011).

30. Clause (a) omitted by Act 11 of 1983, section 53(a) (w.e.f. 13.05.1983).

31. Substituted by Act 11 of 1983, section 53(b), for “five rupees” (w.e.f. 13.05.1983).