CIRCULAR NO. 19/2005-Cus
21st March, 2005

FNo: 609/13/2004-DBK
Government of India
Ministry of Finance
Department of Revenue

Sub: Admissibility of All Industry Rates of Duty Drawback on Export Goods Manufactured from out of Inputs, some of which are Non-Duty Paid

I am directed to invite your attention to the above subject and to say that a doubt has been raised as to whether the All Industry Rate of duty drawback is to be denied / reduced on export goods using inputs some of which are non-duty paid. It has been represented that the All Industry Rate of duty drawback is sought to be denied / reduced on floor coverings and made ups on the ground that a part of yarn used has not suffered any duty. Likewise, it has been brought to the notice of the Board that Show Cause Notices are being issued to the garment exporters at the various places and the All Industry Rate of drawback is sought to be denied / reduced on the ground that they have used duty free trimmings & embellishments in the manufacture of export goods. The exporters are being charged with misdeclaration / non-declaration and are being asked to return duty drawback amounts received by them by an amount equal to the duty exemption enjoyed. This, according to trade, amounts to taking away by the left hand what has been given by the right hand.

2. The matter has been examined by the Ministry. In this connection, attention is invited to Board's Circular No. 24/2001-Cus dated 20.4.2001 whereunder it was clarified that All Industry Rates of drawback are based on the concept of averages, where the drawback rate itself as well as its customs and excise portions are based on weighted averages of consumption of imported / indigenous inputs of a representative cross-section of exporters and the average incidence of duties suffered on such inputs. These rates have no relation to the actual input consumption pattern or the actual duty incidence suffered on inputs of a particular exporter or individual consignments exported by any exporter under drawback claim. It was categorically stated in the said Circular that the first proviso to rule 3 of Drawback Rules, 1995 is meant for the Ministry and that it essentially provides a guideline as to how the duty drawback rates are to be determined in certain situations and is not intended for the field formations to use this rule for arbitrarily altering All Industry Rates of duty drawback in the case of individual exporters for individual consignments.

3. From the above it may be noted that the concept of All Industry Rate of duty drawback is that the rates are determined taking into account the average duties paid on the inputs and in determining the rates, the average (weighted average) consumption of imported / indigenous inputs of a representative cross-section of exporters is taken into account. In view of this, it is not open to the field officers to question as to how the rate has been determined in the case of individual export goods and to probe whether certain exempted inputs have been used in the manufacture of the same. Accordingly, it is clarified that All Industry Rate of duty drawback is to be allowed in the cases referred to above.

4. Suitable Public Notices for information of the Trade and Standing Orders for guidance of the staff may be issued. Difficulties faced, if any in implementation of the Circular may be brought to the notice of the Board.

Kindly acknowledge receipt of this Circular.

Yours faithfully,
Sd/-
P.K. Mohanty
Joint Secretary (Drawback)
21-Mar-05
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