

**F. No. 602/2/2002-DBK
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
New Delhi**

Circular No. 43/2007-CUS

Dated 5th December, 2007

Appropriate authority for sanction and disbursement of drawback claims on supplies made by Domestic Tariff Area (DTA) units to units located in Special Economic Zone (SEZ) - regarding

I am directed to invite your attention to the above mentioned subject and to say that a doubt has been raised as to whether the jurisdictional Commissioners of Customs or Central Excise can sanction drawback claims against supplies made by DTA units to units in SEZ.

2. In this regard, it was clarified vide Board's Circular No.6/2005-Cus, dated 3.2.2005 that with operationalisation of the provisions of Chapter X-A of the Customs Act, 1962 w.e.f. 11.5.2004, drawback is to be granted for the supplies made from the DTA to the SEZ. The Dy./Asstt. Commissioner of Customs posted on deputation at the SEZ being the Dy./Asstt. Commissioner of Customs at the Customs Station of export shall be the authority for granting these drawback claims.

3. Chapter X A of the Customs Act, 1962 and the SEZ Rules, 2003 and SEZ Regulations 2003 issued thereunder have since been made inoperative and replaced by SEZ Act, 2005 which came into effect on 10.2.2006 and the SEZ Rules, 2006 notified by the Ministry of Commerce and Industry on 10.2.2006. Section 26(d) of the SEZ Act, 2005 provides that every Developer and entrepreneur shall be entitled to drawback on goods brought from the DTA into an SEZ. Rule 24 of the SEZ Rules, 2006 provides that the triplicate copy of the assessed Bill of Export shall be treated as the drawback claim and processed in the Customs section of the Special Economic Zone and the Specified Officer shall be the disbursing authority for the said claims. Further, Rule 30(5) of SEZ Rules, 2006 provides that in case of procurement of goods from DTA where a Bill of Export has been filed under a claim of drawback the Unit or Developer shall claim the same from the Specified Officer and in the case the Unit or Developer does not intend to claim entitlement of drawback, a disclaimer to this effect shall be given to the DTA supplier for claiming such benefit. According to Rule 2(zd) of SEZ Rules, 2006, Specified Officer means Joint Commissioner/Deputy Commissioner/Assistant Commissioner of Customs posted in the SEZ.

4. In view of the above, it is clarified that wherever admissible, drawback claims in respect of supplies made by DTA units to units or Developers in SEZ are not to be processed or sanctioned by the Customs and Central Excise formations. The Specified Officer posted in an SEZ is the appropriate authority for granting drawback in respect of goods supplied from DTA units to Developers and units in SEZ except where the unit or Developer issues a disclaimer to the DTA supplier in which case the Commissionerate of Central Excise/Customs & Central Excise having jurisdiction over the DTA unit would sanction the drawback. The jurisdictional Commissioner of Customs in consultation with the Pay & Accounts Officer shall make arrangements for issue of authorization and drawback cheque books (wherever EDI facilities are not available for directly crediting the said amount to the Bank Accounts of the exporters) as clarified by the Board vide Circular No.6/2005-Cus, dated 3.2.2005.

5. As regards applications for fixation of brand rate of drawback the same may continue to be filed with the Commissioner of Central Excise or the Commissioner of Customs and Central Excise having jurisdiction over the manufacturing unit of the manufacturer or the supporting manufacturer, as the case may be. Copies of the brand rate fixation letters may be endorsed to the Development Commissioner and the Specified Officer of the SEZ.

6. Since drawback in respect of goods supplied by DTA units to Developers or units in SEZ can be claimed by either the SEZ unit or the Developer, as the case may be, or by the DTA supplier on the basis of the disclaimer issued by the SEZ unit or the Developer, necessary safeguard may be taken to ensure that drawback is not availed of twice on the same goods. It may be ensured that the disclaimer certificate issued by the SEZ unit or the Developer to the DTA supplier is supported by a certificate from the Specified Officer in the SEZ to the effect that drawback has not been claimed/availed of on the goods by the SEZ unit or the Developer, as the case may be.

7. A suitable Public Notice for information of the trade and Standing Order for guidance of the staff may be issued. Difficulties faced, if any, in implementation of this Circular may be brought to the notice of the Board.

Sd/-
(P. K. MOHANTY)
Joint Secretary (Drawback)
