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Notification No. 108-CE dated 28.8.1995, as amended. The matter has been considered in consultation with all the concerned departments.

3. It is, accordingly clarified that (i) supply of goods made to projects financed by agencies/funds notified by the Department of Economic Affairs and covered under Appendix 33 of Handbook of Procedures would continue to be eligible for deemed export benefits covered under para 8.3 (a) & (b), viz., (a) advance licence for deemed exports, and/or (b) deemed export drawback, as the case may be. Such supplies would, however, not be eligible for exemption from payment of Excise Duty as the agencies/funds are not covered under Excise Notification No. 108/95 dated 28.8.1995, and (ii) In so far as refund of terminal Excise Duty is concerned, it is clarified that as a general rule such refund is available only in those cases where no CVD is payable on import. Refund of Excise Duty would, therefore, be available if both conditions are fulfilled, namely, supplies are made to projects financed by agencies/funds which are covered under Appendix 33 of Handbook of Procedures and Additional Custom Duty (CVD) is zero on import of such goods. Other conditions/requirements for availing of deemed export benefits in the category referred to above remain the same and continue to be applicable.

This issues with the approval of Director General of Foreign Trade.

*Sd/-*

(P. K. SANTRA)

Dy. Director General of Foreign Trade  
For Director General of Foreign Trade

**F. No.605/11/2004-DBK  
Government of India  
Ministry of Finance  
Department of Revenue  
New Delhi**

**Circular No. 57/2004-Cus**

Dated 21st October, 2004

**Eligibility of DEPB benefit on exports in cases where the inputs have been procured under DEPB Scheme - reg.**

Under the DEPB Scheme, the incidence of Customs Duty (basic) on the deemed import content of the export product is refunded to the exporters. The refund is provided by way of grant of duty credit against the export product. The credit is given at notified rates for import of raw materials, components, etc. The DEPB and/or the items imported against it are freely transferable.

2. In this connection, a doubt has been raised as to whether the benefit of DEPB would be available to the exports where the inputs used in the manufacture of the export product were imported on payment of duty through DEPB. The point raised is that since no Customs Duty has been paid on the inputs by way of cash, the exporter will not be entitled to DEPB on export goods utilizing such inputs.

3. The matter has been examined by the Ministry. It is noted that the DEPB Scheme is a post export duty remission scheme, which allows neutralization of deemed import duty charges on inputs

used in the export product. Under the Scheme, the exporter first uses duty paid inputs in the manufacture of the export product and after exports he gets the duty credit at the notified rates. Thus, instead of refund of duty in cash after exports, a scrip in the form of DEPB is issued against the export product as duty remission. The exporter is at liberty to utilize the scrip for import of raw materials, components etc. within the credit allowed in the DEPB or he may sell it to any other exporter.

4. In a case where the exporter sells the DEPB to another exporter, he gets cash of equivalent amount to pay Customs Duty on the import of raw materials and components. In this situation, he would be entitled to DEPB on his subsequent exports. Further, the exporter can sell the inputs imported against DEPB to another exporter for being used in export production. In this situation also, the latter exporter will be entitled to DEPB on his exports. Therefore, to deny the DEPB benefit to an exporter who has utilised the DEPB scrip for sourcing his own inputs is not appropriate. As such, the point raised that the benefit of DEPB should not be allowed in a situation where the Customs Duty has been paid on the inputs by way of debit in DEPB is devoid of merits.

5. It is, therefore, clarified that the benefit of DEPB Scheme should be allowed on exports even though the inputs used in the manufacture of the export product were cleared through DEPB route. The letter F.No.605/11/2004-DBK dated 12.4.2004 of OSD (Drawback) addressed to CC&CE, Indore stands withdrawn.

6. A suitable Public Notice and Standing Order may be issued for the guidance of the trade and customs field formations.

*Sd/-*

(P. K. MOHANTY)

Joint Secretary (DBK)

**F. No. 450/108/2004-CUS-IV  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs  
New Delhi**

**Circular No. 56/2004-Cus**

Dated 18th October, 2004

**Clearance of imported metal scraps - Procedure regarding.**

I am directed to say that till date following Circulars/instructions have been issued relating to the procedure for clearance of **imported metal scrap**, namely :-

- (i) 43/95-Cus. dated 26.4.1995
- (ii) 46/97-Cus. dated 6.10.1997
- (iii) Chairman's letter D.O.F. No. L-6390/CH(EC)/2004 dated 11.10.2004

2. The whole issue has since been reviewed in the background of the recent explosion at the premises of a scrap importer at Ghaziabad resulting in the death of ten persons. Consultations have been held with the concerned Ministries, namely Commerce & Industry,



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## Domestic Information



Home, Shipping, Steel and External Affairs. Discussions have also taken place between the concerned Trade Associations and the Government of India. Keeping all these aspects in mind, and in supersession of all existing instructions on the subject, it has been decided to follow the following procedure for clearance of imported metal scrap (both ferrous and non-ferrous).

3. The metal scrap may be divided in **two categories**, namely :-

- (i) **Category-1** :- Scrap which has already landed in India and that which has left its port of origin on or before 25.10.2004, and which has not yet been cleared from a Customs Port, ICD/CFS or LCS,
- (ii) **Category-2** :- Scrap which is to be loaded for shipment to India after 25.10.2004.

4. In respect of **Category-1** the following procedure will be followed :-

- (i) Metal scrap would be cleared after 100% physical examination. Depending upon the congestion at the Port/ICD, the availability of manpower and the antecedents of the importer, the concerned Commissioner of Customs or Commissioner of Central Excise, as the case may be, may permit the importer to remove the sealed container at his own risk and cost to his factory premises under re-warehousing procedure. The Central Excise Officer having jurisdiction over the manufacturer-importer would ensure 100% physical examination of the consignment. Thereafter, the re-warehousing certificate will be sent back to the Port/ICD of clearance for reconciliation. The local Central Excise Officer may requisition the services of the local police for their advice/guidance or presence during the physical examination of the scrap. The cost, if any for requisitioning the services of the police or para-military forces would be borne by the importer-manufacturer. The Ministry of Home Affairs have already written to the Chief Secretaries/Home Secretaries of all States and UTs vide their fax message **No. I.11034/18/04-IS.IV dated 15.10.2004** (copy enclosed), to provide necessary police assistance to Customs as and when requested. This facility of examination at the importer's premises will not be available to traders.
- (ii) Similar procedure will be followed for examination of metal scrap consignments at the Ports/ICDs/CFSs/LCSs where it is decided to do the examination at the Port/ICD/CFS/LCS itself instead of allowing it to be done at the manufacturer-importer's premises.

5. As regards **Category-2**, i.e. **future imports** of metal scrap, the following procedure will be followed, namely :-

- (i) Import of metal scrap in **shredded form** will be permitted through all Ports/ICDs/CFSs/LCSs **without any pre-shipment inspection certificate**.
- (ii) **Import and clearance** of metal scrap in **unshredded, compressed or loose form** would be permitted only at the following Customs stations. Such consignments need not be shifted to the premises of the importer (except for EOU and SEZ units). Efforts should be made, with the help of

port authorities/custodians, to identify and segregate an open area for storage and examination of metal scraps at these Customs stations :-

1. Chennai, 2. Cochin, 3. Ennore,
4. JNPT, 5. Kandla, 6. Mormugao,
7. Mumbai, 8. New Mangalore, 9. Paradip,
10. Tuticorin, 11. Vishakhapatnam,
12. ICD, Tughlakabad, New Delhi,
13. Pipava, 14. Mundra, and 15. Kolkata.

- (iii) In all future cases, metal scraps in **unshredded, compressed or loose form** will have to be accompanied with a pre-shipment inspection certificate as per format in **Annexure-1 to Appendix-8** from any of the Inspection and Certification Agencies given in Appendix-28 of the Handbook of Procedures (Vol. II). It may be noted that for such scrap in unshredded, compressed or loose form, this pre-shipment certificate will be required irrespective of the fact whether or not the consignment has originated from a country affected by war or rebellion.
- (iv) In respect of metal scrap in unshredded, compressed or loose form accompanied by a pre-shipment inspection certificate as detailed in clause (iii) above, examination will be 25% of the containers in respect of manufacturer-importers and 50% in respect of traders, for each import consignment, subject to examination of a minimum of one container. The container selected will be examined 100%. Where EDI is operational with Risk Management Module (RMM), the percentage of examination will be determined by the RMM.
- (v) For metal scrap in unshredded, compressed or loose form imported in future if not accompanied by the prescribed pre-shipment inspection certificate, will be subject to 100% examination apart from **stringent** penal action for violation of provisions of the Foreign Trade Policy. The examination may be done in the presence of police authorities, if considered necessary by the Commissioner, at the risk & cost of the importer.
- (vi) For scrap imported in shredded form examination may be limited to 10% of the consignment subject to examination of minimum one container. The container so identified should be examined 100%.

6. In respect of metal scrap consignments meant for EOUs and SEZ units the existing procedure may continue subject to 100% examination at the premises of the EOU or the SEZ unit, in the presence of police authorities, if considered necessary by the proper officer. Imports of scrap in unshredded, compressed or loose form (after 25.10.2004) will, however, be allowed for EOU/SEZ units only through the above 15 Customs stations.

7. It will also be the responsibility of the shipping line to henceforth ensure that every consignment of metal scrap in unshredded, compressed or loose form is accompanied by such a pre-shipment inspection certificate before it is loaded on the ship. Failure to observe this precaution would invite penal action for abetment regarding irregular import of metal scrap.



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8. The DGFT has since amended para 2.32 of the Handbook of Procedure (Volume-I) vide their Public Notice No.16/2004-09 dated 15.10.2004.

9. It may be noted that under the Home Ministry's fax message dated 15.10.2004 the State Governments have also been advised to give 15 days grace period to the importers and factory owners to voluntarily declare the existence/discovery of any shells/explosives in the metal scrap lying in their premises.

10. These instructions may be implemented forthwith to ensure quick evacuation/clearance of consignments of metal scrap lying at various Customs stations.

11. The difficulties, if any, in implementing these procedures, should immediately be brought to the notice of the Board.

12. The above guidelines may be brought to the notice of the Trade immediately through appropriate Public Notice/Trade Notice.

*Sd/-*

(D. S. GARBYAL)

Under Secretary to the Government of India  
Phone No. 23094182

**F. No. 450/108/2004-CUS-IV**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Excise & Customs**  
**New Delhi**

**Circular No. 60/2004-Cus**

Dated 26th October, 2004

**Clearance of imported metal scraps - Procedure regarding.**

I am directed to invite your attention to the Board's Circular No. 56/2004-Cus, dated 18th October, 2004 on the above mentioned subject and to say that the Directorate General of Foreign Trade

vide Public Notice No.18/2004-09, dated 21.10.2004 have further amended the Para 2.32 (i) (I) of Handbook of Procedure (Vol. I). As per this the requirement of pre-shipment inspection certificate to be accompanied with the imported metal scrap in **unshredded, compressed or loose form** should be as per the format in **Annexure-I to Appendix-28** and **not Annexure to Appendix-8** as notified by DGFT's vide Public Notice No. 16/2004-09, dated 15.10.2004. Accordingly, the Board hereby makes following amendment in the Circular No. 56/2004-Cus, dated 18.10.2004.

In para 5(iii), for the portion beginning with the word and number "Annexure-1" and ending with the words, brackets and number "Handbook of Procedure (Vol. II)", the following shall be substituted, namely :-

**"Annexure-1 to Appendix-28 from any of the Inspection and Certification Agencies given in Appendix-28 of the Handbook of Procedures (Vol. I)".**

2. Further, the field formations have also expressed doubts regarding para 4(i) of the Board's Circular No. 56/2004-Cus, dated 18.10.2004 as to whether in such cases the containers should be allowed to be removed after payment of Customs Duty or in bond. It is clarified that such facility has been provided to manufacturer-importers of metals scrap which have landed on or before 25.10.2004, keeping in mind the congestion at Port/ICD. The containers may be allowed to be removed to premises of manufacturer-importer only for examination purpose whereas the Customs Duty has to be pre-deposited by the importer before removing the containers from Port/ICD.

3. The above instructions may be brought to the notice of the Trade immediately through appropriate Public Notice.

*Sd/-*

(D. S. GARBYAL)

Under Secretary to the Government of India  
Phone No. 23094182

## IMPORTANT NOTICE

We have been informed by the Ministry of Commerce & Industry that with a view to check the malpractice of overloading of wagons, Ministry of Railways has recently launched an intensive drive. The main idea is to stop the leakage of revenue as well as possibilities of damage to rolling stock, as many railway users have been carrying more than the declared weight of cargo. The overloading was detected in case of commodities like coal, iron ore, limestone, manganese ore, cement, bauxite, sponge iron etc. All concerned are, therefore, requested to cooperate with Indian Railways to ensure that under weightment and overloading is completely avoided and help Indian Railways to directly contribute to the efficiency of foreign trade in the country as well as efficiency of Railways infrastructure.