



OFFICE OF THE COMMISSIONER OF CUSTOMS, C.R. BUILDINGS,  
QUEEN'S ROAD, BANGALORE 560 001.

C.NO.VIII/28/1270/2012 Cus. Review

Date: 09.01.2013

STANDING ORDER NO. 01/2013

**Sub: Drawback claims under Section 74 of Customs Act-  
Condonation of delay-reg**

During the course of review of Orders-in-Original passed by the Drawback Sanctioning Authorities in the Commissionerate, it has come to notice that in a few cases the provisions of Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995 have not been implemented properly, with reference to the limitation of time envisaged in the said Rules. In these cases the claims were filed beyond the prescribed period of 3 months but were not accompanied by the request for extension of time/condonation of delay upon payment of prescribed fee, which were submitted later.

2.1 As per Rule 5(1) of Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 "a claim for drawback under these Rules shall be filed in the form at Annexure II within 3 months from the date on which an order permitting clearance and loading of goods for exportation under Section 51 is made by proper officer of Customs. Provided that;

(i) the Assistant Commissioner or the Deputy Commissioner of Customs as the case may be may extend the aforesaid period of three months by a period of three months and that the Commissioner of Customs or the Commissioner of Central Excise, as the case may be, further extend the period by a period of six months.

(ii) the Assistant Commissioner ----- such refusal;

(iii) an application fee equal to 1% of the FOB value of exports or Rs. 1000/- whichever is less, shall be payable for applying for grant of extension by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, and an application fee of 2% of the FOB value or Rs.2000/- whichever is less shall be payable for applying for grant of extension by the Commissioner of Customs or the Commissioner of Central Excise, as the case may be".

2.2 As per Rule 5(2), "the claim shall be filed -----alongwith the following documents:

(a) Triplicate copy -----time of export.

(b) .....

..... Or Airway Bill.

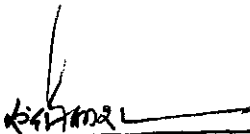
(h) Any other document as may be specified in the deficiency memo”.

2.3 As per Rule 5 (4)(a), “Any claim which is incomplete in any material particulars, or is without the documents specified in sub rule (2) shall not be accepted for the purpose of Section 75A and such claim shall be returned to the claimant with a deficiency memo in the form prescribed by the Commissioner of Customs, within 15 days of submission and shall be deemed not to have been filed” and as per Rule 5 (4)(b) “Where exporter complies with the requirements specified in the deficiency memo within 30 days from the date of receipt of deficiency memo the same will be treated as a claim filed under sub rule (1)”.

3. In view of the above, any claim of drawback filed beyond the prescribed period of 3 months from the date of Let Export Order without a request for extension of time and without payment of fee prescribed under Proviso (iii) to Rule 5(1) is required to be treated as an incomplete claim. Accordingly, any such claim should be returned to the claimant with a deficiency memo in terms of Rule 5(4) (a).

4. Upon the claimant filing the complete claim, i.e., after removing the deficiency as above, subject to the provisions of Rule 5 (4), the **same shall be taken as filed on the date it is received along with the request for extension of time and with the proof of payment of the fee,** as prescribed under proviso (i) & (iii) to Rule 5(1). It must be ensured that the fee paid, for grant of extension, is corresponding to the delay as specified in the said proviso (iii). The request for extension of time shall be processed by the authority competent to grant such extension in terms of the proviso (i) to Rule 5(1) of the said Rules.

5. These instructions should be followed scrupulously and any deviation shall be viewed seriously.

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**(Sandeep Prakash)**  
Commissioner

To,

1. Additional Commissioner of Customs, Air Cargo Complex, Bangalore
2. Additional Commissioner of Customs, ICD, Bangalore
3. Joint Commissioner of Customs, Air Cargo Complex, Bangalore
3. Deputy/ Assistant Commissioner, ICD/PAD/ ACC, Bangalore
4. All Sections in the Commissionerate Hqrs.
5. Website