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

C.NO.VIII/28/1174/2012 Cus Review

Date: 07.12.2012

STANDING ORDER No. 09/2012

A case has come to the notice that while processing Drawback claim under section 74 of Customs Act, 1962 read with Re-export of imported goods (Drawback of Customs Duties) Rules, 1995, the proper officer has not ensured that the CENVAT credit availed on the inputs on the Additional Duty (CVD) paid at the time of import, is reversed. In this case, Drawback was considered and sanctioned to the extent of 70% of BCD, in terms of notification no. 19/65 dated 06.02.1965 (as amended by Notification no. 23/2008 Cus dated 01.03.2008), as the goods were put to use for 9-12 months after import. Consequently, the importer who re-exported the goods retained the benefit of 100% of CVD paid and 70% of the BCD paid. This led to financial accommodation to the extent of 30% of CVD credit that remained with the claimant even after the goods were re-exported, after usage.

2. Drawback on re-export of goods imported is governed by Section 74 of the Act and the Rules made there under viz. Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 and notification no. 19/65 Cus (NT) dated 06.02.1965, as amended upto date. The above statutes do not envisage sanction of Drawback of Customs Duties partially, i.e., in respect of BCD alone.
Hence, it is directed that in all cases of Drawback under Section 74 of the Customs Act, 1962, before sanctioning the Drawback, it should be ensured that the claimant has not availed any Cenvat credit, and if availed, reversed such credit. Further, no claim of Drawback under Section 74 shall be processed for part of duties paid.

(Sandeep Prakash)
Commissioner

Copy to:

1. The AC, Teck Section, Hqs
2. The AC, Ace
3. The AC, ICD
4. The AC, Customs Division
5. The AC, PAD.

Dispatched

13/12/2012
10473.