STANDING ORDER NO. 16/2013

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 details of import clearance are not being mentioned either in the Shipping Bills or in the examination reports furnished by the examining officers.

2. Rule 4 of "Re-export of Imported Goods (Drawback of Customs duties) Rules, 1995," reads as follows:

"4. Statements/Declarations to be made on exports other than by post. - In the case of exports other than by post, the exporter shall at the time of export of the goods -

(a) state on the shipping bill or bill of export, the description, quantity and such other particulars as are necessary for deciding whether the goods are entitled to drawback under section 74 and make a declaration on the relevant shipping bill or bill of export that

(i) the export is being made under a claim for drawback under section 74 of the Customs Act;
(ii) that the duties of customs were paid on the goods imported;
(iii) that the goods imported were not taken into use after importation;

OR

(iii) that the goods were taken in use;

Provided that if the Commissioner of Customs is satisfied that the exporter or his authorized agent has, for reasons beyond his control, failed to comply with the provisions of this clause, he may, after considering the representation, if any, made by such exporter..."
or his authorized agent, and for reasons to be recorded, exempt such exporter or his
authorized agent from the provisions of this clause.

(b) furnish to the proper officer of customs, copy of the Bill of Entry or any
other prescribed document against which goods were cleared on importation,
import invoice, documentary evidence of payment of duty, export invoice and
packing list and permission from Reserve Bank of India to re-export the goods,
wherever necessary."

3. Thus, in terms of the above Rule, the exporter is required to declare full
particulars of import and furnish the import documents necessary for
identification of the goods as the ones imported earlier. Hence, before
examination of the goods presented for export, it must be ensured that such
details are mentioned on the Shipping Bills or Bills of Export. In cases where the
details are not mentioned on the Shipping Bills, the same may be got amended to
include the requisite details, before examination of the goods.

4. Further, the satisfaction of the Assistant/Deputy Commissioner as regards
the identity of the goods is an essential prerequisite for the sanction of Drawback
under Section 74. The examination report should clearly bring out the details of
description, Part No., Sl. No., etc., and the reasons for identification as to
whether the goods were used after import or not. Instructions issued, in this
regard, vide Standing Order No. 02/2013 dated 09.01.2013 may also be referred
to.

5. The above instructions should be followed scrupulously and any
deviation would be viewed seriously. It may be noted that in terms of Section 74
of the Customs Act, 1962, the identity of the goods is to be established to the
satisfaction of the Assistant Commissioner / Deputy Commissioner of Customs.
Therefore, in case of any deviation, the ultimate responsibility rests with the
Assistant Commissioner / Deputy Commissioner in charge of Export.

(Sandip Prakash)
Commissioner

To,
1) Additional Commissioner of Customs, ACC, Bangalore
2) Additional Commissioner of Customs, ICD, Bangalore
3) Joint Commissioner of Customs, ACC, Bangalore
4) Deputy/Assistant Commissioner of ICD/ACC/PAD, Bangalore
5) All Sections in the Commissionerate Headquarters
6) Website.

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