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Revenue Releases New Drawback Schedule w.e.f. 21 Sept

Notification for the Revised All Industry Rates of Duty Drawback Issued

To promote exports with fair and representative rebate of the incidence of customs and central excise duties and service tax related with the manufacture of export goods, the Central Government had appointed an expert Committee headed by Dr. Saumitra Chaudhuri, Member of the Planning Commission and of the Prime Minister's Economic Advisory Council, to interact with Export Promotion Councils and other stake holders and rely on data to work out and recommend the All Industry Rates of duty drawback on the basis of relevant parameters including prevailing prices of inputs, rates of duty/tax and value of export goods.

The Central Government, has taken into account the

Committee's recommendations, and notified the revised All Industry Rates of duty drawback effective from 21st September, 2013. Apart from the rate changes, to assist exporters, a large number of rationalization measures have also been undertaken to realign entries, provide rates on more items, better differentiate all industry rates for export products with higher duty incidence or to address classification issues on export products.

With the revised rates, the Central Government will continue to support exporters with substantial total drawback. Moreover, for expeditiously addressing exporters concerns, the term of the Committee has been continued for another three months.

DBK Directorate Lists Highlights of New Schedule

Subject: All Industry Rates of Duty Drawback effective 21.09.2013.

37-CBEC The Ministry has notified the revised All
14.09.2013 Industry Rates (AIR) of Duty Drawback vide
(DoR) Notification No. 98/2013-Customs (N.T.),
dated 14.09.2013. This notification comes
into force on 21.09.2013.

2. Some of the broad aspects, from amongst the changes notified with respect to AIR of duty drawback and entries in the Schedule, are the following—

(a) As in previous years, the drawback rates have been determined on the basis of certain broad average parameters including, inter alia, prevailing prices of inputs, standard input output norms, share of imports in input consumption, the applied rates of central excise and customs duties, the factoring of incidence of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods, factoring incidence of duty on HSD/Furnace Oil, value of export goods, etc. Many items, but not all, that were already covered under the drawback schedule prior to incorporation of erstwhile DEPB items, shall see some reduction in AIR of duty drawback. Few items like gold and silver jewellery, silk yarn, silk fabric, silk garments and made-ups, wooden art-ware etc. shall see an increase in AIR.

(b) The residuary AIR of 1% (composite) and 0.3% (customs) is being provided to hitherto Nil rated items under chapters 4, 15, 22, few items in chapter 24 and casein and its derivatives in chapter 35. AIR is being provided to articles of silver (silversmiths' wares) subject to similar conditions as applicable to gold/silver jewellery and the Notes and Conditions (22)/(23) of the said Notification shall also have relevance.

(c) The specific rate provided to Ethanol/ENA under tariff item no. 22071090 is being changed to *ad valorem* 1% (composite) and 0.3% (customs). *Ad valorem* rates are being provided to certain items of chapter 37 and imitation jewellery of chapter 71.

(d) Though, the existing residuary rate of 1% *ad valorem*

(composite) and 0.3% (customs) continues, the higher residuary rates are being reduced from 1.5% to 1.3% (customs) or from 2% to 1.7% (customs), as the case may be.

(e) The process of realignment of rates, on items incorporated in the drawback schedule from the erstwhile DEPB scheme, is continued along with rationalizing these rates. In general, these items shall see a reduction in the AIR, including some to the applicable residuary rate. In the case of certain electronic goods of chapter 84, 85 or 93, the residuary rate is being provided at 1% (customs).

(f) In the case of most tariff items with *ad valorem* all industry rates above 2%, the rates are being supplemented with drawback caps.

(g) Separate tariff entries are being created for cotton bags, grey and dyed knitted fabrics of cotton, of MMF, of blend where cotton predominates and of blends where MMF predominates, grey and dyed cotton fabrics with lycra, women's/girls' tops, embroidered fabrics of MMF, imitation jewellery of glass, multi-speed complete bicycle with geared hubs, cranks made of aluminum, single speed chain wheel and crank (crank made of aluminum), pillows/cushions/quilts/pouffles filled with poly-fill/polyfill, etc. A few tariff items are also being replicated with same rates and caps under different four digit levels and descriptions of certain tariff items are being modified to address classification issues.

(h) AIR on wheat is being made Nil. Amendments vide Notification No. 97/2013- Customs (N.T.), dated 14.09.2013 shall also make the brand rate unavailable on export of wheat.

3. For entries in the Schedule that are related to pharmacopeia, where the product descriptions bear suffix like IP and/or BP and/or USP, it is hereby clarified that the pharmacopeia standards IP, BP, USP, EP, JP shall be treated as interchangeable.

4. Commissioners are expected to ensure that the due dili-

FIEO Not Happy with Cuts in DBK on Electronic Goods



FIEO Chief welcomes Drawback Rates but ask for review for Electronic Sectors Responding to Duty Drawback rates, Mr M Rafeeqe Ahmed, President, FIEO said that by and large Drawback rates are on expected lines as generally the decline are in the range of 0.1% to 0.5% with few exceptions. Mr. Ahmed welcomed increase in rates for silk garments, fabrics and yarn, gold and silver jewellery and also bringing milk products under Drawback as exports growth in dairy sector has been encouraging. President FIEO, however, expressed his concern on sharp

decline in drawback rates for electronic sectors where the DBK rates for Coloured and Black & White TVs have been slashed from 4% to 1% and Public Address Systems etc from 2% to 1%. Since only recently we introduced new electronic hardware policy with a view to encourage hardware manufacturing in India to reduce electronics imports, which may cross over US\$ 200 Billion in next 5-7 years, said Mr Ahmed, the rate for the sector may be reviewed looking at broad objectives. FIEO has also provided a comparison of Drawback rates for important exports sectors. Drawback comparison document is attached below:

Product	Drawback Rates for 2012-13	Drawback rates for 2013-14 (effective from 21 st September,2013)
Milk and Milk Products	NIL	1%
Meat Products	1.6%	1.5%
Frozen Marine Products	3.5%	3.3%
Wheat	1%	NIL
Brass/Copper Handicrafts	12.5%	12%
Garment Cotton	7.9%	7.6%
Man Made	10.5%	10.2%
Silk	7%	7.8%
Leather Shoes	9.2%	9.1%
Leather Sandles	8.2%	8.1%
Sports Shoes	4%	3%
Gold Jewellery	Rs 100.70 per gram of net gold content	Rs 227.20 per gram of net gold content
Silver Jewellery	Rs 2590.80 per kg of net silver content	Rs 3436.80 per kg of net silver content
Car with automatic transmission	3.67%	3.67%
Tractors	2%	1.7%
Car components	7.5%	7.2%
Coloured and B/W TVs	4%	1%
Public Address System/Loudspeakers	2%	1%
Quartz Watches	4%	3%
Cricket Bats/Hockey sticks	5.5%	5.2%
Carpets Wollen	10.4%	9.7%
Silk	11.7%	11.7%
Man made	9.4%	9.1%
Cotton	8.7%	8.4%

Source: Federation of Indian Exports Organisations (FIEO)

gence is exercised to prevent any misuse. As before, it may be ensured that exporters do not avail of the refund of service tax paid on taxable services which are used as input services in the manufacturing or processing of export goods through any other mechanism while claiming AIR. Moreover, there is need for continued scrutiny for preventing any excess drawback arising from mismatch of declarations made in the Item Details and the Drawback Details in a shipping bill. For example, when quantities declared in Item details and Drawback details are same, but units of their measurement are different, or unit of measurement is same but quantities declared do not match or the 4-digit RITC in the Item Details and Drawback Tariff Item No. in Drawback Details are different.

5. It is requested to download the notification with the revised Schedule of AIR effective 21.09.2013 from Board's website (www.cbec.gov.in) and carefully peruse it and thereby take

note of all the specific changes notified. While every effort has been made to avoid errors / omissions, these are not ruled out. If an error is noticed, please immediately inform the Board for appropriate corrective action. Difficulties faced, if any, in implementation of the changes may also be brought to Board's notice. In cases where the drawback caps have not been provided against a particular tariff item, suggestions may be sent to the Board. In the case of export of articles of silver (silversmiths' wares), which are high value items, there should be close monitoring and a monthly report indicating quantum of export and drawback availed may be sent to the Board for the next 12 months by the Commissioners having jurisdiction over the relevant Custom Houses. Suitable public notice and standing order may be issued for guidance of the trade and officers. Receipt of this Circular may be acknowledged.

F. No. 609/115/2013-DBK

98-Cus(NT) In exercise of the powers
14.09.2013 conferred by sub-section (2) of
(DoR) section 75 of the Customs Act,
1962 (52 of 1962), sub-section
(2) of section 37 of the Central Excise Act, 1944
(1 of 1944), and section 93A and sub-section (2)
of section 94 of the Finance Act, 1994 (32 of
1994) read with rules 3 and 4 of the Customs,
Central Excise Duties and Service Tax Draw-
back Rules, 1995 (hereinafter referred to as the
said rules) and in supersession of the notifica-
tion of the Government of India in the Ministry of
Finance (Department of Revenue) No.92/2012-
Customs (N.T.), dated the 4th October, 2012
published *vide* number G.S.R. 742 (E), dated
the 4th October, 2012, except as respects things
done or omitted to be done before such super-
session, the Central Government hereby deter-
mines the rates of drawback as specified in the
Schedule annexed hereto (hereinafter referred
to as the said Schedule) subject to the following
notes and conditions, namely:-

Notes and conditions:

(1) The tariff items and descriptions of goods in the said Schedule are aligned with the tariff items and descriptions of goods in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) at the four-digit level only. The descriptions of goods given at the six digit or eight digit or modified six or eight or ten digits are in several cases not aligned with the descriptions of goods given in the said First Schedule to the Customs Tariff Act, 1975.

(2) The General Rules for the Interpretation of the First Schedule to the said Customs Tariff Act, 1975 shall *mutatis mutandis* apply for classifying the export goods listed in the said Schedule.

(3) Notwithstanding anything contained in the said Schedule,-

(i) all artware or handicraft items shall be classified under the heading of artware or handicraft (of constituent material) as mentioned in the relevant Chapters;

(ii) any identifiable ready to use machined part or component predominantly made of iron, steel or aluminium, made through casting or forging process, and not specifically mentioned at six digit level or more in Chapter 84 or 85 or 87, may be classified under the relevant tariff item (depending upon material composition and making process) under heading 8487 or 8548 or 8708, as the case may be, irrespective of classification of such part or component at four digit level in Chapter 84 or 85 or 87 of the said Schedule;

(iii) the sports gloves mentioned below heading 4203 shall be classified in that heading and all other sports gloves shall be classified under heading 9506.

(4) The figures shown in columns (4) and (6) in the said Schedule refer to the rate of drawback expressed as a percentage of the free on board (f.o.b.) value or the rate per unit quantity of the export goods, as the case may be.

(5) The figures shown in columns (5) and (7) in the said Schedule refer to the maximum amount of drawback that can be availed of per unit specified in column (3).

(6) The figures shown under the drawback rate and drawback cap appearing below the column "Drawback when Cenvat facility has not been availed" refer to the total drawback (customs, central excise and service tax component put together) allowable and those appearing under the column "Drawback when Cenvat facility has been availed" refer to the drawback allowable under the customs component. The difference between the two columns refers to the central excise and service tax component of drawback. If the rate indicated is the same in both the columns, it shall mean that the same pertains to only customs component and is available irrespective of whether the exporter has availed of Cenvat or not.

(7) Drawback at the rates specified in the said Schedule shall be applicable only if the procedural requirements for claiming drawback as specified in rules 11, 12 and 13 of the said rules, unless otherwise relaxed by the competent authority, are satisfied.

(8) The rates of drawback specified in the said Schedule shall not be applicable to export of a commodity or product if such commodity or product is -

(a) manufactured partly or wholly in a warehouse under section 65 of the Customs Act, 1962 (52 of 1962);

(b) manufactured or exported in discharge of export obligation against an Advance Licence or Advance Authorisation or Duty Free Import Authorisation issued under the Duty Exemption Scheme of the relevant Export and Import Policy or the Foreign Trade Policy;

Provided that where exports are made against Advance Licences issued on or after the 1st April, 1997, in discharge of export obligations in terms of notification No. 31/97 - Customs, dated the 1st April, 1997, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 48/2000-Customs, dated the 25th April, 2000, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 46/2002-Customs, dated the 22nd April, 2002, or against Duty Free Replenishment Certificate Licence issued in terms of notification No. 90/2004-Customs, dated the 10th September, 2004, drawback at the rate equivalent to Central Excise allocation of rate of drawback specified in the said Schedule shall be admissible subject to the conditions specified therein;

(c) manufactured or exported by a unit licensed as hundred per cent. Export Oriented Unit in terms of the provisions of the relevant Export and Import Policy and the Foreign Trade Policy;

(d) manufactured or exported by any of the units situated in free trade zones or export processing zones or special economic zones;

(e) manufactured or exported availing the benefit of the notification No. 32/1997-Customs, dated 01st April, 1997.

(9) The rates and caps of drawback specified in columns (4) and (5) of the said schedule shall not be applicable to export of a commodity or product if such commodity or product is -

(a) manufactured or exported by availing the rebate of duty paid on materials used in the manufacture or processing of such commodity or product in terms of rule 18 of the Central Excise Rules, 2002;

(b) manufactured or exported in terms of sub-rule (2) of rule 19 of the Central Excise Rules, 2002.

(10) Where the export product is not specifically covered by the description of goods in the said Schedule, the rate of drawback may be fixed, on an application by an individual manufacturer or exporter in accordance with the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

(11) The rates of drawback specified against the various tariff items in the said Schedule in specific terms or on *ad valorem* basis, unless otherwise specifically provided, are inclusive of drawback for packing materials used, if any.

(12) The term "dyed", wherever used in the said Schedule in relation to textile materials, shall include yarn or piece dyed or predominantly printed or coloured in the body.

(13) In respect of the tariff items in Chapters 60, 61, 62 and 63 of the said Schedule, the blend containing cotton and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight and the blend containing wool and man made fibre shall mean that content of man made fibre in it shall be more than 15% but less than 85% by weight. The garment or made-up of cotton or wool or man made fibre or silk or noil silk shall mean that the content in it of the respective fibre is 85% or more by weight.

(14) Wherever specific rates have been provided against tariff item in the said Schedule, the drawback shall be payable only if the amount is one per cent. or more of free on board value, except where the amount of drawback per shipment exceeds five hundred rupees.

(15) The expressions "when Cenvat facility has not been availed", used in the said Schedule, shall mean that the exporter shall satisfy the following conditions, namely:-

(a) the exporter shall declare, and if necessary, establish to the satisfaction of the Assistant Commissioner of Customs or Assistant Commissioner of Central Excise or Deputy Commissioner of Customs or Deputy Commissioner of Central Excise, as the case may be, that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product;

(b) if the goods are exported under bond or claim for rebate of duty of central excise, a certificate from the Superintendent of Customs or Superintendent of Central Excise in-charge of the factory of production, to the effect that no Cenvat facility has been availed for any of the inputs or input services used in the manufacture of the export product, is produced;

Provided that the certificate regarding non-availment of Cenvat facility shall not be required in the case of exports of handloom products or handicrafts (including handicrafts of brass artware) or finished leather and other export

Amendments in Drawback Rules w.e.f. 21 Sept 2013

97-Cus(NT) In exercise of the powers 14.09.2013 conferred by section 75 (DoR) of the Customs Act, 1962 (52 of 1962), section 37 of the Central Excise Act, 1994 (1 of 1944) and section 93A read with section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, namely:-

1. (1) These rules may be called the Customs, Central Excise Duties and Service Tax Drawback (Amendment) Rules, 2013.

(2) They shall come into force on 21st September, 2013.

2. In the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995,-

(i) in rule 3, in sub-rule (1), in clause (v) of the second proviso, for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501", the words and figures "falling within heading 1006 or on wheat falling within heading 1001" shall be substituted;

(ii) in rule 6, in sub-rule (4), for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501", the words and figures "falling within heading 1006 or on wheat falling within heading 1001" shall be substituted;

(iii) in rule 7, in sub-rule (5), for the words and figures "falling within heading 0401, 0402, 0403, 0404, 0405, 0406, 1006 or 3501", the words and figures "falling within heading 1006 or on wheat falling within heading 1001" shall be substituted;

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products which are unconditionally exempt from the duty of central excise.

(16) Whenever a composite article is exported for which any specific rate has not been provided in the said Schedule, the rates of drawback applicable to various constituent materials can be extended to the composite article according to net content of such materials on the basis of a self-declaration to be furnished by the exporter to this effect and in cases of doubt or where there is any information contrary to the declarations, the proper officer of customs shall cause a verification of such declarations.

(17) The term 'article of leather' in Chapter 42 of the said Schedule shall mean any article wherein 60% or more of the outer visible surface area (excluding shoulder straps or handles or fur skin trimming, if any) is of leather notwithstanding that such article is made of leather and any other material.

(18) The term "dyed" in relation to fabrics and yarn of cotton, shall include "bleached or mercerized or printed or mélange".

(19) The term "dyed" in relation to textile materials in Chapters 54 and 55 shall include "printed or bleached".

(20) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes, boots or half boots for adult shall comprise the following sizes, namely: -

- (a) French point or Paris point or Continental Size above 33;
- (b) English or UK adult size 1 and above; and
- (c) American or USA adult size 1 and above.

(21) In respect of the tariff items appearing in Chapter 64 of the said Schedule, leather shoes, boots or half boots for children shall comprise the following sizes, namely: -

- (a) French point or Paris point or Continental Size upto 33;
- (b) English or UK children size upto 13; and
- (c) American or USA children size upto 13.

(22) The drawback rates specified in the said Schedule against tariff items 711301, 711302 and 711401 shall apply only to goods exported by airfreight, post parcel or authorised courier through the Custom Houses as specified in para 4A.12 of the Hand Book of Procedures (Vol. I), 2009-2014 published vide Public Notice No.1 (RE-2012) / 2009-2014 dated the 5th June, 2012 of the Government of India in the Ministry of

Commerce and Industry, after examination by the Customs Appraiser or Superintendent to ascertain the quality of gold or silver and the quantity of net content of gold or silver in the gold jewellery or silver jewellery or silver articles. The Free on Board (FOB) value of any consignment through authorised courier shall not exceed rupees twenty lakhs.

(23) The drawback rates specified in the said Schedule against tariff items 711301, 711302 and 711401 shall not be applicable to goods manufactured or exported in discharge of export obligation against any Scheme of the relevant Export and Import Policy or the Foreign Trade Policy of the Government of India which provides for duty free import or replenishment or procurement from local sources of gold or silver.

2. All claims for duty drawback shall be filed with reference to the tariff items and descriptions of goods shown in columns 1 and 2 of the said Schedule respectively.

3. This notification shall come into force on the 21st day of September, 2013.

[Drawback Schedule 2013-14 is available at our website www.worldtradescanner.com]

No Arrests in Customs below Rs. 50 lakhs Value, Smuggling Case Rs. 20 lakhs

Subject - Guidelines for Arrest and Bail in relation to offences punishable under Customs Act, 1962.

38-CBEC Attention of the field formations is invited to the amendments to section 104 of the Customs Act, 1962 vide Finance Act, 2013 (with effect from 10.05.2013) whereby all offences are bailable other than the categories of offences punishable under section 135 of the Act *ibid*, which are classified as non-bailable. These are offences relating to:

- (a) evasion or attempted evasion of duty exceeding fifty lakh rupees; or
- (b) prohibited goods notified under section 11 of the Customs Act, 1962 (as amended) which are also notified under sub-clause(C) of clause(i) of sub-section (1) of section 135 of the Customs Act, 1962 (as amended); or
- (c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds one crore rupees; or
- (d) fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees.

2.1 The existing guidelines on the subject have been re-examined in the light of the above legislative amendments. As afore-stated, offences under the Customs Act, 1962 are placed in two categories i.e. (i) bailable; or (ii) non-bailable. Since arrest takes away the liberty of an individual, the power must be exercised with utmost care and caution in cases where a Commissioner of Customs or Additional Direc-

tor General has reason to believe on basis of information or suspicion that such person has committed an offence under the Act punishable under the sections 132 or 133 or 135 or 135A or 136 of the Customs Act, 1962.

It is emphasised that arrest of persons in terms of section 104 (1) of Customs Act, 1962 should be resorted to only where the facts and situa-

tions of a particular case demand such action. Persons involved should not be arrested unless the exigencies of certain situations demand their immediate arrest. These situations may include circumstances:

- (i) to ensure proper investigation of the offence;
- (ii) to prevent such person from absconding;
- (iii) cases involving organised smuggling of goods or evasion of customs duty by way of concealment;
- (iv) masterminds or key operators effecting proxy/benami imports/exports in the name of dummy or non-existent persons/IECs, etc.

2.2 The decision to arrests should be taken in cases which fulfil the requirement of the provisions of Section 104(1) of Customs Act, 1962 and after considering the nature of offence, the role of the person involved and evidence available.

2.3 While the Act does not specify any value limits for exercising the powers of arrest, it is clarified that arrest in respect of an offence, categorized as bailable offence, should be ef-

Gold and other Precious Metal Jewellery Duty Upped to 15% from 10%

The customs duty on articles of jewellery and on goldsmiths' or silversmiths' wares was revised upwards in line with the changes in the duty rates on gold, silver and platinum. After the hikes in the duty on gold, silver and platinum has been revised periodically since 17th January 2012. With this, the customs duty on primary metal and articles of jewellery/goldsmiths' or silversmiths' wares is same, i.e. 10%.

A notification notifying the revised rates of customs duty on articles of jewellery and of goldsmiths' or silversmiths' wares and parts thereof was issued today.

The customs duty on gold was revised upwards periodically in the past two years. Prior to 17th January 2012, the import duty on standard gold (of purity 99.5% & above) was Rs. 300 per 10 gm. The duty was raised to 2% w.e.f. 17th January 2012; thereafter, it was raised to 4% in the Budget 2012-13. The duty was further raised to 6% w.e.f. 21st January 2013 and thereafter, it was increased to 8% w.e.f. 5th June 2013. The duty on gold was last revised on 13th August 2013, when the duty was increased to 10%. The customs duty on silver which was Rs. 1,500 per kg prior to 17th January 2012, was raised to 6% w.e.f. 17th January 2012. The duty was further raised to 10% w.e.f. 13th August 2013.

The customs duty on platinum has been revised periodically in tandem with the duty on gold.

Ntfn 44 Whereas the Central 17.09.2013 Government is satisfied that (DoR) the import duty leviable on articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal and articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal, falling under headings 7113 and 7114 respectively of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), should be increased and that circumstances exist which render it necessary to take immediate action;

NOW, therefore, in exercise of the powers conferred by sub-section (1) of section 8A of the said Customs Tariff Act, the Central Government, hereby directs that the First Schedule to the said Customs Tariff Act shall be amended in the following manner, namely:-

In the First Schedule to the said Customs Tariff Act, in Section XIV, in Chapter 71, against tariff items 7113 11 10, 7113 11 20, 7113 11 30, 7113 11 90, 7113 19 10, 7113 19 20, 7113 19 30, 7113 19 40, 7113 19 50, 7113 19 60, 7113 19 90, 7113 20 00, 7114 11 10, 7114 11 20, 7114 19 10, 7114 19 20, 7114 19 30, 7114 20 10, 7114 20 20 and 7114 20 30, for the entry in column (4), the entry "15%" shall be substituted.

2. This notification shall come into force on the 17th day of September, 2013.

F.No.354/165/2013-TRU

affected only in exceptional situations which may include:

(a) Outright smuggling of high value goods such as precious metal, restricted items or prohibited items or goods notified under section 123 of the Customs Act, 1962 or foreign currency where the value of offending goods exceeds Rs. 20 lakh.

(b) In a case related to importation of trade goods (i.e. appraising cases) involving wilful misdeclaration in description of goods/concealment of goods/goods covered under section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the CIF value of the offending goods exceeds Rs. 50 lakh.

2.4 There is no prescribed format for arrest memo but an arrest memo must be in compliance with the directions in "D.K Basu vs. State of W.B." reported as 1997 (1) SCC 416 (see para 35). The arrest memo should include:

- (a) brief facts of the case;
- (b) details of the person arrested;
- (c) list of evidence against the person;
- (d) relevant Section (s) of the Customs Act, 1962 or other laws attracted to the case and to the arrestee;
- (e) the grounds of arrest must be explained to arrestee and this fact noted in the arrest memo;
- (f) a nominated person (as per details provided by arrestee) of the arrestee should be informed immediately and this fact also may be mentioned in the arrest memo;
- (g) the date and time of arrest may be mentioned in the arrest memo and the arrest memo should be given to person arrested under proper acknowledgement;
- (h) a separate arrest memo has to be made and provided to each individual/arrestee.

2.5 Further, there are certain modalities that should be complied with at the time of arrest and pursuant to an arrest, which include the following:

- (i) Female offenders should be arrested by or in the presence of woman Customs officers.
- (ii) Medical examination of an arrestee should be conducted by a medical officer in the service of Central or State Government and in case such medical officer is not available, by a registered medical practitioner soon after the arrest is made. If an arrested person is a female then

such an examination shall be made only by, or under supervision of a female medical officer, and in case such female medical officer is not available, by a female registered medical practitioner.

(iii) It shall be the duty of the person having the custody of an arrestee to take reasonable care of the health and safety of the arrestee.

2.6 Further, in every case of arrest effected in accordance with the provisions of section 104 (1) of the Customs Act, 1962, there should be immediate intimation to the jurisdictional Chief Commissioner or DGRI, as the case may be.

3.1 In regard to the grant of bail and terms of bail, a person arrested for a non-bailable offence should be produced before concerned Magistrate without unnecessary delay in terms of provisions of Section 104 (2) of the Act.

3.2 Under sub-section (3) of section 104 an officer of Customs (arresting officer) has the same powers as an officer in charge of a Police Station under the Cr.PC. Thus, a Customs officer (arresting officer) is bound to release a person on bail for offences categorized as bailable under the Customs Act, 1962. Thus, release on bail must be offered to a person arrested in respect of bailable offence and bail bond accepted for bailable offence. The amount of bail bond/surety for bailable offences should not be excessive and the bail conditions should be informed by the arresting officer in writing to the arrestee and also informed on telephone to the nominated person (as per details provided by the arrestee) and the arrestee should be also allowed to talk to nominated person. If the conditions of the bail are fulfilled by the arrestee, he shall be released by the officer concerned on bail forthwith. The arresting officer may, and shall if such a person is indigent and unable to furnish surety, instead of taking bail from such person, discharge him or her executing a bond without sureties for his appearance as provided under Section 436 of Cr.PC. However, only in cases where the conditions for granting bail are not fulfilled, the arrestee shall be produced before the appropriate Magistrate without unnecessary delay and within twenty-four (24) hours of arrest.

3.3 Only in the event of circumstances preventing the production of the arrestee before a Magistrate without unnecessary delay, the arrestee may be handed over to nearest Police Station for his safe custody during night, under

Sugar Beet Seeds Duty Cuts to 5% from 15%

Ntfn 43 In exercise of the powers
13.09.2013 conferred by sub-section (1)
(DoR) of section 25 of the Customs
Act, 1962 (52 of 1962), the

Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2012-Customs, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide G.S.R. 185(E), dated the 17th March, 2012, namely: -

In the said notification, in the Table, after S. No. 41 and the entries relating thereto, the following serial number and the entries shall be inserted, namely:-

(1)	(2)	(3)	(4)	(5)	(6)
"41A	1209 10 00	Sugar beet seeds	5%	-	-"
[F. No. 356/16/2013-TRU]					

proper Challan, and produced before the Magistrate on the next day, and the nominated person of the arrestee may be also informed accordingly.

4. The guidelines is issued vide F.No. 394/71/97-Cus(AS) dated 22.6.1999 (including the threshold limit specified at para 2.3) stand modified to the above extent.

5. Chief Commissioners/DGRI shall send a report on every arrest to the concerned Member within twenty-four (24) hours of the arrest. To maintain an all India record of arrests made under the Customs Act, 1962, a monthly report of all persons arrested in the Zone shall be sent by the Chief Commissioner to DRI (Hqrs) in the format prescribed and enclosed, by the 5th of the succeeding month and the same would be compiled and sent to Anti-Smuggling Unit, CBEC by 10th of every month zone wise.

6. The Chief Commissioners/Director Generals are hereby directed to circulate the present guidelines to all the formations under their charge. Difficulties, if any, in implementation of the aforesaid guidelines may be brought to the notice of the Board.

F.No.394/68/2013-Cus(AS)

Format

Monthly Report on Persons Arrested under the Customs Act, 1962 (excluding NDPS Act) in a Zone

SNo.	Name, Designation and Age of the person arrested	Date of arrest	Commissionerate/ DRI Concerned	Description and Value of the seized/detained goods (Rs. In crores)	Amount of Duty evaded (Rs. In crores)	Role in evasion/ smuggling of goods and nature of evidence collected	Appraising case/ outright smuggling case
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Total

Enclosure to the Circular No. 38/2013-Customs dated 17/09/2013 issued vide F.No.394/68/2013-Cus(AS)

IE Code is only for Own Exports and Imports, Others Barred DGFT Cautions IE Holders on Misuse

Subject: Use of Importer-exporter Code Number allotted to them by the importers/exporters

06-Pol.Cir 16.09.2013 (DGFT) It has been brought to the notice of this Directorate that some importers/exporters are effecting imports/exports by using IECs issued to others which is a complete violation of provisions of Foreign Trade Policy.

2. As per the Section 7 of The Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010 read along with Rule 12 of Foreign Trade (Regulation) Rules, 1993 every person should make import or export only with Importer-exporter Code Number allotted to him. This has been further amplified by Para 2.9.2 of Handbook of Procedures, Vol.1, 2009-14 which states that an IEC number allotted to an applicant is valid for all its branches / divisions / units/factories. Therefore, the IEC Number cannot be used by anyone other the IEC holder himself/herself.

3. In view of the above, use of IEC by the person other than IEC holder himself is a violation of the above provisions and would attract action under Section 8 and 11 of The Foreign Trade (Development and Regulation) Act, 1992, as amended in 2010, except in case importers or exporters are exempted from obtaining IEC and who use permanent (common) IEC Numbers under Para 2.8 of Handbook of Procedure, Vol.1, 2009-14.

4. Therefore, importers/exporters as well as all other stake holders are cautioned to comply with the provisions of FT(DR) Act and Rules made thereunder while using their IEC Number. Non-compliance/ violation of these provisions would attract action in the form of suspension/cancellation of IEC or imposition of penalty, as appropriate, under the relevant provisions of FT(DR) Act and Rules.

CBEC Repeats Instructions on Wood Packaging and ISPM-15 Standards for Exports

[CBEC Instruction F.No.450/19/2005-Cus.IV dated 16th September 2013]

Attention is invited to Board Circular No. 14/2009 – Cus dated 06.05.2009 which provides that Customs field formations should verify whether the export goods packed with raw or solid wood packaging material comply with the International Standards for Phytosanitary Measures (ISPM No. 15) or are accompanied by a phytosanitary certificate with the treatment endorsed issued by the agencies which are accredited/certified by DAC. This was reiterated vide Board Circular No. 13/2011 – Cus dated 28-02-2011.

2. Despite explicit provisions, it has been reported that in a number of export consignments

have been found non compliant by other Customs administrations especially European Union on the ground of non-adherence/infringement of phytosanitary standards prescribed therein. Ministry of Agriculture has repeatedly expressed concerns over increasing number of such cases and desired remedial action be taken to check export of consignments not meeting required phytosanitary specifications i.e. ISPM – 15.

3. Board has taken a serious note of it and reiterates that no export consignments packed with raw or solid wood packaging material shall be allowed clearance which is found deficient on meeting phytosanitary requirements ISPM – 15.

Currency of Rs. 10,000 Allowed in Departure Area after Customs and before Boarding

Sub: Memorandum of Instructions governing money changing activities – Location of Forex Counters in International Airports in India

AP(DIR Srs) Cir.45 16.09.2013 (RBI) Attention of Authorised Persons is invited to Para 2 (b) of the A.P.(DIR Series) Circular No.38 dated October 25, 2011.

2. On a review, it has been decided to allow non-residents to carry Indian currency upto a maximum of ₹10,000/- beyond Immigration/ Customs desk to the Duty Free Area/Security Hold Area (SHA) in the departure hall in international airports in India for meeting miscellaneous expenditures subject to the condition that non-residents will not be allowed to carry any Indian Rupee beyond SHA and that they should dispose of Indian currency before boarding the plane.

3. In order to provide money changing facility to non-residents to convert unspent Indian Rupees with them, Foreign Exchange Counters in the departure halls in international airports in India may be established in the Duty Free

Area/SHA beyond the Immigration/ Customs desk. Such Foreign Exchange Counters will however, only buy Indian Rupees from non-residents and sell foreign currency to them subject to usual terms and conditions. Putting up suitable display at these counters, reminding the passengers that the area is the last point for non-residents to possess Indian Rupees (INR) will be the responsibility of the Airport Authorities.

4. Authorised Persons may bring the contents of this circular to the notice of their constituents concerned.

5. The directions contained in this Circular have been issued under Section 10(4) and Section 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and non-compliance with the guidelines would attract penal provisions of Section 11(3) of the Act, *ibid*.

CVD Exempt on Intermediates, Parts and Sub-Parts of Rotor Blades for Wind Operated Generators

27-CE 12.09.2013 (DoR) In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 12/2012-Central Excise, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 163(E), dated the 17th March, 2012, namely:-

In the said notification,-

(i) in the Table, against Sl. No. 327, for the entry in column (3), the following entry shall be substituted, namely:-

“Goods specified in List 9, for the manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades, for wind operated electricity generators.”;

(ii) in the ANNEXURE, in condition No. 36, for the words “manufacture of rotor blades for wind operated electricity generators”, the words “manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades, for wind operated electricity generators” shall be substituted.

[F. No. 332/17/2012 -TRU]

4. All Chief Commissioners of Central Excise and Customs should ensure that the instruction aforementioned is complied with scrupulously. Non compliance on the part of officers shall be viewed seriously.

F. No.450/19/2005-Cus.IV

CBEC Clarifies Excise Debit on Reward Scrip will give “Duty Paid” Statutes Goods

No Duty under Cenvat Rule 6(3) Applicable

Subject: Reversal of amount under Rule 6(3) the CCR, 2004 on domestic clearances under Notification Nos.29/2012-CE, 30/2012-CE, 31/2012-CE, 32/2012-CE and 33/2012-CE all dated 9th July, 2012.

973-CBEC 04.09.2013 (DoR) Central Government has issued notifications no 29/2012-CE, 30/2012-CE, 31/2012-CE, 32/2012-CE and 33/2012-CE all dated 9th July, 2012 to exempt certain manufactured goods when cleared against the specified duty credit scrip issued to an exporter. The holder of the said scrip, to whom the goods are cleared, is entitled to avail Cenvat credit of duties of excise, against the amount debited in the said scrip as per one of the conditions of the notification.

2) Representations have been received from

the trade that such clearances are being treated as clearances of exempted goods and payment of amount under rule 6(3), as applicable, of the Cenvat Credit Rules, 2004 is being demanded. Trade has requested that a clarification be issued that these goods be treated as equivalent of duty paid goods so that such payment of amount under rule 6(3) is not required to be made.

3) The matter has been examined. One of the conditions for availing of these exemptions is that duties leviable, but for these exemptions, shall be debited in or on the reverse of said scrip. The scrip holder is also permitted to avail of cenvat credit of the duties debited in the scrip.

In view of these provisions it has been decided that such debit of duty in these scrips shall be treated as payment of duty for the purpose of determining the applicability of rule 6 of the Cenvat Credit Rules, 2004. Therefore, it is clarified that in respect of goods cleared availing the benefit of any of notifications no. 29/2012-CE, 30/2012-CE, 31/2012-CE, 32/2012-CE and 33/2012-CE all dated 9th July, 2012, payment of amount under rule 6(3) of the Cenvat Credit Rules, 2004 is not applicable.

4) Field formations may be informed accordingly.

F. No. 267/48/2012-CX.8

No TPP before in Oct Meet at Bali

TPP countries - a 12-strong group that only just added Japan to its ranks this summer - had previously floated the idea of completing an agreement in time for next month's Asia-Pacific Economic Cooperation (APEC) leaders' meeting in Bali. Officials from TPP members have traditionally met on the sidelines of major APEC gatherings in order to review progress in the negotiations.

The October plan now appears to have been shelved, with TPP ministers referring to the APEC meeting instead as an important "milestone" in the process. However, ministers have pledged to "maintain our active engagement" ahead of the Bali event.

Japan involvement

Trade observers were also watching this Brunei round closely to see how Japan's participation could affect the process. Tokyo became a formal member of the TPP group in July, just two

days before the end of the last round, which was held in Malaysia.

In Brunei, Japan held bilateral tariff negotiations with nearly all of its TPP partners, with the exception of Chile and Peru. Japan has already tabled tariff elimination proposals with six of those countries, Tokyo's chief negotiator Koji Tsuruoka told reporters. Exchanges of proposals with Australia and the US are expected later this month.

Agricultural market access is expected to be a major sticking point between Japan and its fellow TPP members, with Tokyo hoping to maintain its famously high tariffs on rice, as well as on beef, pork, dairy, wheat, and sugar.

The US and Japan have also begun to hold bilateral talks in parallel to the formal TPP process, in line with the deal announced earlier this year between the two sides that effectively paved the way for the Asian economy to join the regional negotiations.

EU-China Solar Panel Deal in Place; Subsidies Probe to Continue

The EU and China reached a deal this summer on their high-tension row over solar panel trade, with Beijing agreeing to a "price undertaking" arrangement that will effectively exempt participating companies from anti-dumping duties. However, a separate investigation by the European Commission into allegedly unfair Chinese solar subsidies is still ongoing, with definitive results due by year's end.

The deal announced in late July came after months of burgeoning tension between the EU and its second-largest trading partner, due to the Commission's announcement in June that it had found evidence of Chinese solar panels and their components being "dumped" on the EU market - in other words, being sold at lower prices abroad than their normal value.

Brussels had subsequently imposed provisional duties of 11.8 percent on these imports, with the warning that these would increase to an average of 47.6 percent should EU and Chinese officials not reach a negotiated solution by early August.

The Commission's investigation had begun a year ago, following a complaint filed by EU ProSun - a coalition of EU solar panel makers led by the German-based SolarWorld.



The EU currently imports €21 billion in solar panels and their component wafers and cells from China each year. The Commission had argued that the anti-dumping duties were necessary to protect the 25,000 jobs in the EU solar sector, with the industry taking a hard hit in recent years as it struggled to keep up with lower-priced imports from abroad.

Price undertaking agreement: terms

Under the terms of the agreement, participating Chinese exporters have committed to respecting minimum import prices.

According to the Financial Times, Chinese companies will be able to export up to 7 gigawatts per year of solar products without having to pay the anti-dumping duties, as long as the price does not fall below 56 cents per watt.

Non-participating Chinese companies will, however, be subject to the 47.6 percent average anti-dumping duty.

Many European solar manufacturers had wanted at least 80 cents or more per watt out of the price undertaking agreement, arguing that anything less would not sufficiently level the playing field for EU producers.

Meanwhile, the Alliance for Affordable Solar Energy (AFASE) - a separate coalition of down-

No Service Tax on Hotels in UKhand till 31 March

[Service Tax Order No. 01 dated 17th September 2013]

Whereas the recent floods and landslides has caused extensive damage in the State of Uttarakhand and has adversely affected the life of the common man in the state. There is a need to provide support to ensure sustenance for the local population by revival of the hospitality industry;

And whereas taxable services provided in the State of Uttarakhand are chargeable to service tax;

Now therefore, in exercise of the powers conferred by sub-section (2) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, on being satisfied that it is necessary in the public interest so to do and that there are circumstances of exceptional nature as mentioned above, hereby exempts the following taxable service provided to any person in the State of Uttarakhand, from the whole of service tax leviable thereon under section 66B of the Finance Act, 1994 (32 of 1994), namely:-

- i. Services by way of renting of a room in a hotel, inn, guest house, club, campsite or other commercial place meant for residential or lodging purposes;
- ii Services provided in relation to serving of food or beverages by a restaurant, eating joint or mess

This exemption order is applicable for the above mentioned taxable services provided during the period 17th September, 2013 to 31st March, 2014.

F.No.354/182/2013-TRU

stream solar producers that has been critical of the ProSun case - gave a lukewarm welcome of the price undertaking deal, while warning that it could create problems for some renewable energy projects in the 28-member EU bloc.

US, NZ Move Against Indonesia at WTO on Agro Products

The United States and New Zealand have separately notified the WTO Secretariat, on 30 August 2013, of requests for consultations with Indonesia over measures imposed by Indonesia on the importation of horticultural products, animals and animal products.

Both members allege that the measures imposed by Indonesia restrict their exports and appear to be inconsistent with several articles of GATT 1994, the Agriculture Agreement, the Import Licensing Agreement and the Agreement on Pre-shipment Inspection.

They refer to the application of discretionary or non-automatic import licences and quotas, import restrictions, pre-shipment inspections that cause delays and are applied on a discriminatory basis, and less favourable treatment of imported products than of "like" domestic products.

China Fails at WTO on Chicken Restrictions

A WTO panel has sided with the US in its row with China over trade remedies being imposed on imported poultry products, officials announced last month. The global trade arbiter's annual August recess proved to be a busy few weeks on the disputes front, with three new cases filed in a matter of weeks, along with the establishment of a panel in the row between Brussels and Beijing on steel imports.

WTO panel grants US victory in China trade remedy dispute

A WTO panel has ruled primarily in favour of the US in its row with China on the latter's anti-dumping and anti-subsidy duties on imports of US chicken "broiler" products, with the findings distributed to members on 2 August. (DS427)

Broiler products include nearly all chicken products, aside from live, cooked, and canned chicken. The Chinese duties at issue entered into effect in late 2010.

The original complaint had largely focused on procedural concerns in Beijing's trade remedy investigations, along with the substantive analy-

sis conducted by the Chinese Ministry of Commerce (MOFCOM).

"This decision sends a clear message that the Obama Administration can fight and win for American farmers, businesses, and workers in the global trading system, ensuring that America gets the benefit of the rules and market access we have negotiated in our international trade agreements," said US Trade Representative (USTR) Michael Froman in response to the ruling.

China, for its part, has said that it will "evaluate seriously the panel's report, and will handle the follow-up work in line with the dispute settlement procedures."

Both parties have up to 60 days to appeal the results of the panel ruling. If an appeal is filed, the Appellate Body will be able to revise aspects of law - such as legal interpretation - but may not revisit the facts of the case.

Panel to hear EU-China steel case

A WTO panel was also established last month to hear the EU's complaint over China's anti-dumping duties on imports of high-performance stainless steel seamless tubes (HP-SSST) from the 28-nation bloc. (DS460)



Russia Joins Information Technology Agreement as 78th Member

The Russian Federation becomes the 78th member of the Information Technology Agreement (ITA). The Committee of Participants in the Expansion of Trade in Information Technology Products, on 13 September 2013, confirmed that the Russian Federation has joined the WTO plurilateral agreement that aims to liberalize trade in this important and growing sector of the global economy.

Russia joined the WTO on 22 August 2012. As part of its accession commitments, it undertook to reduce tariffs on information technology products from 5.4 per cent to zero, and to join the ITA. Its IT exports and imports in 2012 were US\$ 0.99 billion and US\$ 20.21 billion, respectively.

The ITA participants represent around 97 per cent of world exports in information technology products. The ITA provides for participants to completely eliminate duties on IT products covered by the Agreement. The benefits of this plurilateral agreement are extended to all WTO members.

This was the EU's first panel request in the case, which China did not block. Under WTO rules, Beijing - or any other member - has the option of rejecting a first panel request, but not a second. A separate dispute on the subject has also been filed by Japan, which was also hit by the Chinese duties; the latter case is already at the panel stage. A single panel is likely to hear both cases.

Windex No. 26 - 18-24 September 2013

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*See details in www.worldtradesScanner.com

Customs Valuation Exchange Rates

6 September 2013	Imports	Exports
Schedule I [Rate of exchange of one unit of foreign currency equipment to Indian Rupees]		
1 Australian Dollar	61.60	59.80
2 Bahrain Dinar	170.95*	161.65*
3 Canadian Dollar	64.10	62.30
4 Danish Kroner	11.90	11.50
5 EURO	88.60	86.05
6 Hong Kong Dollar	8.15*	8.00*
7 Kenyan Shilling	73.60*	69.50*
8 Kuwaiti Dinar	227.20*	214.00*
9 New Zealand Dollar	53.10	51.45
10 Norwegian Kroner	11.10	10.70
11 Pound Sterling	104.80	102.10
12 Singapore Dollar	52.65	51.10
13 South African Rand	6.65	6.25
14 South Arabian Riyal	17.20*	16.25*
15 Swedish Kroner	10.20	9.85
16 Swiss Franc	71.65	69.55
17 UAE Dirham	17.55*	16.60*
18 U.S. Dollar	63.15*	62.15*
Schedule II [Rate of exchange of 100 units of foreign currency equivalent to Indian rupees]		
1 Japanese Yen	67.35	65.35

*w.e.f. 17.09.2013

(Source: Customs Notification 95(NT)/05.09.2013)