

This Module Includes

- 21.1 Introduction**
- 21.2 Types of Duty Drawbacks**
- 21.3 Duty Drawback on Re-Export**
- 21.4 Payment of Erroneous or Excess Payment of Duty Drawback and Interest**
- 21.5 Re-Export of Imported Goods by POST**
- 21.6 Negative List of Duty Drawback**
- 21.7 Interest on Draw Back Amount**
- 21.8 Duty Deferment**
- 21.9 New Customs and Central Excise Duties Drawback Rules, 2017**

Duty Drawback

SLOB Mapped against the Module

1. To acquire adequate knowledge relating to valuation and duty calculation, remission and refund under Customs Act and Rules.
2. To facilitate strategic decision making by appropriate management of various indirect tax issues.

Module Learning Objectives

After studying this module, the students will be able to:

- ⦿ Understand various types of duty drawbacks.
- ⦿ Explain cases wherein duty draw back not allowed
- ⦿ Apply practically to claim duty drawback

The term 'duty drawback' means drawing back of the duties paid. As per section 75 of the Customs Act, 1962, drawback is given as an amount to the exporter which represents:

- ⦿ The duty paid on imported inputs which are used in the manufacture of export goods.
- ⦿ The excise duty paid on the indigenously produced inputs used in the manufacture of export goods (prior to GST).
- ⦿ The service tax paid on input services (prior to GST).

No drawback
is allowed on
GST

However, the amount of drawback paid would not exactly relate to the actual import duty and excise duty components. It is determined by the government on the basis of an average amount of duty having regard to all the circumstances and facts of the manufacturing industry. Such a rate is called 'all industry rates' which may vary from time to time depending upon the duty prevalent on the inputs.

Brand rate of duty drawback is applicable in either of the following circumstances.

- ⦿ When individual rate fixed in respect of goods on which all industry rate is not applicable
- Or
- ⦿ All industry rate does not cover 80% of the drawback amount due

The Brand Rate of Duty Drawback fixed by the Central Government after necessary verification of the manufacturing processes and the documents provided giving details of input output ratio, duty paid on inputs, etc.

Types of Duty Drawbacks

21.2

Special Brand Rate of duty drawback

As per Rule 7 of Drawback Rules the special brand rate of duty drawback can be applied based on the satisfaction of following conditions:

- ⦿ Exporter has to apply for fixation of special brand rate within 30 days from the date of export.
- ⦿ All industry rates do not cover 80% of the duties paid by the exporter.
- ⦿ Rate of Duty Drawback should not be less than 1% of Free on Board.
- ⦿ Amount of Drawback should not be less than ₹500 per shipment, in case rate of Duty Drawback is less than 1% of FOB.
- ⦿ Exported goods value is more than the value of imported goods.

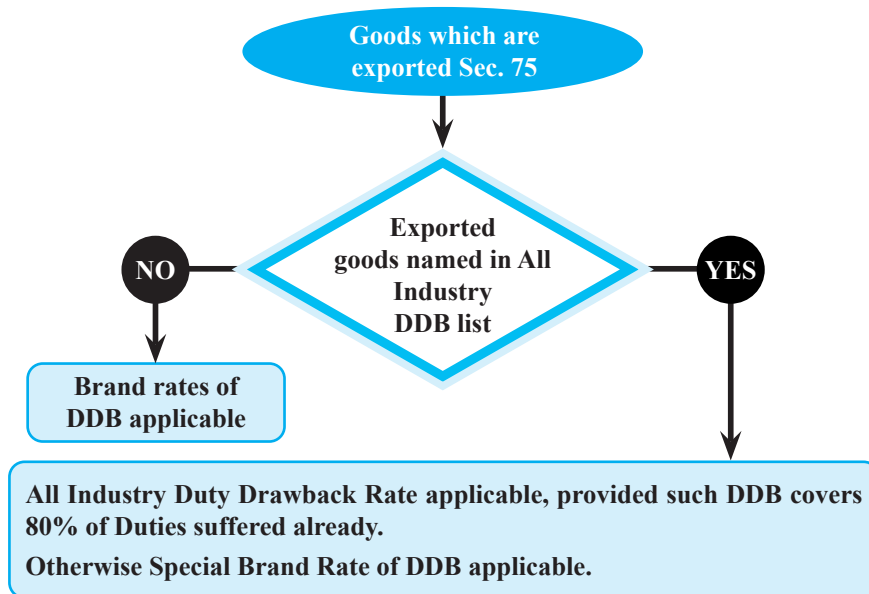
All Industry Rates

Generally, these rates are fixed by the Drawback Directorate once in every year on 1st June. The Brand rate is fixed for those products in respect of which All Industry Rate is not announced. In that case, the manufacturer or exporter must get the brand rate fixed by furnishing the prescribed data within 3 months from the relevant date for determination of rate of duty and tariff valuation to the Commissioner of Central Excise and Customs.

As per Rule 3(2) of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, all industry rate of duty drawback will be determined by the Drawback Directorate shall have regard to

- ⦿ The average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India.
- ⦿ The average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods;
- ⦿ The average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods.
- ⦿ The average amount of duties paid on materials wasted in the process of manufacture.
- ⦿ The average amount of duties paid on imported materials or excisable materials used for containing or packing the export goods;
- ⦿ The average amount of tax paid on taxable services which are used as input services for the manufacturing or processing or for containing or packing the export goods.
- ⦿ Any other information, which the Central Government considers relevant or useful.

Types of duty drawbacks concept and its applicability explained here in a simplified manner:



Where the exporter has already filed a duty, drawback claim under All Industry Rates (AIR) Schedule, he cannot request for fixation of Special Brand Rate of drawback. Thus, the exporter should determine prior to export of goods, whether to claim drawback under AIR or Special Brand Rate. [w.e.f. 22.11.2014].

Duty Drawback on Re-Export

21.3

Section 74 of the Customs Act, 1962, provides facility of claiming duty drawback on the re-export of duty paid goods.

- Originally the goods should have been imported into India;
- Customs duty on import should have been paid.
- The imported goods should be capable of being easily identifiable as the same goods which were originally imported.
- The goods have been exported after proper examination of the goods and after ensuring that there is no prohibition or restriction on their export by the proper officer.
- The goods should have been identified to the satisfaction of the Assistant or Deputy Commissioner of Customs as the goods, which were imported, and
- The goods should have been entered for export within **two years** from the date of payment of duty on the importation thereof.

Drawback of import duty paid is not allowed if these goods are exported: Wearing apparel (after being used), Tea chests, Exposed cinematograph film passed by the Board of Film Censors in India, Unexposed photographic films, paper and plates and X-Ray films.

The Central Board of Indirect Taxes and Customs has the power to extend the period of two years. Once these conditions are satisfied, then 98% of the import duty paid on such goods at the time of importation shall be repaid as drawback. 98% duty drawback is allowed only when these goods are re-exported without being used in the industry. If the goods are taken into use after importation then the duty drawback is allowed based on the period of usage as per section 74(2) of the Customs Act, 1962.

Drawback rates on re-export if the goods are taken into use after importation (NT No. 23/2008-Cus., dated 1-3-2008)

The following duty drawback rates have been notified by the Central Government under section 74(2) of the Customs Act, 1962. These rates are applicable if the goods are re-exported only after being used in the business.

Length of period between the date of clearance for home consumption and the date when goods are placed under Customs control for export.	% of import duty to be paid as Drawback
Not more than 3 months	95%
More than 3 months but not more than 6 months	85%
More than 6 months but not more than 9 months	75%

Length of period between the date of clearance for home consumption and the date when goods are placed under Customs control for export.	% of import duty to be paid as Drawback
More than 9 months but not more than 12 months	70%
More than 12 months but not more than 15 months	65%
More than 15 months but not more than 18 months	60%
More than 18 months	NIL

Duty drawback rates on personnel goods under section 74(2) of the Customs Act

The following duty drawback rates are allowable on goods imported for personal use (like Motor cars or other goods) after payment of duty and subsequently re-exported: These rates are applicable if the goods are re-exported after being used.

Year	Quarter or part thereof	Rate of drawback to be reduced	Cumulative reduction	Allowable drawback
1	1st Quarter	4%	4%	96%
	2nd Quarter	4%	8%	92%
	3rd Quarter	4%	12%	88%
	4th Quarter	4%	16%	84%
2	1st Quarter	3%	19%	81%
	2nd Quarter	3%	22%	78%
	3rd Quarter	3%	25%	75%
	4th Quarter	3%	28%	72%
3	1st Quarter	2.50%	30.5%	69.5%
	2nd Quarter	2.50%	33%	67%
	3rd Quarter	2.50%	35.5%	64.5%
	4th Quarter	2.50%	38%	62%
4	1st Quarter	2%	40%	60%
	2nd Quarter	2%	42%	58%
	3rd Quarter	2%	44%	56%
	4th Quarter	2%	46%	54%

Part of the quarter is also considered as full quarter for allowing duty draw back rate.

Motor car or goods used more than 2 years:

where the period of usage is more than 2 years, drawback shall be allowed only if the CBIC, on sufficient cause being shown, has in that particular case extended the period beyond 2 years and also that no drawback shall be allowed if such motor car has been used for more than 4 years.

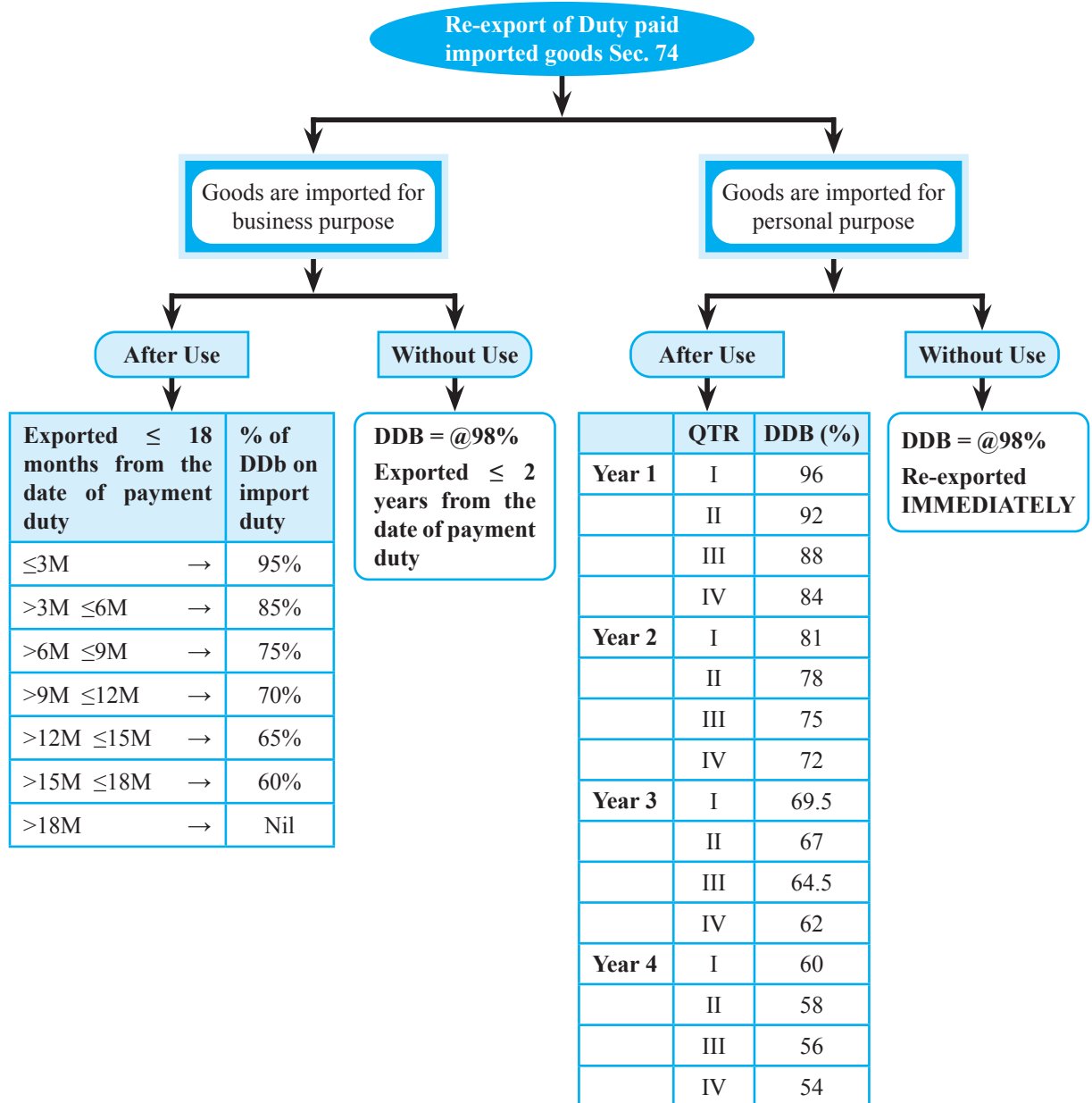
Illustration 1

Mr. Ram wants to take back with him (i.e. re-export) a car that he was imported on duty payment, when came to India. Can he get any duty drawback from the government? He has imported motor car for his personal use and paid ₹2,50,000 as import duty. Car used in India for 3 months and 2 days.

Solution:

Yes, he can claim the duty drawback @92% on the value of import duty i.e. ₹2,30,000.

The entire concept with regard to duty drawback on re-export has been explained hereunder:



Statements/Declaration to be made on export other than by post

As per Rule 4 of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, the exporter shall at the time of export of the goods—

- ⊙ State on 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 the following:
 - the export is being made under a claim for drawback under section 74 of the Customs Act;
 - that the duties of customs were paid on the goods imported;
 - that the imported goods were, or were not, taken into use after importation;
- ⊙ Furnish to the proper officer of customs, copy of bill of entry, 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

Time limit for claiming the duty drawback

As per Rule 5(1) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 a claim for drawback, in case of goods exported other than by post, shall be filed in the specified form at Annexure II **within three 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.

In case of delay in filing the claim, the proper officer namely the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, if he satisfied that the exporter was prevented by sufficient cause to file his claim within the aforesaid period of three months, allow the exporter to file his claim within **a further period of three months**.

Extension of time period for filing drawback claim under rule 5 of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995

Proviso to rule 5(1) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 has been substituted with a new proviso. Rule 5(1) provides that a claim for drawback shall be filed within three months from the date on which an order permitting clearance and loading of goods for exportation is made by proper officer of customs.

The new proviso lays down that the said period of three months may be extended by a period of three months by Assistant/Deputy Commissioner on an application accompanied with a fees of 1% of the FOB value of exports or ₹1,000/- whichever is less and a further period of six months by Commissioner of Customs/Commissioner of Customs and Central Excise on an application accompanied with a fees of 2% of the FOB value or ₹2,000/- whichever is less. [Notification No. 48/2010-Cus. (NT), dated 17.06.2010]

Change in time periods available under rules 6, 7, 15 and 16A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995

Following amendments have been made in the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995: [Notification No. 49/2010-Cus.(NT), dated 17.06.2010]

- (i) The time period for the following has been extended from sixty days to three months:
 - (a) making an application to the Commissioner of Central Excise/Commissioner of Customs and Central Excise for determination of the amount or rate of drawback, if no, All Industry Rate is specified [Rule 6].

- (b) making an application to the Commissioner of Central Excise/Commissioner of Customs and Central Excise for determination of the amount or rate of drawback where the amount or rate of drawback is low (i.e. All Industry Rate is lower than 80% of the duty or tax paid) [Rule 7].

Further, the aforesaid periods of three months may be extended by a period of three months by Assistant/Deputy Commissioner on an application accompanied with a fees of 1% of the FOB value of exports or ₹1000/- whichever is less and a further period of six months by Commissioner of Central Excise/Commissioner of Customs and Central Excise on an application accompanied with a fees of 2% of the FOB value or ₹2000/- whichever is less.

Supplementary Claim [Rule 15]:

Where an exporter finds that the amount of duty drawback paid to him is less than what he is entitled to on the basis of amount or rate of duty drawback as determined by the Commissioner of Central Excise/ Commissioner of Customs and Central Excise, he may prefer supplementary claim in prescribed form:

The claim shall be made within 3 months of the following dates—

- ⊙ Where rate of duty drawback is determined or revised under Rule 3 or 4, date of publication of such date
- ⊙ Where the rate is determined under Rule 6 or 7, the date of communication of rate to person

The said 3 months period further extended for a period of nine months for filing a supplementary claim under rule 15, by making an application accompanied with fees of 1% of the FOB value of exports or ₹1,000/- whichever is less. Further, the said period may be extended by six months by Commissioner of Customs/Commissioner of Customs and Central Excise on an application accompanied with fees of 2% of the FOB value or ₹2,000/- whichever is less.

Recovery of duty drawback where export proceeds are not realized Rule 16A:

Where the duty drawback has been paid to the exporter but the sale proceeds in respect of such goods have not been realized by the exporter within the period permissible by the Foreign Exchange Management Act, 1999 (FEMA), such duty drawback shall be recovered by the Government except under circumstances or conditions specified in rule 16A(5).

Where the sale proceeds are realized by the exporter after the amount of drawback has been recovered from him and the exporter produces evidence about such realization within a period of 3 months from the date of realization of sale proceeds provided the sale proceeds have been realized within the period permitted by the Reserve Bank of India. The amount of drawback so recovered shall be repaid the Assistant Commissioner or Deputy Commissioner of Customs to the exporter.

Further, the aforesaid period of three months may be extended by a period of nine months by Commissioner of Customs/Commissioner of Customs and Central Excise on an application accompanied with fees of 1% of the FOB value of exports or ₹1000/- whichever is less.

Drawback shall not be recovered (Notification No. 30/2011-Cus., dated 11-4-2011):

As per Rule 16A (5) the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 where sale proceeds are not realized by an exporter within the period allowed under the FEMA, the amount of drawback paid to the exporter or the claimant shall not be recovered if—

- ⊙ such non-realisation of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd. (ECGC), under an insurance cover; and

- ⊙ the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits; and
- ⊙ the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of sale proceeds from the buyer.

Clarification regarding duty drawback allowed in cases of short realisation of export proceeds due to bank charges deducted by foreign banks. Circular No. 33/2019-Customs dated 19th September 2019:

In view of the above, it is clarified that duty drawback may be permitted on FoB value without deducting foreign bank charges. It is further clarified that since agency commission up to the limit of 12.5% of the FoB value has been allowed, such deduction on account of foreign bank charges is allowed within this overall limit of 12.5% of the FoB value. From the average rates of agency commission and foreign bank charges in respect of export shipments, it is seen that these deductions fall within the aforesaid overall limit of 12.5% of FoB value allowed by the Board. Agency commission and foreign bank charges, separately or jointly, exceeding this limit should be deducted from the FoB value for granting duty drawback.

Circular No. 23/2015-Cus, dated 29.09.2015]

Safeguard duties are rebatable as duty drawback (section 75 of the Customs Act).

Since safeguard duties are not taken into consideration while fixing All Industry Rates of drawback, the drawback of the same can be claimed under an application for Brand Rate under rule 6 or rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995.

This implies that drawback shall be admissible only where the inputs which suffered safeguard duties were actually used in the goods exported as confirmed by the verification conducted for fixation of Brand Rate.

Further, where imported goods subject to safeguard duties are exported out of the country as such, then the drawback payable under section 74 of the Customs Act would also include the incidence of safeguard duties as part of total duties paid, subject to fulfilment of other conditions.

Refund of drawback of basic customs duty paid on inputs for deemed exports also allowed on “All Industry Rate” basis [Notification No. 28/2015-2020 dated 31.10.2019]

DGFT vide Notification No. 28/2015-20 dated 31st October 2019 has amended the said provision and provided that refund of drawback on the inputs used in manufacture and supply under the deemed exports category can be claimed on ‘All Industry Rate’ of Duty Drawback Schedule notified by Department of Revenue from time to time provided no CENVAT credit has been availed by supplier of goods on excisable inputs or on ‘Brand rate basis’ upon submission of documents evidencing actual payment of basic custom duties. Accordingly, the refund of drawback of duty paid on inputs is also allowed on All Industry Rate basis.

Note: Earlier, the refund of drawback in the form of Basic Customs duty of the inputs used in manufacture and supply under the deemed exports category was given on brand rate basis upon submission of documents evidencing actual payment of basic custom duties.

Documents to be filed for claiming of duty drawback on re-export

As per Rule 5(2) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, the claim shall be filed along with the following documents, namely

- ⊙ Triplicate copy of the Shipping Bill bearing examination report recorded by the proper officer of the customs at the time of export.
- ⊙ Copy of Bill of Entry or any other prescribed document against which goods were cleared on importation;

- ⊙ Import invoice;
- ⊙ Evidence of payment of duty paid at the time of importation of the goods;
- ⊙ Permission from Reserve Bank of India for re-export of goods, wherever necessary;
- ⊙ Export invoice and packing list;
- ⊙ Copy of Bill of lading or Airway bill;
- ⊙ Any other documents as may be specified in the deficiency memo.

As per Rule 5(3) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 the date of filing of the claim for the purpose of section 75A shall be the date of affixing the Dated Receipt Stamp on the claims, which are complete in all respects, and for which acknowledgement shall be issued in the form prescribed by the Commissioner of Customs.

As per Rule 5(4)(a) of the Any claim which is incomplete in any material particulars or is without the documents specified above shall not be accepted for the purpose of section 75A and such claim shall be returned to the claimant with the deficiency memo in the form prescribed by the Commissioner of Customs within fifteen days of submission and shall be deemed not to have been filed.

Incomplete claim if any shall not be accepted for the purpose of section 75A and the same shall be returned to the claimant with the deficiency memo in the form prescribed by the Commissioner of Customs within fifteen days of submission and shall be deemed not to have been filed.

Where the exporter complies with requirements specified in deficiency memo within thirty days from the date of receipt of deficiency memo, the same will be treated as a claim filed under Rule 5(1).

Payment of Erroneous or Excess Payment of Duty Drawback and Interest

21.4

Where an amount of drawback and interest, if any, has been paid erroneously or amount so paid in excess of what the claimant is entitled to, the claimant shall, on demand by an officer of customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount it shall be recovered in the manner laid down in Section 142(1) of the Customs Act, 1962 namely recovery of sums due to Government.

As per section 75A(2) of the Customs Act, 1962, the claimant (assessee) is liable to pay the excess amount of drawback, he is liable to pay interest as well. No notice need be issued separately as the payment of interest becomes automatic, once it is held that excess drawback has to be repaid. [**CPS Textiles P Ltd. v Joint Secretary 2010 (255) ELT 228 (Mad)**].

Re-Export of Imported Goods by POST

21.5

Procedure to claim the duty drawback when import duty paid on imported goods which are taken for re-export:

- ⦿ The parcel carrying the address of the consignee shall also carry in bold letters the words “DRAW BACK EXPORT”;
- ⦿ The exporter shall deliver to the competent Postal Authority, along with the parcel of package, a claim, in quadruplicate, duly filled in specified form.
- ⦿ The relevant date for filing of drawback claim in such a case shall be the date of receipt of the aforesaid ‘claim form’ by the proper officer of customs from the postal authorities. This date is important for the purpose of calculation of interest on drawback under Section 75A of the Act.
- ⦿ An intimation of the same shall be given by the proper officer of customs to the exporter in the form prescribed by the Commissioner of Customs.
- ⦿ Deficiencies, if any, in the claim form shall be intimated to the exporter within 15 days of its receipt by postal authorities through a deficiency memo. In such circumstances such claim shall be deemed not to have been received.
- ⦿ Where the exporter complies with the requirements specified in deficiency memo, within 30 days of receipt of the deficiency memo, he shall be issued an acknowledgement by the proper officer. The date of such acknowledgement shall be deemed to be the date of filing the claim for purposes of section 75A.

Negative List of Duty Drawback

21.6

Section 76 of the Customs Act, 1962 contains the provisions in respect of prohibition and regulation of drawback and no drawback shall be allowed in the following circumstances:

- (a) In respect of any goods, the market price of which is less than the amount of drawback due thereon.
- (b) If the Central Government is of the opinion that goods of any specified description in respect of which drawback is claimed under this Chapter are likely to be smuggled back into India.
- (c) CENVAT credit claim is on inputs and input services then no duty drawback is allowed. However, if the goods have already suffered the customs duty then duty drawback is allowed to the extent of customs duties.
- (d) Duty drawback is not allowed if the exporter has already availed the Duty Entitlement Pass Book (DEPB) or other export incentives.
- (e) If the sale proceeds not received within the time period allowed by Reserve Bank of India.
- (f) Export to Nepal and Bhutan and the export proceeds are not received in hard currency (it means USD, GBP or Pounds).
- (g) drawback in respect of iron and steel, cement and rice is not allowed. [w.e.f. 29-5-2008]
- (h) duty drawback is more than 1/3rd of market value of exported goods, then amount of duty drawback is restricted to 1/3rd of market value.
- (i) No amount or rate of drawback is to be determined except where the amount of drawback exceeds or equal to ₹500/- or it is 1% or more of the FOB value of export
- (j) Where the amount of drawback in respect of any goods is less than ₹50.
- (h) Duty drawback amount exceeds market value of exported goods.

Example 1

Particulars	Situation 1	Situation 2	Situation 3	Situation 4
Free On Board (FOB) in ₹	1,000	10,000	1,00,000	1,00,000
Duty Draw Back (DDB) in ₹	40	200	450	750
DDB (%)	4%	2%	0.45%	0.75%
DDB	Not allowed	Allowed	Not allowed	Allowed

Particulars	Situation 1	Situation 2	Situation 3	Situation 4
Remarks	Since, DDB is <₹50	Since, DDB ≥1% and amount also ≥₹50	Since, DDB < 1% and DDB amount also <₹500	Since, DDB amount is ≥ ₹500 even though DDB < 1%

The above list is only illustrative but not exhaustive.

Upper limit of drawback money or rate

As per the Rule 8A of Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 the drawback amount or rate determined under rule 3(i.e. the all industry rate) shall not exceed 1/3rd of the market price of export product.

Minimum and Maximum Duty Drawback Rates:

- ⊙ Minimum duty drawback rate @1% on FOB value of exports.
- ⊙ Maximum duty drawback rate @33% on FOB value of exports.

Interest on Draw Back Amount

21.7

Any drawback payable to a claimant u/s 74 or 75 is not paid within specified time period (i.e. one month from the date of filing of drawback claim), the @6% per annum interest is payable to the claimant after the expiry of said one month till the date of payment of such drawback.

Drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or rules made there under, within two months from the date of demand has to pay back. Otherwise, @13% per annum interest will be levied from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

Duty deferment [provisions of this section have been omitted w.e.f. 10.05.2013]

The Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit clearance of material under an import licence without payment of duty leviable thereon. This is permissible subject to satisfaction of the following conditions [Section 143A of the Customs Act, 1962].

- ⦿ While permitting clearance, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may require the importer to execute a bond with such surety or security as he thinks fit.
- ⦿ The duty payable on the material imported shall be adjusted against the drawback of duty payable under this Act
- ⦿ If the imported goods are not exported within the period specified in Advance Authorisation or within such extended period not exceeding six months by the Assistant Commissioner of Customs or Deputy Commissioner of Customs, be liable to pay the amount of duty not so adjusted together with simple interest thereon at the rate of twelve per cent per annum from the date the said permission for clearance is given to the date of payment.

New Customs and Central Excise Duties Drawback Rules, 2017

21.9

Any goods are produced or manufactured from imported materials or excisable materials, on some of which only the duty chargeable thereon has been paid and not the rest, or only a part of the duty chargeable has been paid, or the duty paid has been rebated or refunded in whole or in part or given as credit, under any of the provisions of the customs Act, 1962 or the Central Excise Act, 1944, the drawback admissible on the said goods shall be reduced taking into account the lesser duty paid or the rebate, refund or credit obtained.

1. No drawback in certain cases:

- (i) if the said goods, except tea chests used as packing material for export of blended tea, have been taken into use after manufacture;
- (ii) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid;
- (iii) on jute batching oil used in the manufacture of export goods, namely, jute (including Bimlipatam jute or mesta fibre) yarn, twist, twine, thread, cords and ropes;
- (iv) if the said goods, being packing materials have been used in or in relation to the export of -
 - (A) jute yarn (including Bimlipatam jute or mesta fibre), twist, twine, thread and ropes in which jute yarn predominates in weight;
 - (B) jute fabrics (including Bimlipatam jute or mesta fibre), in which jute predominates in weight;
 - (C) jute manufactures not elsewhere specified (including Bimlipatam jute or mesta fibre) in which jute predominates in weight.

2. Factors considered while determining amount/rate of drawback:

In determining the amount or rate of drawback under this rule, the Central Government shall have regard to—

- (a) the average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India.
- (b) the average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods.
- (c) the average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods.
- (d) the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents.

However, if any such waste or catalytic agent is re-used in any process of manufacture or is sold, the average amount of duties on the waste or catalytic agent re-used or sold shall also be deducted.

- (e) the average amount of duties paid on imported materials or excisable materials used for containing or packing the export goods.
- (f) any other information which the Central Government may consider relevant or useful for the purpose.

3. Cases where amount or rate of drawback has not been determined [Rule 6]:

Where no amount or rate of drawback has been determined in respect of any goods, any exporter of such goods may, within 3 months from the date relevant for the applicability of the amount/rate of drawback, apply to the Principal Commissioner/Commissioner of Customs, as the case may be, having jurisdiction over the place of export, for determination of the amount or rate of drawback thereof stating all the relevant facts including the proportion in which the materials or components are used in the production or manufacture of goods and the duties paid on such materials or components.

However, in case an exporter is exporting the aforesaid goods from more than one place of export, he shall apply to the Principal Commissioner/Commissioner of Customs, having jurisdiction over any one of the said places of export.

On receipt of an application, the Principal Commissioner/Commissioner of Customs, as the case may be, shall, after making or causing to be made such inquiry as it deems fit, determine the amount or rate of drawback in respect of such goods.

Provisional drawback:

While making an application under above rule 6, an exporter may apply for a provisional amount of drawback pending determination of the amount or rate of drawback.

The Principal Commissioner/Commissioner of Customs, may, after considering the application, allow provisionally payment of an amount not exceeding the amount claimed by the exporter in respect of such export.

For the said purpose, he may require the exporter to enter into **a general bond** for such amount, and subject to such conditions, as he may direct; or to enter into a bond for an amount not exceeding the full amount claimed by such exporter as drawback in respect of a particular consignment and binding himself to refund the amount so allowed provisionally, if for any reason, it is found that the duty drawback was not admissible; or to refund the excess, if any, paid to such exporter provisionally if it is found that a lower amount was payable as duty drawback. **The bond may be required to be furnished with prescribed surety or security.**

When the amount or rate of drawback payable on such goods is finally determined, the amount provisionally paid to such exporter shall be adjusted against the drawback finally payable and if the amount so adjusted is in excess or falls short of the drawback finally payable, such exporter shall repay to the Principal Commissioner/Commissioner of Customs, as the case may be, the excess or be entitled to the deficiency, as the case may be.

4. Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 amended Effective from 01.07.2017:

Under the GST regime, goods upon import shall be subject to integrated tax and compensation cess in terms of sections 3(7) and 3(9) respectively of the CTA, 1975. Further, in terms of section 3(12) of the CTA, 1975, the provisions of the Customs Act, 1962 and rules and regulations made thereunder relating inter alia to drawback shall apply to integrated tax and compensation cess also. Accordingly, drawback under section 74 would include refund of integrated tax and compensation cess along with basic customs duty, etc.

Illustration 1

An exporter exported 2,000 pairs of leather shoes @ ₹750 per pair. All industry rate of drawback is fixed on average basis i.e. @ 11% of FOB subject to maximum of ₹80 per pair. The exporter found that the actual duty paid on inputs was ₹1,95,000. He has approached you, as a consultant, to apply under Rule 7 of the drawback rules for fixation of 'special brand rate'. Advise him suitably.

Solution:

- ⊙ Drawback Amount ₹1,65,000 (i.e. $2,000 \times 750 \times 11\%$) or ₹1,60,000 (i.e. $₹80 \times 2,000$) whichever is less.
- ⊙ Therefore, duty drawback allowed is ₹1,60,000.
- ⊙ All Industry duty drawback rate = @82.05% [$(1,60,000/1,95,000) \times 100\%$]
- ⊙ Exporter is not eligible to apply for Special Brand rate.
- ⊙ Therefore, exporter is eligible for claiming All Industry Duty Drawback.

Note: special brand rate of duty is applicable only when all industry rates do not cover 80% of the duties paid by the exporter.

Illustration 2

ABC Ltd., who is an exporter, finds that the amount of drawback refunded to it is less than what it is entitled to, on the basis of the rates of drawback announced by the Central Government. Briefly discuss whether ABC Ltd. can claim the difference of drawback short refunded and procedure to be followed in this regard.

Solution:

Yes, ABC Ltd. is eligible for claiming the difference of the drawback on the basis of the amount of rate of drawback determined by the Central Government of India for claiming the difference by filing a supplementary claim in the prescribed form under rule 15 of the Customs Act and Central Excise Duties Drawback Rules, 1995 within a period of 3 months.

The said 3 months period further extended for a period of nine months for filing a supplementary claim under rule 15, by making an application accompanied with fees of 1% of the FOB value of exports or ₹1000/- whichever is less. Further, the said period may be extended by six months by Commissioner of Customs/ Commissioner of Customs and Central Excise on an application accompanied with fees of 2% of the FOB value or ₹2000/- whichever is less.

Illustration 3

Calculate the amount of duty drawback allowable under section 74 of the Customs Act, 1962 in following cases:

- (a) Salman imported a motor car for his personal use and paid ₹5,00,000 as import duty. The car is re-exported after 6 months and 20 days.
- (b) Nisha imported wearing apparel and paid ₹50,000 as import duty. As she did not like the apparel, these are re-exported after 20 days.
- (c) Super Tech Ltd. imported 10 computer systems paying customs duty of ₹50 lakh. Due to some technical problems, the computer systems were returned to foreign supplier after 2 months without using them at all.

Solution:

- (a) The amount of duty drawback is ₹4,40,000 (i.e. $₹5,00,000 @ 88\%$), since these goods are used in India.
- (b) Duty drawback is ₹nil, assumed that wearing apparels are re-exported after being used.

(c) Duty drawback is ₹49,00,000 (i.e. $50,00,000 \times 98\%$), since these goods are re-exported without being used.

Illustration 4

With reference to drawback on re-export of duty paid imported goods under section 74 of the Customs Act, 1962, answer in brief the following questions:

- (i) What is the time limit for re-exportation of goods as such?
- (ii) What is the rate of duty drawback if the goods are exported without use?
- (iii) Is duty drawback allowed on re-export of wearing apparel without use?

Solution:

(i) As per section 74 of the Customs Act, 1962, the duty paid imported goods are required to be entered for export within two years from the date of payment of duty on the importation.

This period can be extended by CBIC if the importer shows sufficient reason for not exporting the goods within two years.

(ii) If duty paid imported goods are exported without use, then 98% of such duty is re-paid as drawback.

(iii) Yes, duty drawback is allowed when wearing apparels are re-exported without being used.

Illustration 5

Abdul Overseas Pvt. Ltd. was erroneously refunded a sum of ₹ 30,000 in excess of actual drawback on 16-6-2025. A demand for recovery of the same was issued by the Department on 24.08.2025. Abdul Overseas Private Limited returned the erroneous refund to the Department on 16-10-2025. You are required to calculate the amount of interest chargeable from Abdul Overseas Pvt. Ltd. Provide brief reasons for your answer.

Solution:

$$\text{Interest} = ₹1,516/- (30,000 \times 15\% \times 123/365)$$

Computation of duty drawback:

Illustration 6

‘A’ exported a consignment under drawback claim consisting of the following items—

Particulars	Chapter Heading	FOB value ₹	Drawback rate
200 pieces of pressure stores mainly made of beans @ ₹80/piece	74.04	16,000	4% of FOB
200 Kgs. Brass utensils @ ₹200 per Kg.	74.13	40,000	₹24/Kg.
200 Kg. Artware of brass @ ₹300 per Kg.	74.22	60,000	17.50% of FOB subject to a maximum of ₹38 per Kg.

On examination in docks, weight of brass Artware was found to be 190 Kgs. and was recorded on shipping bill. Compute the drawback on each item and total drawback admissible to the party.

Solution:

The drawback on each item and total drawback admissible to the party shall be—

Particulars	FOB value (₹)	Drawback rate	Drawback Amount (₹)
200 pcs, pressure stoves made of brass	16,000	4% of FOB	640
200 Kgs. Brass utensils			
200 kgs. Artware of brass, whose actual weight was 190 Kgs. only.	40,000	₹24 per Kg.	4,800
(60,000 × 190/200) × 17.5% = 9975		17.50% of FOB subject to maximum of ₹38 per Kg. (₹9,975 or ₹7,220 whichever is less)	7,220
190 kgs x ₹38 = ₹7,220			
Total Drawback admissible (in ₹)			12,660

Illustration 7

X Ltd has exported following goods to USA. Discuss whether any duty drawback is admissible under section 75 of the Customs Act, 1962.

Product rate	FOB Value of Exported goods	Market Price of goods	Duty drawback
A	2,50,000	1,80,000	30% of FOB
B	1,00,000	50,000	0.75% of FOB
C	8,00,000	8,50,000	3.50% of FOB
D	2,000	2,100	1.50% of FOB

Note: Imported value of product C is ₹9,50,000.

Solution:

Duty draw back amount for all the products are as follows:

Product A:

Drawback amount = $2,50,000 \times 30\% = ₹75,000$ or $₹1,80,000 \times 1/3 = ₹60,000$

Allowable duty draw back does not exceed 1/3 of the market value.

Hence, the amount of duty drawback allowed is ₹60,000

Product B:

Drawback amount allowed is ₹750 (i.e. $₹1,00,000 \times 0.75\%$).

Since, the amount is more than ₹500 even though the rate is less than 1%.

Product C:

No duty drawback is allowed, since the value of export is less than the value of import (i.e. negative sale)

Product D

No duty drawback is allowed, since the duty drawback amount is ₹30 (which is less than ₹50).

Though rate of duty drawback is more than 1%, no duty drawback is allowed.

Illustration 8

Calculate the amount of duty drawback allowable under the Customs Act, 1962 in the following cases:

- Jaggi Mehta imported a car from U.K. for his personal use and paid ₹4,50,000 as import duty. However, the car is re-exported immediately without bringing it into use.
- Meenakshi imported a music player from Dubai and paid ₹12,000 as import duty. She used it for four months but re-exports the same after four months.
- XYZ Ltd. exported 1000 kgs of a metal of FOB value of ₹1,00,000. Rate of duty drawback on such export is ₹60 per kg. Market price of goods is ₹40,000 (in wholesale market).

Solution:

- Jaggi Mehta can claim duty drawback of ₹4,41,000 (98% of ₹4,50,000).
- Meenakshi can claim duty drawback of ₹10,200 (i.e. 85% of ₹12,000)
- XYZ Ltd. is not entitled to claim duty drawback in this case.

Since, market value of exported goods is less than the value of Duty Drawback.

Solved Cases

Case Law 1

XYZ Company Limited exported a consignment of manufactured goods. The company has paid import duty and central excise duty on the components used in the manufacture. A duty drawback rate has been fixed for these goods. The ship carrying the consignment runs into trouble and sinks in the Indian territorial waters. The customs department refused to grant drawback for the reason that the goods did not reach their destination. As a consultant for M/s XYZ Limited you are required to prepare a brief note with the reason whether the stand taken by the customs department is correct in law.

Solution:

The term “export” means “taking out of India to a place outside India”. The term “taking out of a place outside India” would also mean a place in high seas, if that place is beyond territorial waters of India. If the goods cross the territorial waters of India, then it is an export and duty drawback cannot be denied.

In the given case, the vessel sunk within territorial waters of India and therefore there is no export. Accordingly, no duty drawback shall be available in this case. [Union of India v Rajindra Dyeing & Printing Mills Ltd. 2005 (180) ELT 433 (SC)].

Case Law 2

Sun industries sent certain goods by a ship from Kolkatta to Colombo in Sri Lanka under claim for drawback on the said goods under section 75 of the Customs Act, 1962 against shipping bill. The ship had passed beyond the territorial waters of India and the engine developed trouble while the ship was on high seas falling within the ambit of the expression ‘taking out a place outside India’. The ship returned back and ran aground in Indian territorial waters at the port of Para deep. The fittings, stores and cargo were salvaged. Discuss the admissibility of claim for drawback by the company.

Solution:

In the given case it is apparent that the goods are exported. The fact that the ship was brought back to India because of the damages in the ship does not affect the position. The assessee was entitled to the benefit of section 75 of the Customs Act, 1962. Once the ship carrying goods crosses the territorial waters, export is complete and duty drawback is allowable and it's running aground in India due to engine trouble makes no difference.