

	सीमाशुल्कआयुक्तकार्यालय, एनएस-II
	OFFICE OF THE COMMISSIONER OF CUSTOMS, NS-II
	केंद्रीकृतनिर्यातआकलनकक्ष, जवाहरलालनेहरूसीमाशुल्कभवन
	CENTRALIZED EXPORT ASSESSMENT CELL, JAWAHARLAL NEHRU CUSTOM HOUSE,
	न्हावाशेवा, तालुका -उरण, जिला- रायगढ़, महाराष्ट्र -400 707
	NHAVA SHEVA, TALUKA-URAN, DIST- RAIGAD, MAHARASHTRA-400707

फाइलनं./F. NO. CUS/ASS/AMND/1510/2025-CEAC

द.प.सं. /DIN:	20251078NT0000419094
आदेश की तिथि	: 14 .10.2025
Date of Order	
जारी किए जाने की तिथि	: 15 .10.2025
Date of Issue	
आदेशसं. Order No.	: 232 /2025-26/आयुक्त/सीईएसी/एनएस-II/सीएसी/जेएनसीएच 232 /2025-26/Commissioner/CEAC/NS-II/CAC/JNCH
पारितकर्ता Passed by	: श्री गिरिधर जी.पई Shri Giridhar G. Pai आयुक्त, सीमाशुल्क (एनएस-II), जेएनसीएच, न्हावाशेवा Commissioner of Customs (NS-II), JNCH, Nhava Sheva
पक्षकार(पार्टी)कानाम Name of Party	: मै. कुरारे इंडिया प्राइवेट लिमिटेड(आईईसी: 0508078938) M/s. KURARAY PRIVATE LIMITED (IEC: 0508078938)

मूल आदेश
ORDER-IN-ORIGINAL

1. इसआदेशकीमूलप्रतिकीप्रतिलिपिजिसव्यक्तिकोजारीकीजातीहै, उसकेउपयोगकेलिएनि:शुल्कदीजातीहै।
The copy of this order in original is granted free of charge for the use of the person to whom it is issued.
2. इसआदेशसेव्यथितकोईभीव्यक्तिसीमाशुल्कअधिनियम, १९६२कीधारा१२९एकेतहतइसआदेशकेविरुद्धसीईएसटीएटी, पश्चिमीप्रादेशिकन्यायपीठ (वेस्टरीजनलबेंच, ३४, पी. डी. मेलोरोड, मस्जिद (पूर्व), मुंबई- ४००००९ कोअपीलकरसकताहै, जोउक्तअधिकरणकेसहायक रजिस्ट्रारकोसंबोधितहोगी।
Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.
3. अपीलदाखिलकरनेसंबंधीमुख्यमुद्दे:-
Main points in relation to filing an appeal: -

फार्म Form	: फार्म नं.सीए-३, चारप्रतियोंमेंतथाउसआदेशकीचारप्रतियाँ, जिसकेखिलाफअपीलकीगयीहै (इनचारप्रतियोंमेंसेकम सेकमएकप्रतिप्रमाणितहोनीचाहिए) Form No. CA-3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy)
समयसीमा Time Limit	: इसआदेशकीसूचनाकीतारीखसेतीनमहीनेकेभीतर Within 3 months from the date of communication of this order.
फीस	: (क) एकहजाररुपये-जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्ति

Fee	कीरकमपाँचलाखरुपयेयाउससेकमहै।		
	(a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less.		
	(ख) (पाँचहजाररुपये- जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्ति कीरकमपाँचलाखरुपयेसेअधिकपरंतुपचासलाखरुपयेसेकमहै।		
	(b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh.		
	(ग) दसहजाररुपये-जहाँमाँगेगयेशुल्कएवंब्याजकीतथालगायीगयीशास्ति कीरकमपचासलाखरुपयेसेअधिकहै।		
	(c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 50 Lakh.		
भुगतानकीरीति Mode of Payment	:	क्रॉसबैंकड्राफ्ट, जोराष्ट्रीयकृतबैंकद्वारासहायकरजिस्ट्रार, सीईएसटीएटी, मुंबईकेपक्षमेंजारीकियागयाहोतथामुंबईमेंदेयहो।	
		A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.	
सामान्य General	:	विधिकेउपबंधोंकेलिएतथाऊपरयथासंदर्भितएवंअन्यसंबंधितमामलोंकेलिए, सीमाशुल्कअधिनियम, १९६२, सीमाशुल्क (अपील) नियम, १९८२सीमाशुल्क, उत्पादनशुल्कएवंसेवाकरअपीलअधिकरण (प्रक्रिया) नियम, १९८२कासंदर्भलियाजाए।	
		For the provision of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.	

4. इसआदेशकेविरुद्धअपीलकरनेकेलिएइच्छुकव्यक्तिअपीलअनिर्णीतरहनेतकउसमेंमाँगे गयेशुल्कअथवाउद्गृहीतशास्ति का ७.५ % जमाकरेगाऔरऐसेभुगतानकाप्रमाणप्रस्तुतकरेगा, ऐसानकियेजानेपरअपीलसीमाशुल्कअधिनियम, १९६२कीधारा१२९केउपबंधोंकीअनुपालनानकियेजानेकेलिएनामंजूरकियेजानेकीदायीहोगी।

Any person desirous of appealing against this order shall, pending the appeal, deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129 of the Customs Act 1962.

Sub: Request for amendment of Shipping Bill from Scheme-Free SB Involving Remittance Of Foreign Exchange(Scheme Code-00)to Scheme- Drawback (Scheme Code- 19)(Drawback under Section 74) by M/s. Kuraray India Private Limited-Reg.

M/s. Kuraray India Private Limited (IEC :0508078938),having registered office at 505, Mercantile House, 15 KG Marg, New Delhi- 110001 (hereinafter referred to as "the exporter") has requested for amendment of Shipping Bill No. 4445658 dated 06.10.2023,from Scheme- Free SB Involving Remittance of Foreign Exchange(Scheme Code-00) to Scheme- Drawback (Scheme Code- 19)(Drawback under Section 74) vide their letter dated 11.04.2025, details of which are tabulated below:

TABLE - I

Sl. No.	Shipping Bill No.	Shipping Bill Date	LEO Date	Scheme to which amendment sought	Scheme to which amendment sought
(1)	(2)	(3)	(4)	(5)	(6)
1	4445658	06.10.2023	17.10.2023	Free SB Involving Remittance of Foreign Exchange (Scheme Code 00)	Drawback (Scheme Code-19) (Drawback under Section 74, Dbk Sr. no. 9801)

2. The exporter, vide their letter dated 11.04.2025 inter alia, stated that; due to human error by oversight our documentation department had miss out the scheme bill scheme code; they are not aware about public notice 78/2017 for filing of shipping bill under drawback and requested for amendment of the above mentioned shipping bill from scheme code: 00 to Drawback (Scheme code:19, Drawback under Section 74, DBK head, 9801).

3. Following the principles of natural justice, a personal hearing was granted to the exporter on 03.10.2023. Shri Ravindra Gaikwasd, Manager, M/s. Kuraray India Private limited, and Shri Neel Doshi, Authorised representative, representing the exporter appeared virutually before the undersigned and explained the background of the case and sought to rely on the submissions made alongwith the amendment request.

DISCUSSIONS AND FINDINGS

4. I have carefully gone through the request made by the exporter vide their letterdated 11.04.2025 for amendment of shipping bill No. 4445658 dated 06.10.2023 from Scheme-Free SB Involving Remittance of Foreign Exchange(Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74), the submissions made by the exporter, the Customs and Central Excise Duties

Drawback Rules, 2017 and the relevant Public notices/Circulars & Provisions of Customs Act, 1962, which govern the amendment of shipping bills.

5. Amendment of shipping bills is governed by Section 149 of the Customs Act, 1962. In the instant case, the shipping bill was filed on 06.10.2023. Section 149 of the Customs Act, as amended with effect from 01.08.2019, reads as under:

Section 149. Amendment of documents- Save as otherwise provided in section 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorized to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be.

6. In the instant case, I find that the exporter had filed the said shipping bill under Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00). However, the exporter has requested for amendment to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74). Now, the issue to be decided is whether the exporter is eligible for amendment sought by them for the said shipping bill for which Let Export Order was granted on 17.10.2023.

7. On perusal of Sub-regulation (3) to Regulation (1) of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022 notified vide Notification No. 11/2022- Customs (N.T.) dated 22.02.2022, it appears that for determining eligibility of aforesaid request of conversion, recourse to the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022 along with existing extant provisions at that time will have to be taken as the aforesaid Shipping Bills were filed after the date of publication of aforesaid regulations in official gazette i.e. 22.02.2022 and were in force until superseded on 03.04.2025 vide Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 notified vide Notification No. 21/2025- Customs (N.T.) dated 03.04.2025. The 2022 regulation defines 'conversion' in regulation 2(1)(b) of the Regulations as -

Regulation 2(1)(b): "Conversion" means amendment of the declaration made in the shipping bill or bill of export to any other one or more instrument-based scheme, after the export goods have been exported.

Regulation 2(1)(c): "Instrument based scheme" means a scheme involving utilization of instrument referred to in explanation 1 to sub-section (1) of section 28AAA of the Act.

Explanation 1 of the Section 28AAA of the Customs Act, 1962:

Explanation 1 : For the purpose of this sub-section, "instrument" means any scrip or authorization or license or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 with respect to a reward or incentive scheme or duty exemption scheme or duty remission scheme or such other scheme bestowing financial or fiscal benefits, which may be utilized under the provisions of this act or the rules made on notifications issued thereunder".

Regulation 4(1)(e): Conditions and restrictions for conversion of Shipping Bill. – (1) The conversion of shipping bill and bill of export shall be subject to the following conditions and restrictions, namely-

(e) the shipping bill or bill of export of which the conversion is sought is one that had been filed in relation to instrument based scheme.

7.1 A conjoint reading of these provisions indicates that the regulations apply only to such shipping bills which were filed under an instrument-based scheme and the request for amendment in the Shipping bills is for conversion to any other or one or more instrument-based scheme. Further, as per Explanation 1 of section 28AAA of the Customs Act, 1962, instrument-based scheme includes Advance License, EPCG, RoDTEP, RoSCTL etc..

8. In view of the above, I find that the shipping bill mentioned in Table-I is not covered by the Regulations, 2022 supra as Drawback is not an instrument based scheme. Thus, the application must be dealt under Section 149 of the Customs Act, 1962 read with Board Circular No. 36/2010-Customs dated 23.09.2010. The relevant paras 3 to 5 of the Board's Circular read as follows:

- 3.** The issue has been re-examined in light of the above. It is clarified that Commissioner of Customs may allow conversion of shipping bills from schemes involving more rigorous examination to schemes involving less rigorous examination (for example, from Advance Authorization/DFIA scheme to Drawback/DEPB scheme) or within the schemes involving same level of examination (for example from Drawback scheme to DEPB scheme or vice versa) irrespective of whether the benefit of an export promotion scheme claimed by the exporter was denied to him by DGFT/DOC or Customs due to any dispute or not. The conversion may be permitted in accordance with the provisions of section 149 of the Customs Act, 1962 on a case to case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary

evidence which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested. Conversion of shipping bills shall also be subject to conditions as may be specified by the DGFT/MOC. The conversion may be allowed subject to the following further conditions:

- a) The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).
 - b) On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.
 - c) The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.
 - d) On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.
 - e) The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.
4. Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995.
 5. Due care may be taken while allowing conversion to ensure that the exporter does not take benefit of both the schemes i.e., the scheme to which conversion is sought and the scheme from which conversion is sought. Whenever conversion of a shipping bill is allowed, the same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both the schemes.

9. A harmonious reading of Section 149 of the Customs Act, 1962 and the Circular No. 36/2010-Customs, dated 23.09.2010 clearly establishes that the following criteria should be met for post-export conversion of a shipping bill-

- A. Conversion of shipping bills should be allowed from schemes involving more rigorous examination to schemes involving less rigorous examination or within the schemes involving same level of examination.
- B. The conversion may be permitted in accordance with the provisions of Section 149 of the Customs Act, 1962 on case-to-case basis on merits provided the Commissioner of Customs is satisfied, on the basis of documentary evidence which was in existence at the time the goods were exported, that the

goods were eligible for the export promotion scheme to which conversion has been requested.

- C. The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).
- D. On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.
- E. The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.
- F. On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.
- G. The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/misdeclaration /manipulation has been noticed or investigation initiated against him in respect of such exports.
- H. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill.
- I. Exporter should not be allowed to take the benefit of both the schemes, i.e. the scheme to which conversion is sought and the scheme from which conversion is sought. The same should be informed to DGFT so that they may also ensure that the exporter does not take benefit of both schemes.

10. I proceed to examine the present case in terms of each of the criteria as given above.

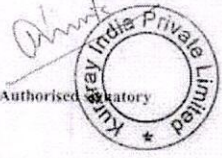
A. Examination Norms

(a) The exporter has requested for amendment of the said shipping bill from Scheme-Free Shipping Bill Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19)(Drawback under Section 74).The Indian Customs Risk Management System('RMS') provides instructions regarding examination norms based on the risk profile of the consignment/export incentive declared in the shipping bill by the exporter.

(b) In the instant case, examination instructions given are verified for the said shipping bill from the ICES 1.5 system and the same is found as *"Examine the Package No.2&3"&" Exporter is new, Examine goods thoroughly wrt classification, valuation and export benefits claimed."* along with other mandatory compliances.

(c) Thereafter, the Examining Officer examined the consignment under the supervision of DC/Docks(X) and, mentioned in his comments that "INSPECTED LOT, CHECKED MARKS AND NUMBERS AND NET WEIGHT. EXAMINED 100% UNDER AC/DOCKS(EXPORT) SUPERVISION. IDENTITY ESTABLISHED WITH IMP DOC I.E. B/E NO. 2517516 DTD 20.09.2022 AND CONCERNED INV & PAC LIST. EXPORT IS WITHIN THE TIME PERIOD IE 02 YEARS. PMV AND FOB DECL IN SB IS FAIR. REPRESENTATIVE SAMPLES DRAWN AND FORWARDED TO DYCC. GOODS NOT FOUND TO BE USED. DBK MAY BE DETERMINED AS PER PN NO. 78/2017 DT. 21.06.2017".&
"RSS SENT TO DYCC VIDE TR NO. 4628 DTD 16.10.2023."& DV APPEARS TO BE FAIR AS PER INV NO. 420008175 DTD 25.08.22"

Snapshots of invoice uploaded at Sr. no.04 (331000) having IRN No. 2023100600089766 along first page of the said shipping bill no. are also attached for reference:

		Kuraray India Private Ltd Prius Platinum, 2nd Floor, B Wing, D-3, District Centre, Saket NEW DELHI-110017			
Export Invoice		Invoice Number IN-2023002	Date 04-Oct-23		
Shipping Point : Survey No. 4/1, 4/2, 6/1, Devichapada PALEKHURD, TALOJA, Maharashtra- 410208 - India	Customer Order Reference Return Material against Import Invoice 4200028175 dtd. 25-Aug-22	Our Order Reference	Country of Destination : Singapore		
Export LUT no. AD2703230394348 Dt. 22.03.2023	Contact Person Jinita Nair	Contact Telephone	Contact Fax		
Invoice-to/Buyer : Kuraray Co.Ltd, TOKIWABASHI TOWER 2-6-4 OTEMACHI, CHIYODA-KU, TOKYO 100-0004, JAPAN Tokyo, Japan		Ship-to/Consignee: Kuraray Asia Pacific PTE. Ltd, 250 North Bridge Road, #10-01/02, Raffles City Tower, Singapore 179101.			
INCOTERM : CIF Singapore		Terms of Payment : 60 days net from invoice date			
Port of Loading : Nhava Sheva, India		Port of Discharge : Singapore			
Item	Product & Description	Quantity	Unit Price	Unit	USD Amount
10	QR000029 COPOLYMER OF ETHYLENE VINYL ALCOHOL (KURARAY EVAL RESIN) F101A (700.00 KGS/ CTN) Commodity Code: 39059100	5600.00	6.072	kg	\$34,003.20
Total		5600.00	\$34,003.20		
Freight Charges 200 USD Insurance Charges 2948 INR (USD 35.82)					
Ex Change rate 1 USD = 82.30 INR					
Declaration: We declare that this Invoice shows the actual price of the goods described and that all particulars are true and correct.					
Remark: Material were imported vide BE no. 2517516 Dated 20/09/2022 And its partially rejected by customer due to quality issue.					
Bank Details for remittance : Mizuho Bank Ltd, New Delhi Branch, New Delhi Account No.: H10-793-401347 IFSC: MHCB0000793 SWIFT: MHCBINBBNDL HDFC Bank Ltd, Barakhamba Road, New Delhi Account No.: 07082320000924 IFSC: HDFC0000708 SWIFT: HDFCINBBDEL MUFG Bank Ltd, New Delhi Branch, New Delhi Account No.: 031089 IFSC: BOTM0ND3611 SWIFT: BOTKINDD					
For Kuraray India Private Limited  Authorised Signatory					

 INDIAN CUSTOMS EDI SYSTEM CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS DEPARTMENT OF REVENUE - MINISTRY OF FINANCE GOVERNMENT OF INDIA		Port Code		SB No	SB Date						
		INNSA1	4445658	06-OCT-23							
JNCH, NHAVA SHEVA, TAL:URAN, DIST-RAIGAD-400707		IEC Br	0508078938	6							
		GSTIN/TYPE	27AADCK4922H1ZK GSN								
		CB CODE	AACCP9427DCH001								
		TYPE	INV	ITEM	CONT						
		Nos	1	1	0						
		PKG	8	G.WT KGS	5936	* SB 22171020232032					
PART - I - SHIPPING BILL SUMMARY											
A STATUS	1.MODE	2.ASSESS	3.EXMN	4.JOBING	5.MEIS	6.DBK	7.RODTP	8.LICENCE	9.DFRC	10.RE-EXP	11.LUT
	SEA	Y	Y	N	N	N	N	N	N		Y
B DECLARANT DETAILS	12.PORT OF LOADING INNSA1 (Jawahar Lal Nehru (Nh)					13.COUNTRY OF FINAL DESTINATION		SINGAPORE			
	14.STATE OF ORIGIN Maharashtra					15.PORT OF FINAL DESTINATION		SGSIN (Singapore)			
	16.PORT OF DISCHARGE SGSIN (Singapore)					17.COUNTRY OF DISCHARGE		SINGAPORE			
	1.EXPORTER'S NAME & ADDRESS					7.CONSIGNEE NAME & ADDRESS					
	KURARAY INDIA PRIVATE LIMITED					Kuraray Asia Pacific PTE. Ltd.					
	Survey No. 4/1, 4/2, 6/1, Devichapa					250 North Bridge Road, #10-01/02,					
	ADA, PALEKHURD,					Raffles City Tower, Singapore 1791 01.					
	Taloja					SG					
	3. AD CODE: 0510005					8. GSTIN / TYPE		27AADCK4922H1ZK GSN			
	4.RBI WAIVER NO. & DT					9.FOREX BANK A/C NO.		70XXXXXXX924			
C VALU SUMMA	5.CB NAME PREMIER CLEARING AGENCY PVT LTD					10.DBK BANK A/C NO.					
	6.AEO					11. IFSC NO.					
	1.FOB VALUE	2.FREIGHT	3.INSURANCE	4.DISCOUNT	5.COM	1.DBK CLAIM		2.IGST AMT	3.CESS AMT		
	2782432.11	16480	2952	0	0	0		0	0		
D EX-PR	6.DEDUCTIONS	7.P/C	8.DUTY	9.CESS	4.IGST VALUE		5.RODTEP AMT	6.ROSCAL AMT			
	0	0	0	0	0		0	0			
	1.MAWB NO. 2.MAWB DT 3.HAWB NO. 4.HAWB DT 5.N.O.C					1.SNO		2.INV NO.	3. INV AMT.	4.CURRENC	
	4. CIN NO. 5. CIN DT. 6. CIN SITE ID					1		IN-2023002	34003.2	USD	
E MANIFEST DETAILS	23PCEG1007306260400 07-OCT-23 INNSA1										
F INVOICE SUMMARY	1.CONTAINER 2.SEAL 3.DATE 4.S No					1.SR.NO 2.CHALLAN NO 3.PAYMT DT 4.AMOUNT					
G EQUIPMENT DETAILS											
H CHALLAN DETAILS											
I ANNEX DETAILS	1.SEAL TYPE		2.NATURE OF CARGO		3.NO. OF PACKETS		4.NO. OF CONTAINERS		5.LOOSE PACKETS		
	WAREHOUSE SEALED		CONTAINERISED		8		0		0		
J PROCESS DETAILS	5.MARKS & NUMBERS		AS PER INVOICE (RE-EXPORT OF IMPORTED REJECTED GOODS DUE TO QUALITY ISSUE UNDER SECTION 74 OF CUSTOMS ACT 1962 IMPORTED VIDE BE NO. 2517516 DTD. 20/09/2022) LUT NO. AD2703230394348 DT.22.03.2023								
J PROCESS DETAILS	1.EVENT		2.DATE		3.TIME		4.LEO NO.		48/11		
	5.Submission		06-OCT-23		16:25		6.LEO Date.		17-OCT-23		
	5.Assessment		06-OCT-23		17:48		8.BRC Realisation Date		31-JUL-24		
	7.Examination		17-OCT-23		14:30						
	9.LEO		17-OCT-23		16:23						
Signature Not Verified Digitally signed by CS-CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS 05 Date: 2023.10.17 20:03:15 IST Reason: CUSTOMS Location: INDIA											
Glossary A - ASSESS - Assessment FYMN - Examined MFIS - Merchandise Export Incentive Scheme DBK - Drawback ROSI - Rebate of State Levies											

B. Documentary evidence in existence at the time of export

(a) As discussed above, at the time of export, the exporter had wrongly filed the shipping bill under Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) and from perusal of the ICES 1.5 system, it has been observed that at item level scheme code-00 has been mentioned in the shipping bill. Now, the exporter has requested for amendment of the said shipping bill from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme-

Drawback (Scheme Code- 19)(Drawback under Section 74), as they have inadvertently selected wrong scheme code while filing the shipping bill as per the Public Notice 78/2017- JNCH dated 21.06.2017.

(b) Upon examination of the documents uploaded on e-Sanchit, i.e., Invoice, Packing List, etc., it is evident that the exporter had shown their intention to avail the benefits of Duty Drawback under Section 74, in the Marks and Nos. column of the said shipping bill by mentioning:

'Re-export of Imported rejected goods due to quality issue under section 74 of the Customs Act, 1962 imported vide BE no. 2517516 dated 20.09.2022.',

in the export invoice and has fulfilled all the examining conditions, but due to an inadvertent error the scheme code was wrongly selected as 00 instead of 19.

C. Time limit of filing of the conversion application

(i) In this case, Let Export Order (LEO) was granted on 17.10.2023 for the Shipping bill No. 4445658 dated 06.10.2023, whereas the exporter has made the request for amendment of shipping bill vide their letter dated 11.04.2025.

(ii) The Board Circular as per para 3(a) provides a time limit of 03 months for filing of application for conversion of shipping bills from one scheme to another. However, it is now settled through various judicial pronouncements that while the period of three months is not statutorily provided in the Customs Act, 1962, a reasonable time limit may be considered. In this regard, the Board vide Notification No. 11/2022-Cus (N.T.) dated 22.02.2022 has issued "The Shipping Bill (Post Export Conversion in Relation to the Instrument Based Scheme) Regulations, 2022" (hereinafter referred to as the Regulation) incorporating the manner and time limit for applying for post export conversion of shipping bills. The Regulation 3 of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022, is reproduced below-

Regulation 3. Manner and time limit for applying for post export conversion of Shipping Bill in certain cases. – (1) The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act, as the case may be:

Provided that the jurisdictional Commissioner of Customs, having regard to the circumstance under which the exporter was prevented from applying within the said period of one year, may consider and decide, for reasons to be recorded in writing, to extend the aforesaid period of one year by a further period of six months:

Provided further that the jurisdictional Chief Commissioner of Customs, having regard to the circumstances under which the exporter was prevented from applying within the said period of one year and six months, may consider and decide,

for reasons to be recorded in writing, to extend the said period of one year and six months by a further period of six months.

Although, these regulations are not squarely applicable to the shipping bills in question for the reasons as explained herein above, reference to this regulation is being drawn to properly understand the legislative intent in respect of 'reasonable time' which can be allowed in conversion of shipping bill cases.

(iii) In the instant case, the application for conversion is received in CEAC on 11.04.2025 i.e. after lapse of one year from LEO date. In this regard, the exporter vide letter dated nil, has also submitted a request for condonation of delay in filing for amendment/conversion of the shipping bill as mentioned in Table-I. As per the exporter, the re-export of the goods was completed as per the re-export procedure. However, the scheme code was not identified at the time of filing or during the examination process. Following the LEO, the drawback claim under section 74 was delayed by 28 days, this delay was condoned by the competent authority, and the application was accepted. The application of conversion was further got delayed due to lack of awareness, administrative oversight. The exporter further added that they had genuine intent to comply as per the standard procedure and they have also made a drawback claim under Section 74 (albeit with a condoned delay). The application for conversion of shipping bill is received on 11.04.2025, which is after 1 year, 5 months and 25 days from LEO date. Time line is as under:

SB date:	06.10.2023
LEO date:	17.10.2023
Conversion Application received:	11.04.2025

The exporter's request for condonation of delay is accepted based on the reasons and explanations provided in their letter. Accordingly, I find that the request for amendment of Shipping Bill No. 4445658 dated 06.10.2023 has been made within a reasonable period

D. The fact of use of inputs is satisfactorily proved in the resultant export product.

I find that this condition is not applicable in the present case as the amendment is sought from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74).

E. Examination report proves the fact of export and the export product is covered under relevant SION and or Drawback Schedule.

As discussed above, the examination report has been perused in the ICES 1.5 system and no adverse comment by the examining officer has been observed against the said shipping bill.

F. Exporter has fulfilled all conditions of the scheme to which he is seeking conversion.

(a) Although, the exporter did not opt for the Scheme-Drawback (Scheme Code-19) (Drawback under Section 74) as per PN78/2017- JNCH in the shipping bill instead the shipping bill was inadvertently filed under Free shipping bill (00). Except the scheme code, all the other conditions such as, Identity establishment, Examination of goods under AC/DC docks observation, Time limit for re-exporting the goods etc. for re-export of the goods under Section 74 of the Customs Act, 1962 have been duly fulfilled by the exporter. The para 04 of the said PN is as under:

"4. Re-export under Section 74 (Drawback allowed on re-export of duty-paid goods):

4.1 In this regard, attention is invited to Board Circular No. 46/2011 – Customs [F.No.603/01/2011-DBK], dated 20th October, 2011 and Circular No. 35/2013- Customs [F.No.603/01/2011-DBK], dated 5th September, 2013, wherein it has been provided that:

3.1 Instructions relation to "identification of goods" and "determination of use" in terms of Section 74 of the Customs Act, 1962. (a) In terms of the section 74 of the Customs Act, 1962, the export goods are to be identified to the satisfaction of the Assistant/Deputy Commissioner of Customs. This may require examination and verification of various parameters, including but not limited to physical properties, weight, marks and numbers, test reports, if any, documentary evidences vis-à-vis import documents etc., for identification of the goods. If such export goods have been 'used after import', the same is to be determined besides establishing the identity of the goods.

4.2 Therefore, AC /DC incharge of export examination and issuance of LEO will ensure that the suitable comments about "identification of goods" and "determination of use" as required in terms of above instructions issued for the purpose of Section 74 of the Customs Act, 1962 are entered in the "Departmental Comments" field in the system before issue of Let Export Order (LEO). It is further re-iterated that identity of goods and period of use needs to be established / ascertained by examination of goods & documents even if the shipping bill is facilitated by RMS.

4.3 Sample examination report may be as under: "Inspected lot, checked marks & numbers & net weight, examined 100% under DC/AC Export Docks Supervision. Identity established with import document i.e. Bill of Entry No ____, dated ____ and concerned invoice & packing list. Export is within time period i.e. 2 years (in case of goods were not used after import) or 18 months ((in case of goods were used after import). Present market value and FOB value declared in the shipping bill is fair. Representative samples drawn and forwarded to DyCC for testing (if sample drawn), Goods not found to be used / found to be used"

4.4 Shipping bill under claim of drawback under Section 74 may be filed under Scheme Code 19 and Drawback Sr. No 9801 (till a separate "scheme code" is provided for this category of export). Drawback claim will continue to be filed as per provisions of Reexport of Imported Goods (Drawback of Customs Duties) Rules, 1995. Officers processing drawback claims under Section 74 of the Customs Act will ensure that the goods have actually been exported by verifying the relevant EGM filed by shipping line in the EDI system instead of present practice of manual verification through MCD section. Such shipping bills need to be finalised in the system by "Drawback section" after disposal of drawback claims.

4.5 In case all other categories of re-export of imported goods, which are not sought to be cleared by importers [refer Public Notice No 95/2003, 07.11.2003] procedure as prescribed from Para 4.1 to para 4.4 above should be followed. However, Shipping bill should be filed under Scheme Code 99 or 00, as the case may be, (till a separate "scheme code" is provided for these categories of export)."

(b) As discussed above, it is evident that the exporter has clearly shown their intention by way of filing the shipping bill under Section 74 of the Customs Act, 1962, and by mentioning the relevant details in the shipping bill and other export related documents. Although it is the exporter's responsibility to declare the correct scheme under which the export is to be made, but in the instant case, the said error appears a typographical/clerical on the part of exporter.

(c) It is a well settled principle of law that procedural lapse or inadvertent mistakes cannot take away the substantial benefits. Substantial benefits cannot be denied due to such an error. I refer to case laws of Portescap India Pvt Ltd vs Union of India & Ors, MANU/MH/0571/2021, Mangalore Chemicals and Fertilizers Limited vs. Deputy Commissioner 1991 (55) ELT 437 (SC) in this regard.

G. Non-availment of benefit of scheme under which the goods were exported and no fraud/mis-declaration/manipulation having been noticed or investigation initiated in respect of such exports.

I find that as the shipping bill has been filed under the Scheme-Free Shipping Bill (Scheme Code-00), the exporter has not claimed any benefits viz., DBK/RoDTEP. No fraud/mis-declaration/manipulation has been noticed by the Customs Officers (Docks) at the time of export. I also find that no initiation of investigation with respect to this shipping bill has been brought to my notice.

H. Conversion of Free shipping bills into EP scheme shipping bills should not be allowed.

(a) Attention is drawn to para (4) of Board Circular No. 36/2010-Customs dated 23.09.2010.

"4. Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (advance authorization, DFIA, DEPB, reward schemes etc.) should not be allowed. However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995."

(b) In this regard, as discussed in the preceding paras, the exporter has filed the shipping bill in (Scheme Code-00) and seeking amendment into Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74). In the instant case, the exporter is neither seeking drawback under AIR rate nor under any export promotion scheme such as Advance authorization, DFIA, DEPB, Reward schemes etc., as the goods were imported after payment of applicable duties, and same were re-exported under Section 74 of the Customs Act, 1962 after fulfilment of the examining conditions cited in the said PN. Therefore, the amendment of the shipping bills may be permitted, as such an amendment would fundamentally not alter the nature and character of the original shipping bill.

I. Exporter not to be allowed to take benefit of both the schemes.

It is evident from the "SB view" Menu that the exporter has not claimed any export benefits in the system and no export incentives have been availed.

11. In view of the above discussions, I hold that the request for amendment of shipping bill No. 4445658 dated 06.10.2023, as detailed in Table-I above from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74), may be allowed. Accordingly, I pass the following order:-

ORDER

- (i) I allow the amendment of Shipping Bill No. 4445658 dated 06.10.2023, as detailed in Table-I above, from Scheme- Free SB Involving Remittance of Foreign Exchange (Scheme Code-00) to Scheme- Drawback (Scheme Code- 19) (Drawback under Section 74).
- (ii) An amendment in this regard shall be carried out in ICES system as per the procedure laid down in Advisory No: 16/2025 dt. 25.03.2025 regarding Post EGM Amendment Module after payment of amendment fee as prescribed under Levy of Fees (Customs Documents) Amendment Regulation, 2017.

Digitally signed by
GIRIDHAR GOPALKRISHNA PAI
Date: 14-10-2025 17:03:56
(Giridhar G. Pai)

Commissioner of Customs, NS-II
JNCH, Nhava Sheva.

To:

M/s. Kuraray India Private Limited

505, Mercantile House, 15 KG Marg, New Delhi- 110001

Copy to:

1. The Deputy Commissioner of Customs, CCO, JNCH, Nhava Sheva,
2. Assistant Commissioner of Customs, CEAC, JNCH, Nhava Sheva,
3. EDI section, For uploading on website
4. Office copy.