

**OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT),
JAWAHARLAL NEHRU CUSTOM HOUSE, NHAVA SHEVA.**

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PUBLIC NOTICE NO. 62 /2006

Sub : Computation of Value Addition where some Materials are Supplied

Free of Cost Determination of Drawback under Rule 6 or

Rule 7 of Drawback Rules reg.

Attention of all the Importers, Exporters, CHAs and Members of the Trade is invited to Ministry's [Circular No. 25/2006](#) Customs vide F. No. 602/9/2005-DBK dated 19.09.2006 regarding Computation of Value Addition where some Materials are Supplied Free of Cost Determination of Drawback under Rule 6 or Rule 7 of Drawback Rules.

A doubt has been raised as to whether the value of imported materials supplied Free of Cost by the foreign buyer should be added to the export value of the goods for the purpose of calculation of value addition stipulated under Section 75 (1) of the Customs Act, 1962 read with Rule 8 (2) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 while determining the brand rate of duty drawback under Rule 6 or Rule 7 of the said Rules.

2. Section 75(1) of the Customs Act, 1962 and Rule 8 (2) of the Drawback Rules, 1995 stipulate that no drawback shall be determined if the export value of the goods is

less than the value of the imported materials used in the manufacture of such goods. In this connection, it has been brought to the notice of the Ministry that in the business of exports sometimes the main raw material is supplied free of cost by the overseas buyer for maintaining the quality of the final product. In such cases the notional value of the free of cost material is declared to Customs only for the purpose of payment of duty and the same is not included in the export value (FOB value) of the product, the reason being that no realization takes place for such notional value of free of cost material.

3. It has been reported that while calculating value addition in such cases, the notional value of free of cost material is added to the CIF value of other inputs but not to the FOB value of export goods. This results in the FOB value of export goods becoming less than the CIF value of imported materials. As the value addition works out to be negative the exporters are denied the facility of drawback although duties have been paid on the imported materials. The trade and industry has represented that in such cases the notional customs value of the material supplied free of cost should be added both to the export value (FOB value) of goods and the CIF value of inputs for the purpose of calculation of value addition.

4. The matter has been examined by the Ministry. It has been observed that for the sake of equity the value of the free of cost material should be added both to the FOB value of goods and CIF value of materials or this value should not be added to the FOB and CIF values at all. If this is done, the value addition in most of the cases would be positive, entitling the exporters to avail of the facility of duty drawback. However, in terms of paragraph 4.6 of the Handbook of Procedures, Vol-I of the Foreign Trade Policy, under advance licensing scheme, where some material are supplied free of cost, the value addition is computed by adding the notional value of free of cost material to both the CIF value of imports and FOB value of exports. Having regard to this provision and in order to ensure uniformity in the matter, it has been decided that, for the purpose of calculation of value addition under brand rate claims, the notional value of imported materials supplied free of

cost by the foreign supplier should be added both to the CIF value of inputs and the FOB value of export goods. Pending cases will be decided on the basis of above instructions.

Any difficulty faced by the trade may be brought to the notice of the undersigned.

(NAJIB SHAH)

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