



भारतसरकार/ Government of India
 वित्तमंत्रालय / Ministry of Finance
 आयुक्त सीमाशुल्क एन.एस.-II कार्यालय
 Office of Commissioner of
 Customs NS-II
 Jawaharlal Nehru Custom House,
 Nhava Sheva,
 Distt- Raigad, Maharashtra – 400
 707



F. No.- CUS/DBK/MISC/37/2026-DBK

Date: 02-03-2026

DIN/ISSUENo.: - I/3913242/2026

SHOW CAUSE NOTICE No. - 2091/2025-26/ADC/DRC/NS-II/CAC/JNCH
 Adj.F.No.: - S/10-1911/2025-26/Adj./ADC/DRC/NS-II/CAC/JNCH

**SHOW CAUSE NOTICE UNDER SECTION 124 OF THE
 CUSTOMS ACT, 1962**

SUB: Show Cause Notice under Section 124 of the Customs Act, 1962 for recovery of erroneously sanctioned Duty Drawback to the exporter M/s. India Kawasaki Motors Pvt. Ltd. amounting to Rs. 1,17,57,854/-

Brief Facts of the Case

M/s. India Kawasaki Motors Pvt. Ltd. (**hereinafter referred to as 'Exporter'**) having IEC No. 3110011638 and registered address Building B, Multi- Modal Logistics and Industrial Park, Plot No. 5, Chakan MIDC -Phase-II, Vill- Khalumbre Taluka -Khed, Pune-410501, India have filed claims of Rs. 1,17,57,854/- for Duty Drawback under Section 74 of Customs Act, 1962.

2. Accordingly, Drawback of Rs. 1,17,57,854/- was sanctioned to the exporter against the goods exported vide SB No.3000004290 dated 09.11.2016 as per the provisions of Section 74 of Customs Act, 1962 read with the Re-export of imported goods (Drawback of Custom Duties) Rules, 1995.

Audit Observation

3. Whereas, during the CRA Audit dated 16.08.2023, the Audit team has raised Audit Observation Reference (OBS-882715) for incorrect grant of duty drawback on Re-export of goods u/s 74 of Customs Act, 1962. (**RUD-I**). The Above said Audit Observation reference is reproduced hereunder:

"Subsection 1(b) of Section 76 of the Custom Act stipulates that Duty drawback shall not be allowed in respect of any goods the market price of which is less than the amount of drawback due thereon.

M/s India Kawasaki Motors Pvt. Ltd. imported 114 items (Kawasaki Motorcycles) vide Bill of Entry No. 5653807 dated 16.06.2016, 4922833 dated 15.04.2016, 4578420 dated 15.03.2016 and 4227920 dated 11.02.2016. Importer had paid total duty Rs. 5,73,19,480/- vide challan no. 2015149693, 2014558330, 2014277281 and 2014011455. Out of total 114 items, exporter had re-exported 30 items (Kawasaki Motorcycles) having import duty paid of Rs. 1,19,97,807/- vide shipping bill no. 3000004290 dated 09.11.2016 and LEO date 16.11.2016. Exporter had submitted claim application of drawback u/s 74 on 26.03.2018 which was beyond stipulated time of three months. The competent authority vide O-I-O No. 608/2020-21/AC/CAAC/JNCH Sec 74 dated 19.10.2020 sanctioned the drawback amount of Rs. 1,17,57,854/- to M/s. India Kawasaki Motors Pvt. Ltd. against Shipping Bill No. 3000004290 dated 09.11.2016 after receiving delay condonation letter from Central Board of Indirect Taxes & Customs dated 06.07.2020.

During audit examination, it was revealed that exporter had declared Present Market Value (PMV) Rs. 1,16,63,283/- vide Shipping Bill No. 3000004290 dated 09.11.2016 and the DBK claim sanctioned and paid by department in respect of above-mentioned shipping bill was Rs. 1,17,57,854/- which was more than PMV declared in Shipping Bill.

Thus, the grant of duty drawback of 1,17,57,854/- which was more than PMV of Re-exported goods is found to be incorrect."

Recovery Letter/ Notice

4. A letter dated 06.05.2024 (**RUD-2**) has been issued to the exporter to repay the wrongly disbursed duty under Section 74 of the Customs Act, 1962 along with applicable interest thereon in terms of Rule 17 of the Customs and Central Excise Duties Drawback rules, 2017.

5. LEGAL PROVISIONS:

(A) Section 74 of Customs Act, 1962: Drawback allowable on re-export of duty-paid goods. - (1) When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation, -

(i) are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or

(ii) are to be exported as baggage and the owner of such baggage, for the purpose of clearing it, makes a declaration of its contents to the proper officer under section 77 (which declaration shall be deemed to be an entry for export for the purposes of this section) and such officer makes an order permitting clearance of the goods for exportation; or

(iii) are entered for export by post under clause (a) of section 84 and the proper officer makes an order permitting clearance of the goods for

exportation, ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be re-paid as drawback, if

(a) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported; and

(b) the goods are entered for export within two years from the date of payment of duty on the importation thereof:

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation in value and other relevant circumstances, may, by notification in the Official Gazette, fix.

(3) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may -

(a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established.

(b) specify the goods which shall be deemed to be not capable of being easily identified; and

(c) provide for the manner and the time within which a claim for payment of drawback is to be filed.

(4) For the purposes of this section -

(a) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16.

(b) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty.

(B). Section 76 of Customs Act, 1962: Prohibition and regulation of drawback in certain cases. -

(1) Notwithstanding anything herein before contained, no drawback shall be allowed -

(b) in respect of any goods the market-price of which is less than the amount of drawback due thereon.

(c) where the drawback due in respect of any goods is less than fifty rupees.

(2) Without prejudice to the provisions of sub-section (1), if the Central

Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

(C) Rule 17 of Customs and Central Excise Duties Drawback Rules, 2017: -Repayment of erroneous or excess payment of drawback and interest. -

Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper 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 sub-section (1) of section 142 of the Customs Act, 1962 (52 of 1962).

(D) Section 75A (2) Interest on drawback -

(2) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made there under, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under 10[section 28AA] and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.]

(6) In light of above-mentioned facts, Audit Para and legal provisions, it appears that the exporter has wrongly claimed duty drawback amounting to Rs. 1, 17, 57,854/- under Section 74 of the Customs Act, 1962.

(7) Accordingly, excess/erroneously paid duty drawback of Rs. 1,17, 57, 854/- claimed under Section 74 of Customs Act, 1962 are liable to be recovered under Rule 17 of the Customs, Central Excise & Service Tax Drawback Rules, 2017 along with applicable interest as mandated under Section 75A (2) of Customs Act, 1962.

(8) Now, therefore, Exporter M/s. India Kawasaki Motors Pvt. Ltd. having IEC No. 3110011638 and registered address Building B, Multi-Modal Logistics and Industrial Park, Plot No. 5, Chakan MIDC -Phase-II, Vill- Khalumbre Taluka -Khed, Pune-410501, India hereby called upon to Show Cause to the Additional Commissioner of Customs, Adjudication Section (CAC), NS-II, JNCH, within 30 days of the receipt of this notice, as to why -

(i) excess/erroneously paid duty drawback of Rs. 1,17, 57, 854/- claimed under Section 74 of Customs Act in terms of the Shipping Bills No. 3000004290 dated 09.11.2016 should not be

recovered under Rule 17 of Customs and Central Excise Duties Drawback Rule, 2017

(ii) Interest on excess/erroneously paid duty drawback of Rs. 1,17, 57, 854/- claimed in terms of the Shipping Bills No. 3000004290 dated 09.11.2016 should not be recovered under Section 75A (2) of the Customs Act, 1962.

(9). The department reserves the right to add/delete/ amend the Show Cause Notice with any facts that emerge/are brought to its notice at a later date by giving due notice to all concerned.

Digitally signed by
Wagh Chittaranjan Prakash
Date: 02-03-2026 12:27:32
CHITTARANJAN PRAKASH WAGH
Additional Commissioner of Customs
Drawback Section, NS II, JNCH

Encl:

1. RUD-I: Audit Observation Reference (OBS-882715)
2. RUD-2: Letter dated 06.05.2024 for recovery of duty drawback

To,

M/s. India Kawasaki Motors Pvt. Ltd. (IEC No. 3110011638)
Building B, Multi- Modal Logistics and Industrial Park,
Plot No. 5, Chakan MIDC -Phase-II, Vill- Khalumbre
Taluka -Khed, Pune-410501, India

Copy to:

1. The Commissioner of Customs, NS-II, JNCH.
2. The Deputy/Assistant Commissioner of Customs, CAC, JNCH.
3. The Supdt./CHS, JNCH for displaying on Notice Board.
4. Office Copy.

DIRECTOR GENERAL OF AUDIT (CENTRAL), MUMBAI
 लेखापरीक्षा महानिदेशालय (केन्द्रीय), मुंबई
 C-25, Audit Bhavan, Bandra-Kurla Complex,
 Bandra (east),



सत्यमेव जयते
 Dedicated to Truth in Public Interest

Local Audit Party : LAP-III-CRA

Auditee Unit Name : Commissioner of Customs (NS-II), Jawaharlal Nehru Custom House, Mumbai Zone II

Dated : 16-Aug-23

Audit observation reference : #1 (OBS-882715)

Subject: Incorrect grant of duty drawback on "Re-export of goods u/s 74 of Customs Act 1962"

Name of Exporter	M/s India Kawasaki Motors Private Limited
IEC	3110011638
File no.	5/12-Gen (79) 129/2020-21/DBK(JNCH)
Tax Effect	₹ 1,17,57,854/-

Subsection 1(b) of Section 76 of the Custom Act stipulates that Duty drawback shall not be allowed in respect of any goods, the market price of which is less than the amount of drawback due thereon.

M/s India Kawasaki Motors Private Limited imported 114 items (Kawasaki Motorcycles) vide Bill of Entry No. 5653807 dtd. 16.06.2016, 4922833 dtd 15.04.2016, 4578420 dtd. 15.03.2016 and 4227920 dtd. 11.02.2016. Importer had paid total duty ₹5,73,19480/- vide challan no. 2015149693, 2014558330, 2014277281 and 2014011455. Out of total 114 items, exporter had re-exported 30 items (Kawasaki Motorcycles) having import duty paid of ₹ 1,19,97807/- vide shipping bill no. 3000004290 dtd. 09/11/2016 and LEO date 16/11/2016. Exporter had submitted claim application of drawback u/s 74 on 26/03/2018 which was beyond stipulated time of three months. The competent authority, vide O-I-O no. 608/2020-21/AC/CAAC/JNCH Sec. 74 dtd. 19.10.2020 sanctioned the drawback amount of ₹ 1,17,57,854/- to M/s India Kawasaki Motors Private Limited against Shipping bill No. 3000004290 dtd. 09.11.2016 after receiving delay condonation letter from Central Board of Indirect Taxes & Customs dated 06/07/2020.

During audit examination it was revealed that exporter had declared Present Market Value (PMV) ₹ 1,16,63,283/- vide shipping bill no. 3000004290 dtd. 09.11.2016 and the DBK claim sanctioned & paid by department in respect of above-mentioned shipping bill was ₹ 1,17,57,854/- which was more than PMV declared in Shipping Bill.

Thus the grant of duty drawback of ₹ 1,17,57,854/- which was more than PMV of Re-exported goods is found to be incorrect.

The observation is brought to the notice of the department for confirmation, comments and compliance.

Senior Audit Officer



भारत सरकार/ Government of India
 वित्त मंत्रालय / Ministry of Finance
 आयुक्त सीमाशुल्क एन.एस.-II कार्यालय
 Office of Commissioner of Customs, NS-II
 Jawaharlal Nehru Custom House, Nhava Sheva,
 Tal. Uran, Dist- Raigad, Maharashtra - 400 707.



F. No. S/12-Gen-Sec-74-129/2020-21/DBK/JNCH

Date: 06.05.2024

DIN: 20240578NT00000A94F

To,

M/s India Kawasaki Motors Private Limited,
 (IEC 3110011638)
 Building B, Multi-Modal Logistics and Industrial Park,
 Plot No. 5, Chakan MIDC, Phase-II,
 Village - Khalumbre,
 Tal Khed, Pune, 410501.

EM172951768IN
 06/05/24

Gentleman,

Sub: Recovery of Duty Drawback on "Re-export of goods u/s 74 of the Customs Act, 1962- reg.

It is observed that the Drawback amount disbursed against the goods exported vide Shipping Bill Number 3000004290 dated 09.11.2016 by your firm, is in contravention of the provision of Section 76(1b) of the Customs Act, 1962.

2. Provision of Section 76(1b) of Customs Act, 1962 are reproduced below:

"No drawback shall be allowed in respect of any goods the market-price of which is less than the amount of drawback due thereon."

3. In the instant case, in the Shipping Bill Number 3000004290 dated 09.11.2016, Present Market Value (PMV) was declared as Rs.1,16,63,283/- whereas the drawback amount sanctioned to you vide Order in Original Number-608/2020-21/AC/CAC/JNCH dated 19.10.2020 under Section 74 of the Customs Act, 1962 is Rs.1,17,57,854/- which is in clear violation of Section 76 (1b) of the Customs Act, 1962."

8. In view of the above, you are hereby directed to repay the wrongly disbursed duty under Section 74 of the Customs Act, 1962 along with applicable interest thereon in terms of Rule 17 of the Customs and Central Excise Duties Drawback Rules, 2017.

(M. SREHARSHA)
 Assistant Commissioner of Customs
 Drawback Section, JNCH, Nhava Sheva.