सत्यमेव जयते

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TRADE NOTICE NO. 05/PCCO/MUMBAI /2017

Sub: Changes introduced by the C.B.E.C. about procedures to be followed in respect of Export, factory stuffing, sealing of Containers, Drawback related matters etc. consequent to introduction of G.S.T. in view of issuance of Notifications No.58/2017-Customs (N.T.) dated 29/06/2017 and 59/2017-Customs dated 30/06/2017 (N.T.)-reg.

Attention of the Trade including Exporters Manufacturers, Traders, Service Providers, Suppliers, Dealers, General Trade & Industry coming under the jurisdiction of the office of the Principal Chief Commissioner of CGST & CX, Mumbai Zone and all other stakeholders is invited to the contents of the various Circulars issued by the Board on the above issues, which is as under :-

I. Circular No. 21/2017-Customs dated 30/6/2017 issued from F. No. 609/54/2017-DBK

Drawback of Integrated Tax and Compensation Cess paid on imported goods upon re-export under Section 74 of the Customs Act, 1962

As you are aware, Section 74 of the Customs Act, 1962 provides for drawback of duties paid at time of importation when the imported goods are re-exported. Hitherto this drawback inter alia comprised refund of basic customs duty and additional duties under Section 3 of the Customs Tariff Act (CTA), 1975. In this regard, Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 refer.

2. 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.

3. In this regard, the definition of "drawback" under Rule 2 (a) of the Re-export Rules, 1995 has been suitably amended to include refund of duty or tax or cess as referred in the CTA, 1975. Notification No. 57/2017-Customs (N.T.) dated 29.6.2017 may be referred in this regard.

4. In order to prevent dual benefit while sanctioning drawback under Section 74 of the Customs Act, 1962, it may be ensured that a certificate duly signed by the Central/State/UT GST officer, having jurisdiction over the exporter is obtained, that no credit of integrated tax /compensation cess paid on imported goods has been availed or no refund of such credit or integrated tax paid on re-exported goods has been claimed. All other extant instructions in respect of drawback claims under Section 74 remain unchanged.

II. Circular No. 22/2017-Customs dated 30/6/2017 issued from F. No. 609/46/2017-DBK

Amendments effective from 1.7.2017 to the All Industry Rates of Duty Drawback and other Drawback related changes.

Attention is invited to Notification numbers 58/2017-Cus (N.T.) & 59/2017-Cus (N.T.), both dated 29.6.2017, which are effective from 1.7.2017. These notifications relate to changes in the provisions of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 and All Industry Rates (AIR) of drawback stipulated earlier vide Notification no. 131/2016-Cus (N.T.) dated 31.10.2016 (as amended) respectively.

2. The salient features of changes introduced vide Notification no. 59/2017 dated 29.06.2017 are briefly given as follows:

(a) Transition period:

In order to ensure smooth transition to the GST regime, Government has allowed the extant Duty Drawback scheme to continue for a period of three months i.e. from 1.7.2017 to 30.9.2017. The exporter may, for exports made during this period, continue to claim the composite rates i.e. rates and caps

given under columns (4) and (5) respectively of the Schedule of AIRs of duty drawback, subject to certain additional conditions. During the transition period, exporters can also claim Brand rate of duty/tax incidence as they have been doing earlier. The conditions imposed for claiming these composite rates aim to ensure that the exporters do not claim composite AIRs of duty drawback and simultaneously avail input tax credit of Central Goods and Services Tax (CGST) or Integrated Goods and Services Tax (IGST) on the export goods or on inputs and input services used in manufacture of export goods or claim refund of IGST paid on export goods. Further, an exporter claiming composite rate shall also be barred to carry forward Cenvat credit on the export goods or on inputs or input services used in manufacture of export goods in terms of the CGST Act, 2017. The exporters have to give a declaration and certificates as prescribed in this Notification at the time of export. Similar checks shall apply while determining the Brand rate of drawback. While a transition period of three months has been allowed, the exporters shall have an option to claim only Customs portion of AIRs of duty drawback i.e. rates and caps given under column (6) and (7) respectively of the Schedule of AIRs of duty drawback and avail input tax credit of CGST or IGST or refund of IGST paid on exports.

(b) Changes in AIRs:

Based on prevailing prices of inputs and export goods, budgetary changes, representations received and keeping in mind need for removing anomalies, certain changes have been made in AIRs. These interalia include –

i. Para (17) of Notes and Conditions of Notification no. 131/2016-Cus (N.T.) dated 31.10.2016 has been amended to include the word “melange” so that melange textile materials covered in chapters 54 and 55 are treated as dyed;

ii. Customs rates and caps have been increased for certain marine products covered under chapters 3, 15, 16 and 23;

iii. For better product differentiation, two new tariff lines have been introduced. These relate to leather under chapter 41 and pillows/cushions/quilts/pouffles filled with poly-fil under chapter 94;

iv. Caps have been enhanced for several textile items covered under chapters 52, 54, 55 and 56;

v. Rates and caps have been enhanced for made up fishing and sports nets of other man-made textile materials covered under chapters 56 and 95 respectively;

vi. "Leggings" have been classified under tariff item 611501 instead of 610304 and 610404; and

vii. Customs rates have been reduced for nickel and articles thereof covered under chapter 75.

3. further, vide Notification no. 58/2017-Cus dated 29.6.2017, the work related to:
(a) fixation of Brand rate of drawback has been transferred from Central Excise formations to Customs formations having jurisdiction over place of export. A separate circular is being issued to explain various related provisions, procedures, etc.

(b) Supplementary claims of drawback are now to be dealt only by Customs formations. For this purpose, references to Central Excise formations wherever appearing have been omitted from the said Drawback Rules, 1995.

3.1 Some of the Customs formations are at present working under the jurisdiction of Commissioners of Central Excise. It may be noted that Central Excise officers have been designated as officers of Customs under the Customs Act, 1962. Accordingly, till the time jurisdictional Commissionerates of Customs, which will replace Central Excise Commissionerates hitherto performing Customs functions are notified and become functional, the jurisdictional Central Excise Commissionerates shall continue to discharge Customs functions as required under the Drawback Rules 1995.

III. Circular No. 23/2017 –Customs dated 30/6/2017 issued from F. No. 609/46/2017-DBK

Fixation of Brand Rate of drawback under Rule 6 and Rule 7 of the Customs, Central Excise Duties & Service Tax Drawback Rules, 1995 in the GST scenario

As you are aware, in terms of Rule 6 and Rule 7 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, the work pertaining to fixation of Brand rate of Drawback is undertaken by the Central Excise

Commissionerate having jurisdiction over the factory where export goods are manufactured. In this context, Board's Circular No. 14/2003-Cus dated 6.3.2003, DO letter No. 609/110/2005-DBK dated 26.8.2005, Instruction No. 603/01/2011-DBK dated 11.10.2013, Circular No. 29/2015-Cus dated 16.11.2015 and Circular No. 54/2016-Cus dated 22.11.2016 governing the procedure for handling of Brand rate work may be referred. Once the Brand rate letter (provisional or final) is issued by such Commissionerate, the respective ports of export are required to calculate and disburse the drawback amount to the exporter. This Circular explains the changes being brought about in Brand rate mechanism in the context of introduction of Goods and Services Tax (GST) w.e.f. 1.7.2017.

2. The input tax incidence of taxes covered in GST regime are to be neutralized through the refund mechanism provided through the GST laws. At the same time, a transition period of three months from date of introduction of GST has been provided i.e. from 1.7.2017 to 30.9.2017 by continuing the extant Duty Drawback scheme and amending the Drawback Rules, 1995 vide Notification No. 58/2017-Cus (N.T.) dated 29.6.2017. For exports made during this transition period, the exporter can claim All Industry Rate (AIR) or Brand rate of drawback for Customs, Central Excise Duties and Service Tax subject to certain additional conditions. These conditions aim to ensure that the exporter simultaneously does not avail input tax credit of Central Goods and Services Tax (CGST) or Integrated Goods and Services Tax (IGST) on the export goods or on inputs and input services used in manufacture of export goods or claim refund of IGST paid on export goods. Further, an exporter claiming drawback during transition period as per extant duty drawback provisions shall also be barred to carry forward Cenvat credit in terms of the CGST Act, 2017 on the export goods or on inputs or input services used in manufacture of export goods. The exporter also has to give the prescribed declaration and certificates (similar to declaration and certificate prescribed in Notification No. 59/2017-Cus (N.T.) dated 29.6.2017 for claiming composite AIR during transition time) at the time of application for fixation of Brand rate of drawback. At the same time, the exporter has the option of claiming the Brand rate of Customs duties and remnant Central Excise duties (in respect of goods given in Fourth Schedule to Central Excise Act, 1944) and avail input tax credit of CGST or IGST or refund of IGST paid on exports.

3. Further, in view of implementation of GST, Board has decided to re-organize the Customs functions hitherto handled by Central Excise formations. In this context, it has been decided that w.e.f. 1.7.2017, the work pertaining to

fixation of Brand rate will be dealt by the Customs Commissionerate having jurisdiction over the place of export from where the export of goods has taken place. In case the exports have taken place from more than one place, exporter shall file Brand rate application with the Principal Commissioner/ Commissioner of Customs having jurisdiction over any one of the places of export. Accordingly, Rule 6 and Rule 7 ibid have been suitably amended vide Notification No. 58/2017-Cus (N.T.) dated 29.6.2017.

4. All Circulars/instructions issued till date w.r.t. fixation of Brand rate shall mutatis mutandis apply for work of fixation of Brand rate to be done by Customs formations in the GST scenario. However, verification of data given in the application if so required shall be got done through the Customs formation having jurisdiction over the factory where the export goods have been manufactured.

5. From 1.7.2017, all fresh applications for Brand rate of drawback irrespective of date of export will be dealt as per these guidelines. The applications already filed with existing Central Excise formations prior to 1.7.2017 and pending shall be transferred along with all relevant documents to the Principal Commissioner/ Commissioner of Customs having jurisdiction over the place of export. In case an already filed application relates to exports from multiple places, the application should be transferred to the Principal Commissioner/ Commissioner of Customs having jurisdiction over any one of the places of export as per choice of the exporter. The exporter concerned may be requested to indicate his choice in this regard before the transfer of his application. For smooth transition of Brand rate related work to Customs formations, it is essential that transfer of documents is undertaken carefully and in close coordination with concerned Customs authorities without disruption, delay etc.
5.1 Some of the Customs formations are at present working under the jurisdiction of Commissioners of Central Excise. It may be noted that Central Excise officers have been designated as officers of Customs under the Customs Act, 1962. Accordingly, till the time jurisdictional Commissionerates of Customs, which will replace Central Excise Commissionerates hitherto performing Customs functions, are notified and become functional, the jurisdictional Central Excise Commissionerates shall continue to discharge Customs functions as required under the Drawback Rules 1995.

IV. Circular No. 24/2017 –Customs dated 30/6/2017 issued from F. No. 609/46/2017-DBK

Duty Drawback for supplies made by DTA units to Special Economic Zones in the GST scenario

Attention is invited to Board's Circular No. 43/2007-Customs dated 5.12.2007 and Circular No. 39/2010-Customs dated 15.10.2010 which inter alia prescribe that in respect of drawback claims by a DTA supplier for supplies made to SEZ Unit or developer, when accompanied by a disclaimer, the drawback shall be disbursed by the Central Excise Commissionerate having jurisdiction over the manufacturing unit of the DTA supplier.

2. In view of implementation of GST, Board has decided to re-organise the Customs functions hitherto handled by Central Excise formations. In this context, it has been decided that in respect of supplies made by DTA unit to SEZ Unit or developer and where the SEZ Unit or developer issues a disclaimer to the DTA supplier and drawback is claimed by the DTA supplier, the drawback shall be processed and paid by the office of Principal Commissioner or Commissioner of Customs/ Customs (Preventive) in whose jurisdiction the DTA Unit falls. Further, the fixation of Brand rate in case of supplies from DTA to SEZ Unit or developer, if required, shall also be done by the office of said Principal Commissioner/ Commissioner. This shall apply to all fresh applications/ claims filed from 1.7.2017 onwards.

3. The applications/ claims which have already been filed up to 30.6.2017 and are pending with jurisdictional Central Excise formations shall be transferred to the Principal Commissioner/ Commissioner of Customs/ Customs (Preventive) having jurisdiction over the DTA supplier. For smooth transition of above cited work to Customs formations, it is essential that transfer of documents is undertaken carefully and in close coordination with Customs authorities concerned without disruption, delay etc.

4. The extant instructions regarding processing etc. of drawback claims of DTA suppliers for supplies made to SEZ Unit or developer remain unchanged except to the extent stated above. It may be noted that Central Excise officers have been designated as officers of Customs under the Customs Act, 1962. Accordingly, till the time jurisdictional Commissionerates of Customs, which will replace Central Excise Commissionerates hitherto performing Customs functions, are notified and become functional, the jurisdictional Central Excise Commissionerates shall continue to discharge Customs functions as required under the Drawback Rules, 1995.

V. Circular No. 26/2017-Customs dated 1/07/2017 issued from F. No. 450/08/2015-Cus.IV

Export procedure and sealing of containerized cargo

Goods and Service Tax has become operational from 01-07-2017. In the GST regime, the governing provisions related to exports are contained in section 16 of the Integrated Goods and Service Tax Act, 2017 (IGST Act). Supplies of goods and services for exports have been categorized as 'Zero Rated Supply' implying that goods could be exported under bond or Letter of Undertaking without payment of integrated tax followed by claim of refund of unutilized input tax credit or on payment of integrated tax with provision for refund of the tax paid.

2. With the onset of GST, extant procedures relating to export of goods viz. claim of rebate/refund, stuffing of containers at the factory, warehouse or any other place from where the goods are intended to be exported etc. would require review of the existing procedures. In this regard, attention is drawn to notification No's 42/2001-CE (N.T.) to 45/2001-CE (N.T.) both dated 26.6.2001 detailing the procedure to be followed for the export of goods on payment of terminal excise duty and 19/2004-CE (N.T.) and 20/2004-CE (N.T.), both dated 06.09.04, without payment thereof.

A. Procedure of Export

3. Any person making zero rated supply (i.e. any exporter) shall be eligible to claim refund under either of the following options, namely: -
(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit; or
(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 (Refunds) of the Central Goods and Services Tax Act or the rules made there under (i.e. the Central Goods and Service Tax Rules, 2017).

4. For the option *(a)* above, procedure to file refund has been outlined in the Central Goods and Service Tax Rules, 2017. The exporter claiming refund of

unutilized input tax credit will file an application electronically through the Common Portal, either directly or through a Facilitation Centre notified by the GST Commissioner. The application shall be accompanied by documents as prescribed in the said rules. Application for refund shall be filed only after the export manifest or an export report, as the case may be, is delivered under section 41 of the Customs Act, 1962 in respect of such goods. The formats for furnishing bond or LUT for export of goods have been separately notified under COST Rules, 2017. The said formats are attached herewith for easy reference.

5. For the option *(b),* broadly the procedure is that a registered person shall not be required to file any application for refund of *integrated goods and services tax* paid on supply of goods for exports. The shipping bill, having inter-alia GST invoice details, filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export and the applicant has furnished a valid return in FORM GSTR-3. The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the Customs system and the said system shall in turn electronically transmit back to the common portal a confirmation that the goods covered by the said invoices have been exported out of India. Upon receipt of information regarding furnishing of valid return in FORM GSTR-3 from the common portal, the Customs system shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars. Government has allowed a grace period to the registrants to file returns under the new GST Law. Therefore, this refund procedure shall as a consequence come into operation only when the registrants file the above mentioned returns. Further, the exporters are free to avail option (a) or option (b). The refund shall be governed by the provisions of the section 16 of the IGST Act.

6. In order to ensure smooth transition from the earlier export procedure to the procedure being laid down for export of goods under the GST regime, the existing Shipping Bill formats (both manual/ electronic) have been modified to make them compliant with the IGST law. New formats of the Shipping Bill have been made applicable already. ARE-1 procedure which was being followed is dispensed with except in respect of commodities to which provisions of Central Excise Act would continue to be applicable.

B. Sealing of Containers

7. Board has in the past issued various circulars both on the Excise and Customs side on the issue of sealing of containers. A gist of these Circulars and the subject matter dealt in them is given in the annexure to this circular. At present, there are three categories of containers which arrive at the port/ICD:

a. Containers stuffed at factory premises or warehouse under self-sealing procedure.

b. Containers stuffed / sealed at factory premises or warehouse under supervision of central excise officer.

c. Containers stuffed and sealed at Container Freight Stations/ Inland Container Depot.

8. For the sake of uniformity and ease of doing business, Board has decided to simplify the procedure relating to factory stuffing hitherto carried out under the supervision of the Central Excise officers. It is the endeavor of the Board to create a trust based environment where compliance in accordance with the extant laws is ensured by strengthening Risk Management System and Intelligence setup of the department. Accordingly, Board has decided to lay down a simplified procedure for stuffing and sealing of export goods in containers.

9. It has been decided to do away with the sealing of containers with export goods by CBEC officials. Instead, self-sealing procedure shall be followed subject to the following:-

i. The exporter shall be under an obligation to inform the details of the premises whether a factory or warehouse or any other place where container stuffing is to be carried out, to the jurisdictional customs officer.

ii. The exporter should be registered under the GST and should be filing GSTRI and GSTR2. Where exporter is not a GST registrant, he shall bring the export goods to a Container Freight Station/Inland Container Depot for stuffing and sealing of container. However, in certain situations, an exporter may follow the self-sealing procedure even if he is not required to be registered under GST Laws. Such an exception is available to the Status Holders recognized by DGFT under a valid status holder certificate issued in this regard.

iii. Any exporter desirous of availing this procedure shall inform the jurisdictional Custom Officer of the rank of Superintendent or Appraiser of Customs, at least 15 days before the first planned movement of a consignment from his/her factory/ premises, about the intention to follow self- sealing procedure to export goods from the factory premises or warehouse. The jurisdictional Superintendent or an Appraiser or an Inspector of Customs shall visit the premises from where the export goods will be stuffed & sealed for export. The jurisdictional Superintendent or Inspector of Customs shall inspect the premises with regard to viability of stuffing of container in the premises and submit a report to the jurisdictional Deputy Commissioner of Customs or as the case may be the Assistant Commissioner of Customs within 48 hours. The jurisdictional Deputy Commissioner of Customs or as the case may be the Assistant Commissioner of Customs shall forward the proposal, in this regard to the Principal Commissioner/Commissioner of Customs who would grant permission for self-sealing at the approved premises. Once the permission is granted, the exporter shall furnish only intimation to the jurisdictional Superintendent or Customs each time self-sealing is carried out at approved premises. The intimation, in this regard shall clearly mention the place and address of the approved premises, description of export goods and whether or not any incentive is being claimed.

iv. Where the visit report of the Superintendent or an Appraiser or an Inspector of Customs regarding viability of the stuffing at the factory/ premises is not favorable, the exporter shall bring the goods to the Container Freight Station /Inland Container Depot/Port for sealing purposes.

v. Self-Sealing permission once given by a Principal Commissioner/Commissioner of Customs shall be valid for export at all the customs stations. The customs formation granting the self-sealing permission shall circulate the permission along with GSTIN of the exporter to all Custom Houses/Station concerned.

vi. Transport document for movement of self-sealed container by an exporter from factory or warehouse shall be same as the transport document prescribed under the GST Laws. In the case of an exporter who is not a GST registrant, way bill or transport challan or lorry receipt shall be the transport document.

vii. The exporter shall seal the container with the tamper proof electronic-seal of standard specification. The electronic seal should have a unique number which should be declared in the Shipping Bill. Before sealing the container, the

exporter shall feed the data such as name of the exporter, IEC code, GSTIN number, description of the goods, tax invoice number, name of the authorized signatory (for affixing the e-seal) and Shipping Bill number in the electronic seal. Thereafter, container shall be sealed with the same electronic seal before leaving the premises.

viii. The exporter intending to clear export goods on self-clearance (without employing a Customs Broker) shall file the Shipping Bill under digital signature.

ix. All consignments in self-sealed containers shall be subject to risk based criteria and intelligence, if any, for examination / inspection at the port of export. At the port/ICD as the case may be, the customs officer would verify the integrity of the electronic seals to check for tampering if any enroute. The Risk Management System (RMS) is being suitably revamped to improvise the interdiction/ examination norms. However, random or intelligence based selection of such containers for examination/scanning would continue.

10. Board has decided that the above revised procedure regarding sealing of containers shall be effective from 01.09.2017. A future date has been prescribed since the returns under GST have been permitted to be filed by 10.09.17 and also with the purpose to give enough time to the stakeholders to adapt to the new procedures. Therefore, as a measure of facilitation, the existing practice of sealing the container with a bottle seal under Central Excise supervision or otherwise would continue. The extant circulars shall stand modified on 01.09.2017 to the extent the earlier procedure is contrary to the revised instructions given in this circular.

2) All the concerned Trade Associations and Chambers of Commerce and Industry are requested to bring the contents of this Trade Notice to the notice of their members and constituents, for necessary guidance.

3) Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the undersigned.

4) This issues with the approval of the Chief Commissioner, CGST & CX, Mumbai Zone.

Sd/-

(S. C. GANGER)
Additional Commissioner
PCCO, CGST & CX, Mumbai Zone

F.No: IV/16-Tech-82/PCCO/Mumbai/2017
Mumbai, the 7th July *, 2017

Copy to:-

1) Trade Associations.
2) Principal Commissioner/Commissioner of CGST & CX, Mumbai South, Mumbai East, Mumbai West, Mumbai Central, Thane, Thane Rural, Bhiwandi, Palghar, Navi Mumbai, Belapur & Raigarh.
3) The Superintendent of Computer Cell for uploading in website.