

F.No.609/ 32/ 2003-DBK

Government of India

Ministry of Finance & Company Affairs

Department of Revenue

Subject: Decentralisation of the work relating to fixation of Brand Rate of drawback under Rule 6 and Rule 7 of the Customs & Central Excise Duties Drawback Rules, 1995.

As you are aware, at present, in terms of the provisions of Rule 6 and Rule 7 of the Customs & Central Excise Duties Drawback Rules, 1995 (as amended), the works pertaining to fixation of Brand Rates of Drawback are centralised in this Ministry. For filing the Brand Rate applications, the exporters have been given the option of preferring either the Normal Scheme or the Simplified Scheme/Revised Simplified Scheme. On receipt of the verified data from the jurisdictional Commissionerates of Central Excise in respect of applications filed under the Normal Scheme or data of consumption of inputs and duty paying documents certified by the Chartered Engineers and Chartered Accountants in respect of applications filed under the Simplified Scheme, Brand Rates are fixed by the Drawback Division of the Department of Revenue. On the basis of the Brand Rate letters issued by this Ministry the respective Custom House disburse drawback amount to the exporters.

2. Over the years, owing to manifold increase both in the range and volume of goods which are being exported out of the country, there has been considerable increase of the number of such Brand Rate applications in the work load in this Ministry. However, due to concerted efforts and simplification of procedures, in most cases, it has been possible to fix such Brand Rates within the minimum possible time and bringing down the overall pendency substantially.

3. It has been the constant endeavour of the Govt. to help promote exports by simplifying the procedures and by eliminating all possible constraints in this regard. With this backdrop, **as a major boost to export facilitation, the Govt. has announced the decision to take the work of Brand Rate fixation right to the doorsteps of the exporters by delegating the works of Brand Rate fixation to the jurisdictional commissionerates of Central Excise. Accordingly, starting from the 1st April,2003, all applications for fixation of Brand Rate of drawback under Rule 6 and Rule 7 of the Customs & Central Excise Duties Drawback Rules,1995 (as amended), are required to be filed (in duplicate) only under the Normal Scheme in the Headquarters Office of the Commissionerate of Central Excise having jurisdiction over the manufacturing unit in which the export goods are declared to have been manufactured. Two copies of the same may also be filed in the office of the Asstt/Deputy Commissioner of Central Excise having jurisdiction over the manufacturing Unit.** The applications should be accompanied by the documents specified in the Check-List enclosed herewith. This revised procedure for fixation of Brand Rate is intended, inter-alia, to obviate the delay involved in correspondence and postal transit which presently results in delay in disbursal of drawback amount leading to increase in transaction costs of exports.

All the Commissionerates of Central Excise, are therefore, advised to gear up the system for discharging the new work keeping in view the following broad parameters.

(a) Organisational Set-up: The Commissioners of Central Excise are required to earmark immediately an Unit (in the Headquarters of the Commissionerate) headed by an Assistant/Deputy Commissioner along with requisite supporting staff to handle all matters pertaining to Brand Rate fixation. All matters relating to fixation of Brand Rate ,viz; right from acknowledgement of receipt of Brand Rate applications, their processing strictly on First In First Out (FIFO)basis, getting the data verified through the jurisdictional Assistant/Deputy Commissioner of Central Excise, working out the Brand Rate and getting the same approved by the competent authority and issuance of Brand Rate letters to the exporters and the concerned Custom House/s within the specified time-frame may be entrusted to the aforesaid Brand Rate Unit.

(b) Acknowledgement of receipt: In keeping with the Citizens' Charter for the Customs & Central Excise Department, **each application for fixation of Brand Rate of drawback is required to be acknowledged (by the Hqrs office of the Commissionerate) immediately after receipt indicating therein File Number of the Commissionerate** in which the application is intended to be processed, FIFO number assigned to the Brand Rate application and telefax number of the Additional/Commissioner of Central Excise with whom the exporter may like to make correspondence in this regard. A specimen of such acknowledgement letter is enclosed.

(c) Verification of data given in the application: The data regarding consumption of inputs in manufacture of export goods furnished in DBK-I Statement, payment of Customs and Central Excise duty furnished in DBK-II and DBK-III Statements ,stocks of the duty paid inputs indicated in DBK-IIA and DBK-IIIA Statements, wastage(recoverable/irrecoverable), non-availment of CENVAT benefit and availability of disclaimer certificate from the manufacturer in case of Brand Rate application is filed by a merchant-exporter ,proof and scheme of exports ,comparison of the weight of the inputs mentioned in DBK-I Statement with the net weight of the export goods mentioned in the Shipping Bill or corresponding Invoices etc. are required to be got

verified by the Deputy Commissioner of Central Excise having jurisdiction over the manufacturing unit in which export goods are declared to have been manufactured. While verifying the data, the duty paying documents may be defaced by the Verifying Officer to the extent of the Brand Rate claim. **This verification is required to be carried out maximum within 15 days from the date of receipt of the Brand Rate application in the Hqrs. of the Central Excise Commissionerate.**

(d) Fixation and approval of Brand Rate:

(i) On receipt of the Verification Report from the Central Excise Divisions, the same is required to be examined minutely by the Commissionerate keeping in view the relevant provisions of the Customs Act,1962 and the Central Excise Rules and in strict adherence to the Circulars & Guidelines which have been issued by this Ministry from time to time. Brand Rate Proposals involving drawback amount up to Rs.5 lakhs may be approved by the Assistant Commissioner/Deputy Commissioner; proposals involving drawback amount of more than Rs.5 lakhs but less than Rs.20 lakhs may be approved by the Joint/Additional Commissioner and proposals involving drawback amount of more than Rs.20 lakhs are required to be approved by the Commissioner of Central Excise. Brand Rate letters may be issued (by Registered post/ Speed post) only after ensuring its correctness with regard to the description of the export goods, unit of drawback rate, Shipping Bill and post of export. **List of Brand Rate applications and status thereof filed within a fortnight may be prominently displayed on the first day of the next fortnight in the Notice Board for information of the trade.** The Brand Rates may also be communicated immediately by electronic mail (E- Mail) after electronic connectivity is established with the Custom House of the port of export. **The Brand Rates are required to be fixed maximum within a period of ten days from the date of receipt of the Verification Reports from the Central Excise Divisions.** Specimen copies of the Brand Rate letters under Rule 6 and 7 of the Drawback Rules are attached. References for issue of corrigendum in respect of description of the export item, addition or change of the port of export and Shipping Bill No. etc. may be considered and disposed off within 3 days from the date of receipt.

(ii) Validity of Brand Rate letters: The Brand rate may be applied/fixed either in respect of specific Shipping Bills or for a period of time with a quantity restriction(which is required to be fixed on the basis of the availability of the duty-paid inputs). Generally, the validity of the Brand Rate letters may be restricted up to one year. However, in respect of cases wherein Brand rate is calculated taking into account the All Industry Rate of Drawback admissible for any of the inputs, the validity of such Brand Rate letters may be restricted to up to one month from the date on which the validity of the All Industry Rate ceases to be effective.

(iii) Port of Registration: In case of Brand Rate letters which are required to be issued for a period of time and the exporter intends to effect the shipment from more than one port of exports, the Brand Rate letters should also specify (on the basis of the exporter's request), the port of export for registration for ensuring that disbursement of Brand Rate of drawback does not exceed the quantity restriction specified in the Brand Rate letter.

(iv) Value Addition: Fixation of Brand Rate of drawback is, inter alia, subject to the satisfaction of Rule 8(2) of the Drawback Rules which stipulates that the f.o.b. value of the export goods should be more than the c.i.f. value of the imported inputs which are declared to have been utilised for manufacture of the export goods. A specimen of the calculation Sheet regarding the Value Addition is attached. In case of the corresponding Brand Rate letters which are issued for a period of time, the minimum f.o.b. value of the export item satisfying the condition may also be specified.

(v) Exports which do not qualify Brand Rate: Exports under Duty Free Shipping Bills are not admissible for grant of Brand Rate. In such cases, prior conversion of Duty Free Shipping Bills to Drawback Shipping Bills by the competent authority is essential. Details of the procedure for conversion of the Shipping Bills from one export promotion scheme to another have been prescribed in this Ministry's Circular No.6/2003-Customs dated 28.1.2003 (F.No.609/176/2002-DBK), a copy of which is enclosed. Further as provided under Rule 8 of the Drawback Rules, Brand Rate of drawback is also not admissible in case the amount/rate of drawback is less than one per cent of the f.o.b. value or where the amount of drawback is less than five hundred rupees per shipment, subject to the conditions specified in the said Rule.

(vi) Brand Rate for exports made under DEPB-cum Drawback Shipping Bills: Brand Rate proposals for exports made under DEPB-cum-Drawback Shipping Bills are required to be processed strictly on the basis of this Department's Circular No.39-Customs/2001 dated 6.7.2001(copy enclosed).. As per this Circular, in such cases, only the CVD paid in cash for the imported inputs and Central Excise Duty paid for the indigenous inputs not mentioned in the inputs specified against the corresponding export good of the Standard Input Output Norm fixed by the Directorate General of Foreign Trade is reimbursable by way of Brand Rate of drawback provided benefit of CENVAT credit has not been availed .

(vii) Enhancement of Quantity restriction: References for enhancement of quantity restriction of the export items specified in Brand Rate letters which are issued for a period of time may be considered by the Brand Rate Unit without insisting for verification by the concerned

Central Excise Division. The merits of such references are required to be considered in case the exporter makes such references within the validity of the corresponding Brand Rate letter and substantiates procurement of additional duty paid inputs which are required for manufacture of the proposed enhanced quantity of export goods, on the basis of original duty paying documents. These duty paying documents are required to be defaced and returned to the exporter after retaining photo copies thereof in the Brand Rate file.

(viii) Time-Limit for filing Brand Rate application: As per the provisions of Rule 6 and 7 of the Customs & Central Excise Duties Drawback Rules, 1995 (as amended), the Brand Rate applications are required to be filed maximum within a period of 60 days from the Let Export Date of the first Shipping Bill. Delay up to 30 days; i.e; up to 90 days from the Let Export Date may be generally condoned on receipt of the exporter's application in this regard. In case the Brand Rate application is for a number of Shipping Bills or a period of time, Brand Rate may be fixed excluding only the Shipping Bill/period which stands time-barred.

Sometimes, various components/ vendor items of the export goods, like those in the Automobile Industry are manufactured in the jurisdictions of more than one Central Excise Commissionerate. In such cases, Brand Rate application is required to be filed **within** the stipulated period in the Headquarters of Central Excise Commissionerate having jurisdiction over the manufacturing unit wherein the finished/ final export goods are manufactured/ assembled. In such cases, the applicant is required to specify the components/ vendor items which are manufactured in the jurisdiction of other Central Excise Commissionerates and submit the requisite data **subsequently** in the Headquarters of the concerned Commissionerates of Central Excise having jurisdiction over the units wherein such components/ vendor items are manufactured. The Commissionerate in which the original Brand Rate application has been filed will get the data (pertaining to its Commissionerate) furnished in the application verified and fix the Brand Rate. This Brand Rate may be subsequently revised on the receipt of the Verification Reports in respect of the components/ vendor items from the concerned Central Excise Commissionerates.

(ix) Internal Audit: After issue of Brand Rate letters, all cases involving drawback amount of more than Rs.1 lakh may be subjected post-audit by Internal Audit Unit of the Commissionerate. Further 20 % of the cases involving drawback amount of less than Rs.1 lakh may also be selected by the Internal Audit Unit for post-audit at random basis. Requisite follow-up actions may be taken immediately to review at the appropriate level and if necessary to amend/ revoke the Brand Rates in case the audit objection is found to be sustainable. For this purpose, Copies of all Brand Rate letters are required to be endorsed to the Internal Audit Unit.

(x) Maintenance of records: All records pertaining to Brand Rate fixation are required to be maintained properly for subsequent reference and auditing by Internal Audit and C & A.G. Audit.

(xi) Maintenance of the record (portwise) of the Brand Rate letters: While issuing the Brand Rate letters the concerned Commissionerate of Central Excise will maintain a record of all Brand Rate letters issued by incorporating a port wise and commissionerate wise distinctive number and the same should be invariably mentioned along with the file number in the Brand Rate letters. A monthly Statement incorporating mention of all the Brand Rate letters may be issued to the Commissioner of Customs of the port of Customs so as to ensure authenticity of the Brand Rate letters and to rule out any scope for possible manipulation and fraudulent Brand Rate letters.

4. In view of the Govt. emphasis for disposal of Brand Rate applications on priority and transparent basis, all the concerned officers of the Central Excise Commissionerate may be suitably advised and made conversant with the procedures which have been briefly mentioned in the proceeding para and with the instructions which have been issued by this Ministry through various Circulars. The concerned Commissioners of Central Excise are, therefore, required to closely monitor the functioning of the Brand Rate Unit so as to ensure disposal of Brand Rate applications within the specified time-frame and that too in a transparent manner. **Starting from the month of May, 2003, reports on receipt and disposal of Brand Rate applications may be sent to this Ministry.**

5. **Transitional arrangement :** In view of this revised arrangement for fixation of Brand Rate of drawback starting from 1.4.2003, no fresh application/Verification Report from the exporter/ Central Excise Commissionerate will be received in this Ministry. In case of receipt of such applications/ Verifications, subsequent to this date, the same will be sent to the concerned Commissionerate of Central Excise under intimation to the exporter. However, references for issue of amendment and corrigendum in respect of Brand Rate letters issued by this Ministry up to 31st March, 2003 are required to be sent to this Ministry. The Ministry also will continue to consider and dispose off all residual pendency relating to Brand Rate applications.

6. Grievances of the exporters with regard to the Brand Rate applications may be promptly addressed. **For redressal of outstanding grievances the concerned Chief Commissioner of Central Excise is required to conduct Open House at the end of every month.** The Chief Commissioner is also required to review the functioning of the system in the Central Excise Commissionerates under his Zone to ensure that Brand Rates of drawback are fixed expeditiously and in a transparent manner, as envisaged in the preceding paras.

7. Problems or difficulty which may be encountered in implementing the aforesaid decentralisation of Brand Rate fixation work may please be brought to the notice of this Ministry for issue of suitable clarifications and for taking appropriate action.

8. Receipt of this Circular may please be acknowledged and contents thereof may please be given due publicity through issue of suitable public/trade notice.

S. S. Renjhen
Joint Secretary to the Government of India

Enclosed:

CHECK-LIST

(of documents to be attached along with Brand Rate application)

1. Brand Rate application: (in the format specified for the Normal Scheme in the Drawback schedule).
2. DBK-I, DBK-II/IIA and DBK-III/IIIA Statements (specified in the Drawback Schedule)
3. Letter seeking condonation of delay in case the application is filed beyond the time-limit(i.e; 60 days) prescribed under the Rules.
4. Attested photocopies of the Drawback Shipping Bills/Export Promotion Copies, Bills of Lading. In case, more than one item has been exported under a Shipping Bill, f.o.b. value must be shown separately for each export item.
5. Invoices showing sale-price of wastage sold as scraps.
6. Legible photocopies of duty paying documents mentioned in DBK-II/IIA and DBK-III/IIIA Statements.
7. In case, any Bill of Entry/Central Excise Invoice has been assessed provisionally, the reason for provisional assessment may be specified. Besides, a Declaration not to claim revision of Brand Rate of drawback in case the duty is upwardly assessed in final.
8. Disclaimer Certificate from the manufacturer in case, the Brand Rate application is filed by a merchant exporter.
9. Drawback Working Sheet.
10. Value Addition Statement.
11. A copy of the Advance Licence.
12. A brief description of the manufacturing process.
13. Declaration regard availment/non-availment of the CENVAT benefit.

VALUE ADDITION WORKING SHEET

(for the purpose of Rule 8 (2) of the Drawback Rules)

(With reference to the fixation of Brand Rate of drawback for export of one Agricultural Tractor)

Value Addition: f.o.b. value- c.i.f. value x 100

c.i.f. value

Rs.342,358.00 - Rs.42,808.00 * x 100

Rs.42,808.00

= 669.75 % (approx).

* c.i.f. value for the imported inputs.