



दि प्लास्टिक्स एक्सपोर्ट प्रमोशन कौन्सिल

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THE PLASTICS EXPORT PROMOTION COUNCIL

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20.09.2019

To,
All Members/All Members of the COA

Dear Sir/Madam,

Sub : Clarification regarding duty drawback allowed in cases of short realisation of export proceeds due to bank charges deducted by foreign banks.

We wish to inform you that the Central Board of Indirect Taxes and Customs (CBIC) has issued Circular No. 33/2019-Customs dated 19/09/2019 giving Clarification regarding duty drawback allowed in cases of short realisation of export proceeds due to bank charges deducted by foreign banks.

There were show cause notices issued to the exporters by some Customs field formations for recovery of duty drawback on account of short realisation of export sale proceeds due to bank charges deducted from export invoice by the banks. Exporters have contended that these short realisations are actually service charges deducted by intermediary banks while remitting payments from abroad and that said charges are documented by the banks. It has been requested such short realised export sale proceeds may be considered as full realisation and that duty drawback not be recovered for such short realisation.

In this regard, RBI has clarified that such deductions are enabled under notification No. FEMA 23(R)2015-RB dealing with Foreign Exchange Management (Export of Goods and Services) Regulations 2015. In respect of various export promotion schemes, para 2.52 of FTP 2015-20 also states that free foreign exchange remitted by buyer after deduction of bank service charges are taken as export realisation under export promotion schemes of FTP. Earlier also, in respect of agency commission paid to agents abroad for securing export contracts, Board vide Circular No. 64/2003- Customs dated 21.07.2003 has allowed such commission up to the limit of 12.5% of FoB value to be considered for payment of duty drawback without deducting it from FoB value in line with the RBI's Circular No.AD (MA Service) 17, dated 19.5.1999 and DGFT's Policy Circular No. 55 (RE- 98) dated 10.02.1998.

In view of the above, it is clarified by CBIC that duty drawback may be permitted on FoB value without deducting foreign bank charges. It is further clarified that since agency commission up to the limit of 12.5% of the FoB value has been allowed, such deduction on account of foreign bank charges is allowed within this overall limit of 12.5% of the FoB value. From the average rates of agency commission and foreign bank charges in respect of export shipments, it is seen that these deductions fall within the aforesaid overall limit of 12.5% of FoB value allowed by the Board. Agency commission and foreign bank charges, separately or jointly, exceeding this limit should be deducted from the FoB value for granting duty drawback.

It is also stated in the said circular that the field formations may consider on merits exporter's requests for regularising such short realisation on account of foreign bank charges based on documentary evidence such as export invoice, bank's confirmation regarding foreign bank charges, etc. to justify such deductions. Field formations are also requested to deal with the show cause notices already issued by them accordingly.

Relevant members are requested to take note of the same and do the needful accordingly. This circular is available for reference/ download using below link-<http://cbic.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2019/Circular-No-33-2019.pdf>

With best regards,
Yours sincerely,

Bharti Parave
(Sr. Executive)