

F.NO.209/29/99-CX.6
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 3, Feb. 2000

Subject: Export — simplified procedure - re-determination of rebate under Rule 12&13

It is directed to say that doubts have arisen relating to the determination of the amount of rebate of excise duty in cases where prices of export-goods are doubted in foreign currency and as Valero excise duty is paid after converting the value in equivalent Indian rupee. Another doubt is that once duty is paid, should rebate be reduced and if the rebate is reduced, can the manufacturer be allowed to take recredit of the duties paid through debits in RG-23A Part-II or RG-23C Part-II on the relevant export goods? Yet another doubt is that in case any short payment is detected but the assessee pays the duty prior to sanction of rebate, whether the rebate amount should be reduced?

2. The Board has examined the matter. It is clarified that in aforementioned case, the duty on export goods should be paid by applying market rate as it prevails at the time the duty is paid on such goods. Once value (in accordance with section 4 of the Central Excise Act, 1944) is determined and duty is paid, rebate has to be allowed equivalent to the duty paid. Board has already clarified in Circular No. 203/37/96-CX dated 26.4.96 that AR-4 value is to be determined under section 4 of the Central Excise Act, 1944 and this value is relevant for the purposes of rule 12 & rule 13. Thus, the duty element shown on AR-4 has to be rebated, if the jurisdictional Range officer certifies it to be correct. There is no question of re-quantifying the amount of rebate by the rebate sanctioning authority by applying some other rate of exchange prevalent subsequent to the date on which the duty was paid. It is also clarified that the rebate sanctioning authority should not examine the correctness of assessment but should examine only the admissibility of rebate of the duty paid on the export goods covered by a claim.

3. If the rebate sanctioning authority has reasons to believe that duty has been paid in excess than what should have been paid, he shall inform, after granting the rebate, the jurisdictional Assistant/Deputy Commissioner. The latter shall scrutinize the correctness of assessment and take necessary action, wherever necessary. In fact, the triplicate copy of AR-4 is meant for this purpose, which are to be scrutinized by the Range officers and then sent to rebate sanctioning authority with suitable endorsement. Since there is no need for reducing rebate, the question of taking of recredit in RG-23A Part-II or RG-23C Part-II do not arise.

4. Same principle should be applied to cases where any short payment of duty is noticed and the assessee pays the differential duty prior to sanction of rebate, whether he pays before or after adjudication of the case of short payment. The rebate of the full amount of duty paid on the goods exported (not the fine and/or penalties imposed, if any) should be allowed, provided the initial rebate claim was for the said full duty, or a supplementary claim was filed within the limitation period.

5. In view of the above clarifications, rebate incorrectly reduced may be granted in genuine cases.

6. The trade and field formations may suitably be informed.