

Government of India
Ministry of Commerce and Industry
Department of Commerce
Directorate General of Foreign Trade
Udyog Bhawan, New Delhi- 110011

Policy Circular No 9 (RE-2013)/2009-14

Dated: 30th October, 2013

To
All Regional Authorities
All Development Commissioners, SEZ
All Export Promotion Councils/Commodity Bodies

Subject: Clarification on requirement of CENVAT declaration as per PN 35 dated 01.03.2011.

Representations have been received from trade and industry seeking clarifications relating to declaration prescribed under Public Notice No.35, dated 01.03.2011. Issues raised in these representations have been examined.

2. Para 8.5 of the FTP provides as follows:

*“Similarly, supplies will be eligible for deemed export drawback in terms of para 8.3(b) of FTP of Central Excise duty paid on inputs/components, **provided CENVAT credit/rebate has not been availed** of such duty paid by supplier of goods. **A declaration to this effect, in Annexure III of ANF 8, from supplier of goods, shall be submitted by applicant. Such supplies shall, however, be eligible for deemed export drawback on custom duty paid on inputs/components**”.*

3. As required under Para 8.5 of FTP, applicant has to give declarations regarding non-availment of CENVAT credit/rebate, as given in Public Notice No.35, dated 01.03.2011.

4. Accordingly, deemed export drawback, in terms of Para 8.3(b) of FTP, including as per Column B of All Industry Rate of Duty Drawback under Duty Drawback Schedule of Department of Revenue, is not admissible if facility of CENVAT credit/rebate has been availed. This is because if the CENVAT facility/rebate facility has been claimed, then central excise duty component on the inputs is already compensated. However, if basic custom duty has been paid, then same is refundable as Para 8.5 of FTP clearly prescribes “such supplies shall however be eligible for deemed export drawback on custom duty paid on inputs/components”. Such basic custom duty paid can be taken back, as brand rate of duty drawback, based on actual duty paid documents, as per procedure prescribed in Chapter 8 of FTP and Chapter 8 of HBP Volume-I.

5. All Industry Rate of Duty Drawback, as notified by Department of Revenue, wherever admissible, also includes service tax component on input services. While giving a declaration for non-availment of CENVAT credit, applicant has to ensure that it has also not claimed CENVAT credit on service tax on input services. While making an application, applicant must ensure that it does not claim double benefit of CENVAT credit and duty drawback.

6. This issues with the approval of DGFT.

(Jay Karan Singh)
Joint Director General of Foreign Trade
E-mail:jaykaran.singh@nic.in

(F.No.01/92/180/85/AM-12/PC VI)