

Re-importation and Re-exportation of Goods

1. Introduction:

- 1.1 Sometimes, indigenously manufactured goods, when exported, are returned back for various reasons including cancellation of export order or after exhibition/display etc., or after use in particular project/contract and completion of the contract etc. (such as machinery). Similarly imported goods which may have discharged duties at the time of original importation have also to be often sent out for repair, reconditioning etc. Private, personal imported property may also have to be sent abroad for repair within the warranty period and returned. There are also goods that may have to be sent for special processes like electroplating, polishing or coating and re-imported. Thus, specific legal provisions permit the facility of re-import and re-export of goods.

2. Re-importation of indigenously manufactured/imported goods:

- 2.1 Under Section 12 of the Custom Act, 1962 import duties of Customs are leviable on all import goods, and no distinction is made whether the goods being imported had discharged duties earlier are being re-imported after exportation for particular purposes. Similarly, even if goods are indigenously manufactured which had been exported earlier under various export incentive schemes or duty drawback claim or even without any export incentive claim, when these are re-imported they attract the Customs duty leviable on like import goods (as the duty is on the act of importation) unless an exemption notification is issued.
- 2.2 To avoid incidence of double duty on re-imported goods such when sent abroad for repairs, certain relief from duty has been provided. Similarly, where the goods are indigenously manufactured, they should bear the Central Excise duties, which may not have been discharged at the time of exportation. Further, the exporters should not retain any benefits obtained as an export incentive if the goods are re-imported.
- 2.3 The salient elements of the duty exemption governing the re-imported goods are as follows:
- (i) On re-import of indigenously manufactured goods under duty Drawback/rebate claims, export under bond or under other claim of export incentives, essentially the duties equivalent to the export incentives etc. availed have to be paid, on re-importation. Thus, if the goods were exported on payment of Central Excise duty, without claiming any rebate, and without claiming any export incentives such as Drawback or benefits of the duty exemption schemes, EPCG/DEPB schemes, and where the indigenously manufactured goods are being returned then no Customs duties are leviable. Further, were the indigenously manufactured goods are exported for repair and returned without claiming any benefits, duty is to be paid on a value comprising fair cost of repairs including cost of materials used in

repairs, insurance and freight charges both ways. Basically the benefit is available if the Assistant/Deputy Commissioner of Customs is satisfied that the goods are the same which were exported earlier and certain other conditions as laid down in the said notification are fulfilled.

[Refer Notification No.94/96-Cus., dated 16-12-1996]

- (ii) Goods manufactured in India or parts thereof that are re-imported for repairs or reconditioning or reprocessing/refining/remaking etc. are exempt from duty subject to the condition that the re-importation takes place within a specified period; the goods are re-exported within six months of re-importation; the Assistant/Deputy Commissioner of Customs is satisfied as regards the identity of the goods; and certain other conditions ensuring re-export including execution of bonds are fulfilled.

[Refer Notification No.158/95-Cus., dated 14-11-1995]

- (iii) Re-imported private personal property, which was imported earlier but exported out for any alteration, renovation, repair free of charge etc. is exempt from duty subject to the condition that the goods are repaired on free of charge basis in accordance with the terms of warranty given by the manufacturers and in accordance with the established trade practice and Drawback or other incentives have not been availed. However, certain Custom duties equivalent to the cost of alterations/renovations/additions/repairs, if any, are payable.

[Refer Notification No.174/66-Cus. dated 24-9-1966]

3. Re-exportation of imported goods:

- 3.1 There are often occasions where imported goods may have to be re-exported such as when the import goods are found defective after Customs clearance or are not found as per specifications or requirements. Various machinery items imported for use in certain projects or otherwise are also often to be re-exported by the original owner. Re-exports can be made by sea, air, baggage or post.
- 3.2 Section 74 of the Customs Act, 1962 provides for grant of Drawback @98% of the Customs duties leviable at the time of importation, if the goods are re-exported by the importer, subject to certain conditions. The re-export is to be made within a maximum period of two years from the date of import (which period can be extended on sufficient grounds being shown) and goods have to be identified with the earlier import documents and duty payment to the satisfaction of the Assistant/Deputy Commissioner of Customs at the time of export. If such goods are used after importation, Drawback is granted on a proportionate basis but if such goods are re-exported after more than 18 months of import 'nil' Drawback is admissible. Further, no Drawback of the import duty paid is permissible for specific categories of goods such as wearing apparel, tea chests, exposed cinematographic films passed by Film Censor Board, unexposed photographic films, paper and plates and x-ray films. Also, in respect of motor vehicles imported for personal and private use the Drawback is calculated by reducing the

import duty paid according to the laid down percentage for use for each quarter or part thereof, but upto maximum of four years.

[Refer Notification No.19/65-Cus., dated 6-2-1965]

- 3.3 Section 26A of the Customs Act, 1962 allows refund of import duty if the imported goods are found defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods. One of the conditions for claiming refund is that the goods should not have been worked, repaired or used after the importation except where such use was indispensable to discover the defects or non-conformity with the specifications. Another condition is that the goods are either exported without claiming Drawback or abandoned to Customs or destroyed or rendered commercially valueless in the presence of the Proper Officer within a period of 30 days from the date on which the Proper Officer makes an order for the clearance of imported goods for home consumption. The period of 30 days can be extended by the jurisdictional Commissioner of Customs on sufficient cause being shown. However, no refund shall be available in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period.