Circular No. 59/95
dated 5/6/95

F.No. 438/7/95 CUS IV

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Excise & Customs, New Delhi

Subject : Customs Refund Application (Form) Regulations, 1995 - Interest on Refund - Instructions Reg.

I am directed to say that with the enactment of the Finance Bill, 1995 with effect from 26.5.1995 section 27 A relating to payment of interest on delayed refund of customs duties have become part of the Customs Act, 1962. Consequently, Notification No. 32/95 (NT) customs dated 26.5.1995 has been issued by the Board to specify the rate of interest payable by the Department in the case of delayed refunds to customs duties in terms of the said notification is simple interest of 15% per annum. Instructions have already been issued by TRU as a part of the Budget instructions regarding the payment of interest and the calculation of which interest is payable.

2. In order to give effect to the aforesaid provisions and to streamline the procedure for processing of refund applications the Customs Refund Application (From) Regulations, 1995 have been prescribed by the Board in terms of Notification No. 34\95 (NT) Customs dated 26.5.1995. These regulations supersede the Customs Application (Form) Regulations, 1991.

3. The new regulations provide for the form and manner in which an application of refund is to be made. As may be seen, the regulations also provide for the scrutiny of an application and its return of the applicant within a period of 10 working days. if it is found incomplete in any manner or detail. If however, the application is found to be complete in all respects for the purpose of processing the refund claim the same is to be acknowledged within the period of 10 working days. The interest free period of 3 months for processing the claim while be deemed to start the date of receipt of the complete refund application.

4. The aforeindicated provisions warrant that the Department is geared to meet the new standards required by law as the payment of interest by the Government cases of delayed settlement of refund cae would be detrimental to Government revenue. Accordingly, steps are to be taken by the Commissioners of Customs to closely monitor the performance of the refund cells of the Customs Houses to ensure that all refund climes are settled at the earliest and in any case before the period the interest liability starts. In this direction the centralisation of all types of refund claims and their settlement procedure may be examined by the Commissioners for greater efficiency and accountability.

5. As the period of interest determination starts from the date of receipt of a complete refund application, the responsibility of proper scrutiny of the applications for determining the completeness or otherwise of the applications can not be under estimated. Accordingly, particular importance is to be given to this area of work and it may be ensured that there should be proper selections of officers conversant with such work. In case of delays not warranted in the administrative system, perhaps, Government would be constrained to recover the interest paid from the officials who were responsible for such delays.

6. The finalisation of refund claims are to be closely monitored and it may be ensured that these are decided without fail within the period provided. No interest liability should normally lie on the Government. It is further desired that all refund claims in future be settled at the level of Assistant commissioner only (and not by Superintendent/ Appraiser). It may be noted that the interest is payable only in respect of delayed refunds of customs duties. No interest is payable in respect of deposits (for example deposits for project import, etc.). Pre audit system as well as issue of cheques should be ensured at utmost speed.

7. I am directed to say that the Board has desired that this aspect of tax administration be given due importance in view of the revenue implications. Accordingly, the Commissioners of Customs concerned may evolve a suitable procedure for implementing the new legal provisions. Suitable detailed Standing Order to departmental officers may be issued. Trade may also be advised of this procedure for filing claims in complete forms by issue of a Public Notice. Copies of standing Order/ Public Notice may be endorsed to the Board [Director (Cus) and to DGIACCE, Delhi.

8. copies of the referred notifications have been sent to the Commissioners of Customs vide Board letter F.No. 446/18/94-Cus IV dated 29.5.1995.

Sd/-
(S.M. Bhatnagar)