

1) 4% sad refund

Refund of Special Additional Duty

THE Customs Notification 102/2007 dated 14.9.07 providing for exemption of 4% Special Additional Customs Duty leviable in terms of Section 3(5) of Customs Tariff Act 1975 in respect of goods imported for sales as such, by the importers to others was purportedly issued to provide a level playing field to traders vis-à-vis manufacturers who do not pay local sales tax / VAT while importing goods directly for their own use and to remove the burden of double tax on such type of importers.

Conditions of the Refund : (a) the importer of the said goods shall pay all duties, including the said additional duty of customs leviable thereon, as applicable, at the time of importation of the goods; (b) the importer, while issuing the invoice for sale of the said goods, shall specifically indicate in the invoice that in respect of the goods covered therein, no credit of the additional duty of customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975 shall be admissible; (Credit and refund is not available simultaneously) (c) the importer shall file a claim for refund of the said additional duty of customs paid on the imported goods with the jurisdictional customs officer; (d) the importer shall pay on sale of the said goods, appropriate sales tax or value added tax, as the case may be; Both intra-sale or inter-state sale is considered as subsequent sale and therefore payment of VAT/CST is eligible.

Time-limit for filing of refund claim: Up to a period of 1 year from the date of payment of duty. As stated in para 4.1 of the Circular No.6/2008-Customs dated 28th April, 2008, an amending notification to this effect specifically providing for 1 year period from the date of payment of the additional duty of customs (4% CVD) was issued vide Notification No.93/2008-Customs dated 1.8.2008 amending para 2(c) of the above-said notification. Unsold stocks would not be eligible for refunds. As per Circular No.6/2008-Customs instructions are given to importer to file monthly claim irrespective of the number of bill of entries processed by the Commissioner.

DOCUMENTS REQUIRE.

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1. Document evidencing payment of the Special Additional Duty (SAD).
2. Invoices of sale of the imported goods in respect of which refund of the said SAD is claimed.
3. Documents evidencing payment of appropriate sales tax or value added tax, as the case may be, by the importer, on sale of such imported goods.
4. Certificate from a statutory auditor / CA who certifies the final accounts in respect of correlation of VAT payment, payment of 4% SAD amount and unjust enrichment as prescribed in Board's circular No.6/2008-Customs dated 28.4.2008 and 16/2008-Customs dated 13.10.2008.

5. Copy of the Consignment Sale Agreement. (in case of sale through consignment agents / stockists).

6. Self-declaration / Affidavit (for e.g. in case of submission of invoice in soft form in lieu of paper documents, in case of fulfillment of the doctrine of unjust enrichment to the effect that the applicant has not passed on the incidence of 4% SAD to any other person).

7. Any other document considered necessary in support of the claim