

## Central Excise Act, 1944

### Section 11B - CLAIM FOR REFUND OF DUTY 112

1) Any person claiming refund of any duty of excise may make an application for refund of such duty to the 113 Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] before the expiry of 114 [(one year] 115 [from the relevant date] 116 [ 117 [in such form and manner] as may be prescribed and the application shall be accompanied by such documentary or other evidence (including the documents referred to in section 12A- ) as the applicant may furnish to establish that the amount of duty of excise in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such duty had not been passed on by him to any other person : Provided that where an application for refund has been made before the commencement of the Central Excises and Customs Laws (Amendment) Act, 1991, such application shall be deemed to have been made under this sub -section as amended by the said Act and the same shall be dealt with in accordance with the provisions of sub -section (2) substituted by that Act:] 118 [Provided further that] the limitation of 119 [one year] shall not apply where any duty has been paid under protest. 120 [\*\*\*\*] 121 [(2) If, on receipt of any such application, the 122 [Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] is satisfied that the whole or any part of the duty of excise paid by the applicant is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund : Provided that the amount of duty of excise as determined by the 123 Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise] under the foregoing provisions of this sub-section shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to - (a) rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India; (b) unspent advance deposits lying in balance in tile applicant's account current maintained with the 124 [Commissioner of Central Excise]; (c) refund of credit of duty paid on excisable goods used as inputs in accordance with the rules made, or any notification issued, under this Act; (d) the duly of excise paid by the manufacturer, if he had not passed on the incidence of such duty to any other person; (e) the duty of excise borne by the buyer, if he had not passed on the incidence of such duty to any other person; (f) the duty of excise borne by any other such class of applicants as the Central Government may, by notification in the Official Gazette, specify: Provided further that no notification under clause (f) of the first proviso shall be issued unless in the opinion of the Central Government the incidence of duty has not been passed on by the persons concerned to any other person. (3) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder or any other law for the time being in force, no refund shall be made except as provided in sub-section (2). (4) Every notification under clause (f) of the first proviso to sub-section (2) shall be laid before each House of Parliament, if it is sitting, as soon as may be after the issue of the notification, and, if it is not sitting, within seven days of its re-assembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder. (5) For the removal of doubts, it is hereby declared that any notification issued under clause (f) of the first proviso to sub-section (2), including any such notification approved or modified under sub-section (4), may be rescinded by the Central Government at any time by notification in the Official Gazette.] 125 [Explanation. - for the purposes of this section, - (A) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India; (B) "relevant date" means,- (a) in the case of goods exported out of India where a refund of excise duty paid is available in respect of the goods themselves or, as the case may be, the excisable materials used in the manufacture of such goods, - (i) if the goods are

exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or (ii) if the goods are exported by land, the date on which such goods pass the frontier, or (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India; (b) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process, in any factory, the date of entry into the factory for the purposes aforesaid; (c) in the case of goods to which banderols are required to be affixed if removed for home consumption but not so required when exported outside India, if returned to a factory after having been removed from such factory for export out of India, the date of entry into the factory; (d) in a case where a manufacturer is required to pay a sum, for a certain period, on the basis of the rate fixed by the Central Government by notification in the Official Gazette in full discharge of his liability for the duty leviable on his production of certain goods, if after the manufacturer has made the payment on the basis of such rate for any period but before the expiry of that period such rate is reduced, the date of such reduction; 126 [(e) in the case of a person, other than the manufacturer, the date of purchase of the goods by such person;] 127 (ea) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 5A- , the date of issue of such order;] 128 (eb) in case where duty of excise is paid provisionally under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;] (f) in any other case, the date of payment of duty.] w.e.f. 28-9-1996) by s. 71 of the Finance (No. 2) Act, 1996 (33 of 1996).

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**