PUBLIC NOTICE No. 29 /2015

Sub: Timely cancellation of bond executed with Customs in advance
authorization cases – Reg.

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The following Instruction issued by the Government of India, Ministry of
Finance, Department of Revenue, Central Board of Excise and Customs, New Delhi is
enclosed for guidance of the officers/ Importers/ Exporters/ Customs Brokers and
Trade.

Sl.No.	Circular No. & Date	Subject
1.	Instruction under F.No. 605/71/2015-DBK dated 02.12.2015	Timely cancellation of bond executed with Customs in advance authorization cases

2.   Any difficulties faced, may be brought to the notice of the Joint Commissioner
of Customs, Trichy.

(Issued from File C.No. VIII/09/05/2013-Cus.Pol dated 22.12.2015)

(K.C. JOHNY)
COMMISSIONER

Encl: Copy of Instruction under F.No. 605/71/2015- DBK dated 02.12.2015

To
1. As per mailing list
2. Commissionerate website
3. Notice Board, Trichy.

Copy submitted to: The Chief Commissioner of Customs (Prev.), Trichy.

F. No. 605/71/2015-DBK
Government of India
Ministry of Finance, Department of Revenue
Central Board of Excise & Customs
New Delhi, dated the December 2nd 2015

To

Principal Chief Commissioners / Chief Commissioners (All)
Principal Directors General / Directors General (All)
Principal Commissioners/Commissioners (All)

Madam/Sir,

Subject: Timely cancellation of bond executed with Customs in advance authorisation cases - regarding

During discussions in the Ministry, the Export Promotion Councils have highlighted that field formations take substantial time to cancel the bond executed by exporters with the Customs in terms of the advance authorisation notifications. EPCs informed that much of this time is associated with retrieval of bond file and re-verifying documentation submitted by exporter for obtaining the export obligation discharge certificate (EODC) from the Regional Authority of DGFT. The matter was examined by Board.

2.   In view of the condition in the relevant notifications regarding actual usage of imported materials, the Circular No.5/2010-Cus dated 16.3.2010 and Instruction No.609/119/2010-DBK dated 18.1.2011 had directed confirming, preferably through Central Excise Divisions, the correctness of address shown on authorization/availability of inputs imported duty free through random checks in at least 5% authorizations registered at a port. The check is envisaged during validity period of the authorization. The Board has decided to restrict the percentage of these random checks from presently at least 5% cases to 5% cases. The Commissioners are directed to ensure these checks are initiated periodically every month based on the imports made. These checks should be completed during validity of authorisation. The selection should be made at least at Joint/Additional Commissioner level and record kept. Work should be arranged in a manner that non-receipt of confirmation from Central Excise is not a cause for delay in processing a subsequent application for cancellation of bond.

3.   It has been gathered that the process for retrieval of bond file begins after the exporter submits EODC and original authorization with condition sheet and once the Customs link their own copy of the EODC (or take confirmation from RA). The Board observes that the authorisations where export obligation period is getting over can be identified in advance with the help of various reports available in the EDI System. Therefore, Commissioners are directed to make it a general practice that the bond file is retrieved from record prior to expiry of export obligation period and the confirmations referred in para 2 above, if any, are linked therein in advance. The work should be arranged in a manner that bond files are readily available for immediate processing. Where request for cancellation of bond is presented before expiry of the normal EO period, the bond file should be retrieved and readied for processing within 1 day.

4A.   In Circular No.5/2010-Cus, Instruction No.609/119/2010-DBK dated 18.1.2011 and Circular No.14/2015-Customs, the guideline provided to field formations is that EODCs against advance authorisations issued by RAs may normally be accepted. However, exceptions for checks are – (a) check, in detail, randomly at least 5% of the EODCs and when there is specific intelligence available suggesting misuse/need for detailed verification (b) verify shipping bills/other documents based on RA's endorsement on EODC or verify the genuineness of non-EDI shipping bills/bills of export on

which EODC is based. The Board has decided that the percentage of these random checks be restricted from present level of at least 5% cases to 5% cases. In arriving at this conclusion the Board has, inter alia, kept note that the Handbook of Procedures, for FTP 2004-09, FTP 2009-14 and FTP 2015-20, provides that RA may issue EODC if EO has been fulfilled and it further specifies that this does not preclude the Customs from conducting random checks and also from taking action for any misrepresentation, mis-declaration and default detected subsequently as per the Customs Act.

4B.   The Commissioners are also directed that the selection parameters should be meaningful and practically applicable upfront without recourse to prior enquiry with exporter or long drawn analysis after EODC is received. To illustrate, the EDI system can be used to work out, in advance, a list of authorisations from a risk perspective say by judging, from the linked import bills of entry and shipping bills, parameters such as import of materials otherwise attracting high rates of duties or combination of specific and ad valorem duty rates or exports to sensitive destinations or by third parties or new IECs at the locations etc. Similarly, the accompanying details with advance authorisation EODCs can identify authorisations associated with non-EDI parameters such as deemed exports or manual ports etc. From amongst EODCs received for such (or otherwise) identified list of authorisations, the selection for check should be made at least at Joint/Additional Commissioner level and the relevant exporter should, invariably, be informed, on the date of selection itself, via official email communication that its case is selected for detailed checks.

5.   The Board further directs the Commissioners to bring credibility and transparency into the bond cancellation process for advance authorisations. To institutionalise a service orientation, a verifiable record must be kept of the date the exporter applied with documents (like EODC and original authorisation with condition sheet) for cancellation of bond and, every 3rd day or earlier if required by quantum of EODC inflow, selection for checks should be made (and intimated) from amongst the relevant applications. Exporters should be requested to share their email addresses on the application. The work should be arranged in a manner that –

(a)   in respect of cases not so selected (and also not involving verification of documents endorsed by RA or of genuineness of non-EDI shipping documents) all processes related to compliance of conditions of notification get expeditiously completed and the bond/bank guarantee gets returned to exporter normally within 10 days from date of receipt of exporter's said application

(b)   In the cases apart from the above, except cases under investigation or where there is intelligence of misuse, the norm of within 30 days should be adopted for, inter alia, completing the said processes and the return of the bond/bank guarantee

(c)   exporter is not asked to routinely produce information that can be sourced from the Customs EDI system

(d)   an initial special drive is launched to dispose previous pending work of bond cancellation.

6.   The above aspects should be given publicity through issuing public notice. Standing order should be issued to suitably arrange the work and guide the personnel. The Chief Commissioners are requested to monitor the functioning on a monthly basis and ensure strict implementation.

(Rajiv Talwar)
Joint Secretary to the Government of India
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