



MINISTRY OF FINANCE :: DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER OF CUSTOMS

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PUBLIC NOTICE No: 03/ 2013

The following Circulars are issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise & Customs is enclosed for guidance of the officers / Exporters / Importers/ Clearing Agents and Trading Public.

Sl.No.	Reference No. & Date	Subject
01	Circular No. 8/2013-Customs F.No.609/134/2012-DBK dated 04-03-2013	Norms for Execution of Bank Guarantee in respect of Advance Authorization (AA)/ Duty Free Import Authorization (DFIA)/ Export Promotion Capital Goods (EPCG) Schemes- Reg.
02	Circular No.10/2013-Customs F.No.605/12/2012- DBKdated 06.03.2013	Post Export EPCG duty credit scrip (s) Scheme and certain other changes related to Foreign Trade Policy 2009- 14- Reg.
03	Circular No11/2013-Customs F.No.DGEP/G&J/07/2013 dated 06.03.2013	Setting up of Public/Private Bonded Ware Houses for Gems & Jewellery Sector- Reg.

Dated: .04.2013
Custom House, Tuticorin


(D.RANJITHKUMAR)
ASSISTANT COMMISSIONER

(Issued from file C.No. VIII / 48/ 07 /2012-Cus.Pol)

To
As per Mailing List I & II
Copy submitted to the Chief Commissioner of Customs (Preventive), Trichy - for kind information.

Circular No. 08 / 2013-Customs

F.No.609/134/2012-DBK

Government of India

Ministry of Finance, Department of Revenue

Central Board of Excise and Customs

New Delhi, the 4th March, 2013

To

All Chief Commissioners of Customs

All Chief Commissioners of Central Excise / Customs & Central Excise

All Director Generals under CBEC,

All Commissioners of Customs / Customs (Preventive)

All Commissioners of Central Excise / Customs & Central Excise

Madam/Sir,

Subject : Norms for Execution of Bank Guarantee in respect of Advance Authorization (AA) / Duty Free Import Authorization (DFIA) / Export Promotion Capital Goods (EPCG) Schemes – reg.

The undersigned is directed to invite reference to Circular No. 58/2004-Cus dated 21.10.2004 on the above subject. This was amended by Cir. Nos.17/2009-Cus and 32/2009-Cus. Circular No.58/2004 was further amended by Circular No.6/2011-Cus dated 18.1.2011. By this amendment, para 3.2 (c) was amended and the conditions for availing of exemption from bank guarantee were modified.

2. Prior to amendment by Cir 6/2011-Cus, one of the explicit criteria for denying benefit was that the license holder should have been penalized. However, the issue of penalty imposed for technical offences had arisen. The Circular 6/2011-Cus asked for taking an affidavit from the license holder stating whether any case(s) for certain offences, regarded as other than technical offences, had been booked during the previous three financial years and it was prescribed that, in case such violation(s) were revealed, the benefit of exemption from bank guarantee should not be extended.

3. It has been brought to the notice of the Board by exporters, trade associations and the field formations that with this amendment the benefit of availing of exemption from bank guarantee will be denied even before the show cause notice proposing imposition of penalty has been adjudicated.

4. The Board has reviewed the matter and considers that the position of not having been penalized should be restored. Accordingly, the para 3.2 (c) of Circular 58/2004-Cus shall be read as follows:

“(c) The License holder should not have been penalized during the previous three financial years in cases booked against him related to Customs, Central Excise or Service Tax under the provisions of the Customs Act, 1962, the Central Excise Act, 1944, the Finance Act, 1994 (for Service Tax), as detailed below.

(a) Cases of duty evasion involving mis-declaration / mis-statement/collusion / willful suppression / fraudulent intent whether or not extended period for issue of show cause notice has been invoked.

(b) Cases of mis-declaration and/or clandestine/unauthorized removal of excisable / import /

export goods warranting confiscation of said goods.

(c) Cases of mis-declaration / mis-statement / collusion / willful suppression / fraudulent intent aimed at availing CENVAT credit, rebate, refund, drawback, benefits under export promotion/reward schemes.

(d) Cases wherein Customs/Excise duties and Service Tax has been collected but not deposited with the exchequer.

(e) Cases of non-registration with the Department with intent to evade payment of duty / tax.

or in cases booked against him under the Foreign Exchange Management Act (FEMA), 1999 or the Foreign Trade (Development and Regulation) Act, 1992. In order to ascertain/verify whether the License/Authorization holder meets this criterion he may be asked to furnish an affidavit. The Commissioners shall ensure that some of the affidavits furnished are cross checked randomly with the field formations for their veracity.”.

5. It may be noted that the other conditions in Para 3.2 of the Circular No.58/2004-Cus dated 21.10.2004 remain unchanged. These instructions may be brought to the notice of the trade/exporters by issuing trade/Public Notices. Standing orders/instructions may be issued for guidance of the assessing officers. Difficulties faced, if any, in implementation of the Circular may please be brought to the notice of the Board at an early date.

Receipt of this circular may kindly be acknowledged.

(Ashok Kumar Pandey)
Senior Technical Officer (Drawback)

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Circular No. 10 / 2013-Customs

F.No.605/12/2012-DBK (Pt.)

Government of India

Ministry of Finance, Department of Revenue

Central Board of Excise and Customs

New Delhi, dated the 6th March, 2013

To
All Chief Commissioners of Customs
All Chief Commissioners of Central Excise / Customs & Central Excise
All Director Generals under CBEC,
All Commissioners of Customs / Customs (Preventive)
All Commissioners of Central Excise / Customs & Central Excise

Madam / Sir,

Sub: Post Export EPCG duty credit scrip(s) Scheme and certain other changes related to Foreign Trade Policy 2009-14 – Reg.

Reference is made to Para 4 of Circular No.20/2012 – Customs dated 27.7.2012 wherein it was indicated that there are certain areas of change in the FTP supplement 2012-13 for which notifications shall be issued subsequently as modalities to make them operational were being worked out. In these areas, the Department of Revenue has since issued notifications described below.

2. The definition of capital goods (under para 9.12 of FTP amended on 26.7.2012) now includes catalysts for initial charge plus one subsequent charge. The notification No.3/2013-Customs dated 13.2.13 has amended notification Nos. 100 to 103/2009- Customs to specify the conditions subject to which the catalyst for one subsequent charge shall be allowed under EPCG Scheme. The notification No.4/2013-Customs dated 14.2.13 has been issued amending 31 customs notifications so as to specify Visakhapatnam Airport for making imports and exports under the export promotion schemes.

Post Export EPCG duty credit scrip(s) Scheme

3. It may be recalled that the Post Export EPCG duty credit scrip(s) Scheme was notified on 5.6.12 vide a new para 5.11 in FTP read with a new para 5.23 in the HBP v1. These paras have been further amended on 26.7.12 and 8.2.13 by Department of Commerce. These provisions may be downloaded from DGFT website and perused. The Post Export EPCG duty credit scrips to be issued by Regional Authority of the DGFT are intended to be used for, apart from imports of goods, domestic procurement. Their usage pattern is intended to be similar to that prescribed for freely transferable duty credit scrips issued by the Regional Authorities under chapter 3 of FTP.

4. The scheme envisages that the duty credit in these scrips shall be a duty remission computed based on the basic customs duty paid on capital goods which had been imported on payment of all applicable duties of customs in cash. Subject to installation and use of the imported capital goods, and other conditions including non-disposal of the capital goods till the date of last export, the duty remission may be granted by the Regional Authority in proportion to export obligation fulfilled within a fixed export obligation period. For this purpose, the export obligation would be fixed (over and above average export obligation) at 85% of applicable specific export obligation, computed as if the duty paid imports had taken benefit of duty exemption (i.e. like the EPCG duty exemption schemes, either zero duty or concessional 3% duty). As in the existing EPCG duty exemption scheme, if it is opted to not take the Cenvat credit of additional duty of customs paid, a lower export obligation would be fixed. There is no provision for extension of export obligation period in this scheme.

5. The notification Nos.5/2013-Customs and 6/2013-Customs both dated 18.2.13 have been issued under section 25(1) of Customs Act, 1962 to permit imports through debit of the customs duties in the said duty credit scrip. The notifications are for scrip variants where export obligation is fixed like the zero duty or concessional 3% duty EPCG scheme, respectively. The mechanisms of fixing the export obligation, and of granting the remission, are explained in the notifications. Further, notification Nos.2/2013-Central Excise and 3/2013-Central Excise both dated 18.2.13 have been issued under section 5A (1) of the Central Excise Act, 1944, read section 3 (3) of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and section 3 (3) of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, to permit domestic procurement. All these four notifications are conditional notifications. Notification No.7/2013-Customs dated 19.2.13 makes consequential amendments in the two customs notifications for the purpose of cross referencing the two central excise notifications.

6. As mentioned hereinabove, in this Scheme the duty remission is envisaged in proportion to export obligation fulfilled within a fixed export obligation period. Unlike the EPCG duty exemption schemes, the block obligation periods or their related proportions of export obligation fulfillment are not pre-defined in the new scheme. More than one duty credit scrip may issue (against the duty paid import of capital goods) based on the progressive fulfillment, during the specified export obligation period, of larger extents of the total export obligation. The meaning of 'export obligation' would apply individually to each duty credit scrip. Further, scrip issuance is akin to a discharge (or partial discharge) of the export obligation and is a remission by the DGFT of duty collected by the CBEC. Therefore, it is necessary that the Deputy/Assistant Commissioner of Customs satisfies himself of the compliance of the conditions of the notification (including fulfillment of export obligation, the quantum of duty remission in the duty credit scrip, the cumulative duty credits issued against imported duty paid capital goods) before allowing a duty credit scrip, issued under the Scheme, to be registered.

7. A sequential monitoring should be followed. This begins from registration of authorization (for importing capital goods) at the port of registration and is followed by import on payment of full applicable duties of customs in cash, endorsement of import particulars on authorization at time of clearance, making specified endorsements on bill(s) of entry at time of import, ensuring registration or installation/use of all imports under authorization before any scrip issues, registration of scrip at the same port, keeping cumulative record of duty credit scrips issued against an authorization, and making the indicated endorsements on documents at the time of registration. Moreover, the assessment Group which handles the authorization to import capital goods on payment of duty under this variant of the EPCG scheme would need to allow the registration of this duty credit scrip. The genuineness of the post export EPCG duty credit scrip should be verified.

8. Safeguards are provided in the notifications relating to making endorsements on the documents. The option for not availing Cenvat Credit on capital goods imported under authorization and thereby enjoying a lower export obligation is to be backed by a certification. Jurisdictional Central Excise authority should ensure that certificate on non-availment of Cenvat Credit is issued expeditiously and normally within two weeks but not later than four weeks under all circumstances. Where the goods imported against an authorization are found defective or unfit for use and are re-exported back to the foreign supplier, if claim of duty drawback is made, no duty remission for the duty paid at the time of import on the re-exported goods is to be allowed. Further, after any duty remission in the form of duty credit scrip has been claimed in respect of the duty paid on the goods imported against an authorization, no duty drawback shall be allowed when the goods are re-exported and the export obligation is also not to be re-fixed. Indigenous sourcing of capital goods (referred to as invalidation procedure of import authorization) on payment of duty is not permitted in this scheme.

9. It may also be noted that the post export EPCG duty credit scrip cannot be issued as a refund on the premise that duty was paid but a situation arose where there was no export obligation to be fulfilled. The Commissioners of Customs are also to exercise special checks so as to ensure that there is no misuse of the scheme and a proper record of all such checks is

maintained. These shall include random verifications of the address shown on the authorizations (for import of capital goods) during their validity period in at least 10% of authorizations, random verifications of the certificates produced (not issued by central excise authorities) and of the declarations submitted with respect to Condition No. 14 (e)(i) of the Customs notifications in at least 10% cases. These verifications should be made through the Commissioners of Central Excise. The central excise authorities should include, in their verification, a check of the periodical utility bills (containing the address) as one of the means enabling verification of installation/ operation/ authorization holder premises. The Commissioners are expected to exercise due diligence to prevent misuse. If any other measure or safeguard is considered necessary it may be informed to the Board for appropriate action. Moreover, relevant aspects should also be incorporated in the monthly report of "Monitoring of Export/Imports under various Export Promotion Schemes" sent to the Board in terms of letter No. 605/64/2008-DBK dated 20.11.2008.

10. The Director General (Systems and Data Management) is to take steps to capture relevant details of authorizations, imports made (including duties paid) and the duty remitted against them, and in addition the subsequent utilization of the post export EPCG duty credit scrip. Moreover, the utilization of scrip under the Customs exemption notifications shall be shown separately in the FMR Customs (Annexure III) and that under the Central Excise exemption notifications shall be shown separately in the FMR Central Excise (Annexure IV) with a remark that it is a duty remission.

11. The Commissioners should ensure that the above mentioned Customs and Central Excise notifications and this Circular are carefully perused for details and implementation. Suitable public notice and standing order may be issued for guidance of the trade and officers.

Yours faithfully,

(Vinod Kumar Agrawal)
OSD (Drawback)
Tel:2334 1480

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F.No. DGEP/G&J/07/2013
Govt. of India
Ministry of Finance,
Department of Revenue,
Central Board of Excise & Customs
Directorate General of Export Promotion

New Delhi, the March 6, 2013

All Chief Commissioners of Customs/Central Excise,
All Commissioners of Customs/ Central Excise.

Madam/ Sir,

Subject: Setting up of Public/Private Bonded Warehouses for Gems & Jewellery Sector

Director General of Foreign Trade vide notification no. 30 (RE-2012)/2009-2014 dated 31.01.2013 amended FTP 2009-2014 and introduced a **new para 4A.16A for setting up of Public / Private Bonded Warehouses for Gems & Jewellery Sector**. The scheme under para 4A.16A of FTP 2009-2014 provides for setting up Private / Public Bonded Warehouses in SEZ/DTA for import and re-export of cut and Polished diamonds, cut and polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum Value Addition (VA) of 5%.

2. To operationalise the above scheme, procedure as follows may be followed:
- (i) The scheme shall be applicable to jurisdiction of Commissioners of Customs (a) CSI Airport, Mumbai, (b) Jodhpur (Hq. at Jaipur), (c) Air Cargo Export, Delhi and (d) Airport & Air Cargo, Chennai. A Private/Public bonded Warehouse may be set up in SEZ/DTA subject to observance of Board's existing instructions on setting up such warehouses wherein imported goods would be kept by the warehouse licence holder. Physical control over the warehouse in the form of Double Lock System and posting of Cost Recovery Officer is waived.
 - (ii) Clearance from the bonded warehouse may be taken by EOU under authorization from the Deputy/Assistant Commissioner and on filing ex-bond Bill of Entry.
 - (iii) Clearance from the bonded warehouse may be taken by units in SEZ in accordance with the SEZ Act, 2005 and the rules made thereunder.
 - (iv) The holders of GEM REP Authorizations can take the goods by following the procedures given under para 4A.4, 4A.4.1 and 4A.4.2 of Handbook of Procedures Volume I. Details in this regard are to be given to the Deputy/Assistant Commissioner by warehouse licence holder instead of licensing authority.
 - (v) The warehouse licence holders shall be responsible for the safe keeping of the goods, for making physical delivery thereof to the users, as the case may be, against duty assessed Bills of Entry on which ex-bond clearance has been allowed by the proper officer, and for rendering to Customs a complete account of goods received and kept by them in bond. In their capacity as bonders, they will also maintain the prescribed records, including name, address and other specified details of the users and quantity of the goods released to the user and exported by him.
 - (vi) Separate Bond/Stock Account register in the form, Annexure-I and Stock Card in the form, Annexure-II is to be maintained by the each Licensee. The details are to be filled on the date of transaction and the signatures of the Licensee/ authorised representative be appended after every transaction.

3. The above said procedures may be brought into effect immediately, and the trade informed suitably. Proper steps may be taken for smooth transition from existing scheme to new scheme without dislocating the trade.
4. Wide publicity may please be given to this Circular by way of issuance of Trade/Public Notice.
5. Receipt of this circular may kindly be acknowledged.
6. Hindi version follows.

Click here for : [Annexure I](#) | [Annexure-II](#)

Yours faithfully,

(Jitendra Kumar)
Additional Director

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