

No.01/93/180/05/AM-12/PC-2(B)
Government of India
Ministry of Commerce & Industry
Directorate General of Foreign Trade

Udyog Bhawan, New Delhi
Dated: 23/05.2016

Trade Notice No. 06/2016

To

1. All IEC holders/applicants
2. All EPCs / All Chambers of Trade and Industries
3. FIEO/ASSOCHAM/CII
4. All RA's of DGFT

Vide Public Notice No. 58 dated 01.02. 2016 a new version of ANF-2A of Appendices at Aayat Niryat Forms (2015-20) was introduced for Issue/Modification in Importer Exporter Code. Provision for modification in IEC is laid down in Para 2.14(b) of HBP (2015-20) as below:

“An application for modification may be made for change in details like name, address, constitution, ownership in Proprietorship firms, change in nature of the firm e.g. from proprietorship to partnership etc. Change in constitution however, does not include change in Directors of Public Limited Company.”

2. It has, however, come to notice that applicants are still facing difficulties in seeking modification in their IEC, in cases where there is a change in the PAN. Representations have highlighted that with the change in the constitution of the firm/change in the nature of the firm such as from Partnership to Limited Liability Partnership etc., there is a change in the PAN number and the new PAN number needs to be incorporated in the existing IEC, replacing the PAN already registered against the current IEC. Since each IEC is tagged to a particular PAN in the system, modification in PAN was not being entertained by the Regional Authorities- the prime consideration being how to transfer and seamlessly carry forward the liabilities of one firm, which merges into another or changes its nature and name.

3. To resolve the issue, matter was taken up with the Ministry of Corporate Affairs and they are of the view that conversion of a firm or an LLP into a company or merger of a company into another company or merger of two or more companies to form a new company or demerger of a company to form a new company does not extinguish the liability if any, of the Transferor Entity/Company and the liability of such Transferor Entity/Company would automatically vest in the Transferee Entity/Company, by operation of Law

5. Accordingly, the RAs shall henceforth consider applications seeking modification in IEC, involving change in PAN, by ensuring that liabilities of the previous applicant/applicant firm are transferred to the new applicant/applicant firm whose PAN will be reflecting in the modified IEC. RA's must also share the modified IEC, with the changed PAN incorporated in it, with all concerned authorities.

6. Further, it has been noticed that RAs have been rejecting applications digitally signed by Power of Attorney (instead of a Director) on the ground that power of attorney is not explicitly mentioned in the application format issued vide PN No. 58 dated 01.02.2016. In this regard, it is clarified that applications digitally signed by power of attorney holders/authorised signatories are to be entertained.



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