

**F. No. 605/85/2016-DBK**

Government of India  
Ministry of Finance: Department of Revenue  
Central Board of Excise & Customs  
Drawback Division

\*\*\*\*\*

New Delhi, the 2<sup>nd</sup> May, 2017

To

Principal Chief Commissioners/ Principal Directors General  
Chief Commissioners / Directors General  
Principal Commissioners & Commissioners all under CBEC

Madam/Sir,

**Subject: Monitoring of export obligation fulfillment under EPCG and Advance Authorization Schemes reg.**

I am directed to invite your attention to para 2(d) of Circular No. 5/2010-Cus dated 16.03.2010 directing initiation of action to safeguard revenue in case of non-submission of Export Obligation Discharge Certificate within the time period stipulated in the relevant Customs notifications. These directions have been reiterated in para 7 (iii) of Instruction dated 18<sup>th</sup> January, 2011.

2. Some field formations have expressed difficulty in implementing these instructions stating that when a notice issued (as per time lines prescribed in Customs notifications) to exporter for enforcement of Bond/BG is taken up for decision, the exporters plead that they have submitted documents to DGFT for issuance of EODC and that adjudication process of their SCN may be kept in abeyance till the time EODC is issued to them by DGFT. However, the proceedings cannot be kept pending in Call Book as they do not fulfill criteria prescribed in Circular No. 162/73/95-CX dated 14.12.1995. This leads to confirmation of demand and further litigation. This is avoidable if the time period prescribed in Customs notifications is aligned with time period for issuance of EODC as per FTP/HBP.

3. The matter has been examined. It is noted that during the Chief Commissioner's Conference dated 08-09/01/2016, it has been decided that a simple notice will suffice to the licence/authorization holder who does not submit the EODC/Redemption letter within the period prescribed in the relevant Customs notifications. In these cases also, the principles of natural justice should be followed. Further, this was reiterated during the Chief Commissioner's Conference dated 03.01.2017 wherein it was agreed that in view of time taken by DGFT in issuance of EODC, the practice of issuance of SCN at the first stage itself may be replaced by issuance of a simple notice to defaulters.

4. In all Advance Authorization and EPCG notifications, the Deputy/Assistant Commissioners of Customs have power to extend the period to submit proof of fulfillment of EO without any limit. Thus there is inherent provision in Revenue notifications to keep action of Customs pending till EODC is issued by DGFT. Moreover, the process of issuance of EODC by DGFT itself is linked to submission of BRC by the licence holder. The BRC itself can be submitted as per the period allowed by RBI in terms of the Foreign Exchange Management Act, 1999. The licence/authorization is also subject to extension, if any, by DGFT. Hence, alignment of the time period given in Customs notifications with that given in FTP/HBP may not be required.

5. In view of the above, the field formations may issue simple notice to the licence/authorization holders for submission of proof of discharge of export obligation. In case where the licence/authorization holder submits proof of their application having been submitted to DGFT, the matter may be kept in abeyance till the same is decided by DGFT. Institutional mechanism set up in terms of Instruction F. No. 609/119/2010-DBK dated 18.1.2011 for regular interaction with RA's of DGFT should be used to pursue such cases. However, in cases where the licence/authorization holder fails to submit proof of their application for EODC/Redemption Certificate, extension/clubbing etc., action for recovery may be initiated by enforcement of Bond/Bank Guarantee. In cases of fraud, outright evasion, etc., field formations shall continue to take necessary action in terms of the relevant provisions.

6. Difficulties in implementation, if any, may be brought to the notice of the Board.

(Dinesh Kumar Gupta)  
Director (Drawback)  
Tel: 23360581