

**MINISTRY OF COMMERCE & INDUSTRY
(DEPARTMENT OF COMMERCE)
DIRECTORATE GENERAL OF FOREIGN TRADE
UDYOG BHAVAN, NEW DELHI**

Dated 26.7.2004

O & M Instruction No 11/2004

**Subject: - Re-organization of ECA work under the FT(D&R) Act, 1992 –
Instructions regarding.**

Attention is invited to O&M Instruction No. 8/2000 dated 17.5.2000 stipulating therein provisions for dealing with the work of adjudication and restructuring of the ECA Division in the Hqrs. Currently, the licensing sections of Zonal/Regional Licensing Authorities are attending the works pertaining to licensing/post-licensing activities only. In case of default in the fulfillment of export obligation, the cases are sent to the ECA Division of the concerned licensing authority for adjudication and effecting recoveries etc. The centralization of adjudication matters in ECA is resulting in increased number of pendency of adjudication cases. Because of this, ECA Section is not able to focus on the real enforcement works such as recoveries, intelligence, investigation and related activities, etc.

To overcome this problem, and with a view to streamline the smooth and speedy disposal of complaints cases as well as adjudication and recovery activities, it has been decided to restructure the mechanism of adjudication of EO Default cases etc. as well as the Enforcement, recovery, intelligence and other related activities of the Hqrs, Zonal Licensing Authorities and RLAs. This will enable ECA Division/Section of Hqrs, Zonal Office as well as RLAs to give complete focus on the better administration/regulation of fraud, complaints, intelligence and recovery matters, etc. Accordingly, it has been decided to observe the following guidelines by the Hqrs. and RLAs while dealing with the adjudication, enforcement, recovery, intelligence, complaint and other related activities.

I. ECA work at the level of Zonal/Regional Licensing Authorities

(A) At the level of licensing sections:

1. The concerned licensing sections of RLAs will be responsible for initiating Export obligation Monitoring action i.e. issue of Caution letter, show cause notices, Demand Notices, granting of personal hearing, issue of Refusal Orders, Forfeiting Bank Guarantee/LUT etc. against the Export obligation default cases as per the DEL/Enforcement Guidelines issued from time to time.
2. All steps in terms of DEL/Enforcement Guidelines are to be taken by the licensing sections in pursuance of the provisions of Foreign Trade (Development & Regulation) Act, 1992.
3. The licensing section shall put the defaulting applicants in the DEL list as per the guidelines on this subject without any time lag so that such defaulters do not continue

- to obtain the benefits allowed under the relevant Exim policy and handbook of procedures till the default so committed by them is not made good.
4. The adjudication of export obligation default cases will now be the responsibility of the concerned licensing sections themselves.
 5. The licensing sections after completing the adjudication proceedings and issuing final order will transfer the case file(s) to the ECA Division/ECA Section for further processes.
 6. The matters pertaining to fraud, mis-declaration, misrepresentation, misuse, criminal acts, etc will not deal with by the concerned licensing sections. Immediately on receipt of information, letters etc., such case files will be transferred to the Enforcement Section for taking necessary action.

(B) At the level of Enforcement Section:

1. The Enforcement section will attend all types of post-adjudication activities relating to recovery, appeal, litigation, etc.
2. The Enforcement Section will initiate action for effecting recovery of the penalty amount/dues etc. by taking up the matter with the District Administration under Revenue Recovery Act.
3. The Enforcement Section will attend the cases of various offences/violations of provisions of Exim Policy/FT/(D&R) Act, 1992 like fraud, mis-declaration, misrepresentation, misuse, criminal acts, etc., the deliberate fraud or attempted fraud in respect of licenses issued by the licensing section/authorities to ensure that the defaulters/offenders do not escape from action for their act of deliberate/attempted fraud, default offence etc.
4. The Enforcement Section of Regional Licensing Authorities will prepare monthly reports, statements in respect of various activities being attended by them and send the same to the Zonal ECA Division on regular basis or on receiving such demand from Zonal/Hqrs. offices.
5. The Enforcement Section of RLAs will also interact and co-ordinate with the ECA Division of Zonal licensing authority/Hqrs. in ECA as and when so required.

II. ECA Work at level of Zonal Licensing Authorities

(A) At the level of licensing sections:

1. The concerned licensing sections of Zonal Office will be responsible for initiating Export Obligation Monitoring action i.e. issue of Caution letter, show cause notices, Demand Notices, granting of personal hearing, issue of Refusal Orders, Forfeiting Bank Guarantee/LUT etc. against the Export Obligation default cases as per the DEL/Enforcement Guidelines issued from time to time.

2. All steps in terms of DEL/Enforcement Guidelines are to be taken by the licensing sections in pursuance of the provisions of Foreign Trade (Development & Regulation) Act, 1992.
3. The licensing sections shall put the defaulting applicants in the DEL list as per the guidelines on this subject without any time lag so that such defaulters do not continue to obtain the benefits allowed under the relevant Exim policy and handbook of procedures till the default so committed by them is not made good.
4. The adjudication of export obligation default cases will now be the responsibility of the concerned licensing sections themselves.
5. The licensing sections after completing the adjudication proceedings and issuing final order, will transfer the case file(s) to the ECA Division/ECA Section for further processes.
6. The matters pertaining to fraud, mis-declaration, misrepresentation, misuse, criminal acts, etc. will not be dealt with by the concerned licensing sections. Immediately on receipt of information, letters etc., such case files will be transferred to the Enforcement Section for taking necessary action.

(B) At the level of Enforcement Division:

1. The Zonal Enforcement Division will attend all types of post-adjudication activities relating to recovery, appeal, litigation etc.
2. The Enforcement Division/Section will initiate action for effecting recovery of the penalty amount/dues etc., by taking up the matter with the District Administration under Revenue Recovery Act.
3. The ECA Division will attend the cases of various offences/violation provisions of Exim Policy/FT (D&R) Act, 1992 like fraud, mis-declaration misrepresentation, misuse, etc., the deliberate fraud or attempted fraud in respect of licenses issued by the licensing sections/authorities to ensure that the defaulters/offenders do not escape from action for their act of deliberate/attempted fraud, default, mis-declaration, misrepresentation, misuse, etc.
4. The Enforcement Division of the Zonal offices concerned will monitor the Enforcement and adjudication activities in respect of licensing sections of zonal office as well as in respect of regional licensing authorities falling under their respective administrative jurisdiction.
5. The Enforcement Division of Zonal office will seek necessary monthly reports/statements from the licensing sections of zonal office as well as from the RLAs under their jurisdiction and will send them as may be required to the ECA Division of Hqrs. after making necessary compilation.

6. The Enforcement Section of Zonal licensing authorities will also interact and co-ordinate with the ECA Division of Hqrs. on regular basis relating to the ECA work.

III. ECA work of Hqrs. ECA Division

1. The Enforcement Division of Hqrs. will interact and co-ordinate with all outside investigating agencies.
2. The Enforcement Division of Hqrs. will co-ordinate with the ECA divisions of Zonal/Regional licensing authorities as well as different divisions in the Hqrs.

IV. Handing over of the cases to External Agencies and making necessary co-ordination and interaction with them:

The Enforcement Division/Section will make necessary interaction and co-ordination wherever required with all the investigating agencies. All types of records if required will be handed over to the investigating agencies through the ECA Division/section only. ECA Division/section will requisition such records from the concerned sections/licensing authorities through the inter-section note so that proper track of movement of record is maintained in the respective sections/licensing authorities as well as in the ECA Division.

V. Transfer of Files from ECA

ECA Division will continue to deal with the files already sent to them by licensing section. There will be no transfer of old files from ECA Division in RLA/Hqrs. Wherever there are separate monitoring sections they will send the files to ECA Division after adjudication in tune with the letter and spirit of the instructions.

All the RLAs/Zonal Jt.DGFTs /Jt.DGFTs, of Headquarters are requested to take action strictly accordingly to these O&M Instructions w.e.f. 1.09.2004.

This issues with the approval of DGFT.

Sd/-
(Vijay Kumar Gupta)
Joint Director General of Foreign Trade

To
All Sections/Offices of DGFT
All Zonal/Regional Offices

(Issued from File No. 01/69/591/00005/2003/O&M)