

Government of India
Ministry of Commerce & Industry
(Department of Commerce)
Directorate General of Foreign Trade
(Policy IV Section)

Policy Circular No.20 (RE-2003)/2002-07

dated the 14th November,2003

To

All Licensing Authorities

Subject: Certification of nexus under EPCG Scheme

1. In order to simplify the procedure and ensure speedy disposal of EPCG nexus cases within the stipulated time limit of two months, it has been decided to decentralise the nexus certification exercise, after issuance of EPCG licences in terms of para 5.3, to the concerned RLAs. With the above objective, vide Public Notice No. 26 (RE-03/2002-07) dated 30.9.2003, Paras 5.3, 5.3.1 and 5.3.2 of the Hand Book of Procedure have been amended.

2. EPCG applications for issue of licenses where the Duty saved amount is upto Rs.50 crores, will continue to be submitted to the concerned Regional Licensing Authority, as per the jurisdiction indicated in Appendix 24 of the HB of Procedure Vol.I. In respect of the above cases, where the duty saved amount is upto Rs.50 crores and licenses have been issued on or after 1.10.2003, the RLA shall not forward such cases to DGFT(HQ) for nexus fixation. The process of nexus fixation in respect the above cases shall be done by the RLA themselves. Further, where the duty saved amount is more than Rs.50 crores, EPCG applications shall also be submitted to the concerned RLA with a copy to DGFT(HQ). In such cases, necessary instructions shall be issued by the DGFT(HQ) to the concerned RLA for issuance of licences after fixation of nexus within the prescribed time of two months.

3. All Regional Licensing Authorities (RLAs) are therefore, advised to keep the following guidelines in view, while processing the cases for nexus fixation:-

i) A Committee of Officers shall be constituted within the respective RLA itself. Such Committee is to be headed by Head of Office, not below the rank of Jt. DGFT. The offices which are at present not headed by a Jt.DGFT, the nexus cases of such offices shall be sent to the respective Zonal Jt.DGFT office to consider those nexus cases by the Committee of Officers in that office.

ii) In processing the cases, the Head of Office if so required, may also co-opt knowledgeable persons from Customs/Central Excise/Recognised Technical Institutions and other technical authorities/technical person from Central or State Public Undertakings, Central Govt organisation, State Govt. etc. It is reiterated and clarified that participation of Representative of other Deptts/Bodies **is not mandatory** and cases shall not be deferred for want of written comments or due to the absence of Tech Representatives in the Meeting and thus two months time limit for fixation of nexus shall be adhered to by the RLAs;

iii) In self-declaration cases, the EPCG license is to be issued within 3 days time from the date of receipt of application, if the application is otherwise in order. After issue of license, the license issuing branch of the RLA should verify the nexus from the list of CGs already being maintained by the Section in terms of para 5.2.1. (now 5.3.2) of the Hand Book of Procedure Vol.I and as per the following Policy Circulars already issued in this regard:-

- a) Policy Circular No. 52 (RE-99-00) dated 18.2.2000
- b) Policy Circular No.03 (RE-2000) dated 7.4.2000
- c) Policy Circular No. 10 (RE-2000) dated 14.6.2000
- d) Policy Circular No. 23 (RE-2000) dated 1.9.2000
- e) Policy Circular No. 39 (RE-2000) dated 1.4.2.001;
- f) Respective Customs Notification/Circular related to EPCG Scheme issued by Deptt of Revenue from time to time.

iv) By following to the above procedure, whenever the concerned Section finds in the RLA that a nexus already exists, such cases can be regularized **on file itself** without placing them before the Committee of Officers. RLA shall place only those cases before the Committee where CGs being imported are not already figuring in the List maintained by the Section or not figuring in the Policy Circulars already circulated or not covered by the broad guidelines given in the DO letter No.1/36/218/053/AM-03/EPCG-I dated 17.7.2003 sent by Addl DGFT (HQ).

It may be recalled that in the last four years, RLAs have referred several nexus cases to the HQ EPCG Committee where the decisions/list of CGs are already available with them. When the cases are examined, model number of the machinery need not be taken as basis for nexus fixation and the use and purpose of machinery should primarily be taken into consideration

- v) During the inspection of the RLAs, it was noted that the EPCG Sections in the RLAs are not maintaining the Register for list of CGs in respect of cases where nexus is certified. The EPCG Section of the RLA shall mandatorily maintain the above Register and the same shall be updated after every meeting of the Committee of Officers and on 30th of each month it shall be submitted to the Jt.DGFT concerned for signatures. It is reiterated that the exercise for nexus certification can be done smoothly by the RLAs only if the above Register is properly maintained by every RLA.
- vi) The Committee of Officers shall deliberate upon the nexus cases on the basis of justification for end use given in the Chartered Engineer Certificate prescribed for this purpose. Committee's attention is also invited to the current Policy provisions wherein CGs for pre-production and post-production have also been allowed. Therefore, nexus between the CGs allowed for import and products to be exported shall be seen with reference to overall production activity of a firm, starting from tool Room to different stages of production, facility for storage etc.
- vii) RLAs are also directed to send to the HQ by 10.1.2004, the industry-wise List of CGs with corresponding export product(s) for which nexus has already been certified by the DGFT HQ/ regularized by the RLAs themselves upto 31.12.2003. The HQ shall compile all the lists so received from the RLAs and put it on the web site for the convenience of the exporters and also circulate the same amongst all RLAs for their future guidance and for maintaining uniformity in decision making. Thereafter, RLAs shall send such lists on a quarterly basis to enable HQ to update the CGs list placed on the website. The first quarterly List of CGs, covering the period 1.1.04 to 31.3.2004 shall be sent to the HQ by the RLAs by 10th April 2004 and the RLAs shall continue to send this list to the HQ quarterly thereafter.

This issued with the approval of DGFT

(M.C. Jauhari)
Jt. Directorate General of Foreign Trade