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(PART-I, SECTION-1)

GOVERNMENT OF INDIA

MINISTRY OF COMMERCE AND INDUSTRY

PUBLIC NOTICE No. 9 /2002-07

New Delhi: the 22nd May, 2003

In exercise of powers conferred under paragraph 2.4 of the Export and Import Policy, 2002-07, the Director General of Foreign Trade hereby makes the following amendment in the Handbook of Procedures (Vol.1):

1. The following shall be added in paragraph 4.27 of the Handbook of Procedure:

"However, wherever Customs duty is to be paid on unutilised material, the same shall be paid alongwith interest @15% per annum thereon. This facility shall be available to all pending cases of regularisation of bonafide default advance licences irrespective of the date of its issuance including Advance licence (Advance Licence for physical exports), Annual Advance Licence (Advance Licence for annual requirement), Advance Licence for deemed exports (Special Imprest Licence), Advance Licence for Intermediate supply (Intermediate licence)".

The following shall be added in paragraph 5.8.4 of the Handbook of Procedure:

"However, wherever Customs duty is to be paid under EPCG scheme, on account of shortfall in export obligation for regularisation for bonafide default, the same shall be paid alongwith interest @15% per annum thereon. This facility shall be available to all pending cases of regularisation of EPCG licences irrespective of the date of its issuance".

Attention is invited to public notice no. 54(RE-00)/1997-2002 dated 7.2.2001 relating to grant of EO extension in respect of units located in the areas affected by earthquake in the State of Gujarat. The following shall be added at the end of paragraph 1 of the said public notice.

"However EPCG licences issued under Customs notification 169/90 dated 3.5.1990 and 160/92 dated 20.4.92 shall be given export obligation extension upto 31.3.2004 by the licensing authority subject to terms and conditions mentioned in the public notice. No extension in export obligation shall be allowed in respect of the licences where misrepresentation/fraud has come to the notice of the licensing authorities. Further, in respect of licences where adjudicating orders have already been passed, no extension in export obligation period shall be admissible."

In respect of EPCG licences issued under Customs notification 110/95 dated. 5.6.95, the licence holder shall be eligible for extension of EO period upto 31.3.2004 provided the licence holder who has failed to complete his export obligation within the earlier stipulated time period, applies for extension of export obligation period and submits a bank guarantee covering the Customs duty in proportion to the unfulfilled export obligation together with 15.% simple interest thereon from the date of import upto 30th Sept, 2004. Such bank guarantee shall be valid upto 31.3.2005.

a. The bank guarantee shall be required to be submitted by all applicants including those eligible for LUT facility being status holders or otherwise. The bank guarantee shall be forfeited in the event of non fulfilment of export obligation in the extended period.

b. The request for extension alongwith BG shall be filed with the concerned licensing authority on or before 22nd August, 2003.

c. In cases where the export obligation has been fulfilled prior to this date of public notice but outside the prescribed EO period, such exports shall be deemed to have been made within the prescribed EO period for the purpose of regularisation of the case. Such exporter need not submit bank guarantee.

d. In cases where bank guarantee has already been executed with the concerned licensing authority covering the Customs duty in proportion to the unfulfilled EO together with 15% simple interest thereon and the same is valid till 31.3.2005, no separate BG shall be insisted upon and the licence holder shall be required to make a request for EO extension to the concerned licensing authority on or before 22nd August, 2003 alongwith details of BG already executed.

e. In case the BG has already been executed with the Customs authority, a certificate from the concerned Asstt.Commissioner of Customs and Central Excise shall be furnished to this effect alongwith a request for EO extension to the concerned licensing authority on or before 22nd August, 2003.

f. In cases where the Bank Guarantee has already been executed in terms of Public Notice No 5 dated 06.04.1999 or Public Notice No. 3 dated 31.3.2001 and is valid, the same may be extended upto 31.03.2005 covering the Customs duty in proportion to the unfulfilled export obligation together with 15.% simple interest thereon from the date of import upto 30th Sept, 2004. The licence holder shall submit a proof regarding extension of BG alongwith a request for EO extension to the concerned licensing authority on or before 22nd August, 2003.

g. In cases where the licence holder applies for export obligation extension for a period prior to 31.3.2004, the same shall also be granted by the licensing authority and in such cases, the BG shall be required to be valid for a period of one year in addition to the period of export obligation sought for. However in such cases, no further extension in EO period beyond the period already applied for shall be allowed.

h. However, no extension in export obligation shall be allowed in respect of the licences where misrepresentation/fraud has come to the notice of the licensing authorities. Further, in respect of licences where adjudicating orders have already been passed, no extension in export obligation period shall be admissible.

i. In such cases where the export obligation has not been completed and the licence holder has not availed the facility accorded under this Public Notice, adjudication proceedings shall be initiated after 22nd August, 2003.

5. The following amendment shall be made in Appendix-23

The Note given at end of annexure to the certificate of Chartered Accountant/Cost and work Accountant shall be amended to read as under:

Note.1: Each page of this annexure is to be signed by the Chartered Accountant with his registration number.

Note 2. The annexure shall be required to be furnished only with the application for grant of Export House, Trading House, Star Trading House, Super Star Trading House status.

6. Corrigendum to Public Notice No.8 dated 14.5.2003

Paragraph 8 of the Public Notice No.8 dated 14.5.2003 shall be corrected to read as under:

The sub-paragraph after paragraph 4.6 (d)(iv) shall be amended to read as under:

In respect of manufacturer exporters registered with excise authority with export of Rs.1 crore or above in preceding year falling in category (b) above, LUT condition shall be imposed on the CIF value of advance licence(s) provided the CIF value does not exceed 200% of the FOB/FOR value of exports/supplies made in the preceding licensing year. Licence beyond 200% entitlement shall be subject to 100% BG on the value exceeding 200% entitlement. However, the entitlement may be re-credited on production of documentary evidence showing fulfilment of export obligation and realisation of foreign exchange.

In respect of exporters who have exported in each of the preceding three licensing years and exporters falling in category (c) above, the 25% BG condition shall be imposed on the CIF value of advance licence(s) provided the CIF value does not exceed 200% of the FOB/FOR value of exports/supplies made in the preceding licensing year. Licence beyond 200% entitlement shall be subject to 100% BG on the value exceeding 200% entitlement. However, the entitlement may be re-credited on production of documentary evidence showing fulfilment of export obligation and realisation of foreign exchange.

In respect of applicant falling under d) above or falling under c) and d) both, the 25% BG condition shall be imposed on the CIF value advance licence(s) provided the CIF value does not exceed 200% of the domestic turnover or 200% of the FOB/FOR value of supplies, whichever is higher. Licence beyond 200% entitlement shall be subject to 100% BG on the value exceeding 200% entitlement. However, the entitlement may be re-credited on production of documentary evidence showing fulfillment of export obligation and realisation of foreign exchange.

Notwithstanding anything stated above, merchant exporters (other than status holders and PSUs) shall be issued advance licence requiring them to provide 100% BG.

This issues in public interest.

(L.Mansingh)

Director General of Foreign Trade

(F.No. 01/94/180/26-PN/AM03/PC-IV)