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GOVERNMENT OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
DEPARTMENT OF COMMERCE

PUBLIC NOTICE NO. 53 (RE-2003)/2002-2007 NEW DELHI:
Dated : 27th February, 2004

In exercise of powers conferred under Paragraph 2.4 of the Export and Import Policy 2002-2007, the Director General of Foreign Trade hereby makes the following amendments in Handbook of Procedures (Vol. I):

1. The following sentence is added at the end of paragraph 5.3.2

   However, service providers, can give a certificate either from the jurisdictional Excise authority or from an independent chartered engineer confirming installation of immovable capital goods at the premises of the service provider .

2. A new sentence may be added after the first sentence of the paragraph 5.3.4 (iii) :

   However, the service providers, can give a certificate either from the jurisdictional Excise authority or from an independent chartered engineer confirming the inventory of spares taken in record of the licence holder within six months from the date of completion of imports.

3. The word “broad” appearing in the last line of paragraph 5.11.1 (as notified vide Public Notice No 42 dated 28.1.04) should be replaced by the word “board”.

4. Second sentence of paragraph 5.18.3 related to clubbing of EPCG licences should be substituted by the following sentence.

   The export obligation period of the clubbed licence would be as per the policy applicable for the clubbed CIF value/clubbed duty saved amount, as the case may be.

5. Paragraphs 5.18.5 & 5.18.6 is corrected as below.

   5.18.5 : The average export obligation to be maintained for the clubbed licence would be the highest of the average export obligations endorsed on the individual licences put up for clubbing.

   5.18.6 : No clubbing would be permitted for EPCG licences where export obligation period including the extended export obligation period, if any, has already expired.

6. Paragraph 5.18.7 incorporated vide Public Notice-42 dated 28.1.04 stands deleted.

7. The following clause shall be added at the end of the declaration/undertaking given in Appendix-9 pertaining to "Application Form for Grant of Licences for Capital Goods including Computer , Computer Sub Systems and Service Equipment under EPCG".

(vii) I hereby declare that the capital goods/spares sought for import in the application are actually required for use to produce/support the production of the goods or provide the services indicated in the application for fulfilment of export obligation. I undertake to refund the custom duty as applicable with 15% interest on the goods imported & found having no nexus with export product as per Policy provision of para 5.4 of Exim Policy, at any stage.

8. Paragraph 2.20 of Handbook of Procedure Vol.1 is amended as follows:

2.20 Execution of Bank Guarantee/Legal Undertaking for advance licence and EPCG licence:

In cases of direct import before clearance of goods through customs, the licence holder shall execute a legal undertaking (LUT)/Bank Guarantee(BG) with the customs authorities in the manner as prescribed by them. However, in case of indigenous sourcing, the licence/certificate/permission holder shall furnish Bank Guarantee/LUT to the licensing authority as prescribed below before sourcing the material from the nominated agencies or indigenous supplier:-

S. No	**Category of Exporter**	**Relevant provisions of Bank Guarantee/LUT**
1.	All Status holders (both merchandise exporter and service providers)/Public Sector Undertaking (PSUs) .	Legal Undertaking (LUT).
2.	Manufacturer exporter (a) Registered with Central Excise authority and (b) Having a minimum export turn- over of Rs.1 Crore and above in the preceding year. and (c) Having exported during the previous two financial years.	Legal Undertaking (LUT).
3.	Manufacturer Exporter (a) Registered with Central Excise Authority and (b) Having paid Central Excise Duty of Rs.1 Crore or more during the preceding financial year.	Legal Undertaking (LUT)
4.	Other Manufacturer Exporter not covered under 1, 2 & 3 above(except Proprietorships and Partnership firms) a) exporting for last 3 years, or b) exporting in any of the last 3 years and satisfying the following conditions:	Bond supported by Bank Guarantee to the extent of 25% of duty saved.

	Registered with Excise Authorities, **or** Registered with State Sales Tax Authorities; Shall be required to furnish**:** (i) A Central Excise certificate certifying preceding years exports as per customs Circular No.74/2003 dated 21.8.2003, and (ii) Registration Certificate and Excise Control Code (E.C.C.) Number issued by Central Excise Authorities or Registration Certificate issued by State Sales Tax Authorities, as the case may be. This provision is not required for category (a) above.	
5.	Manufacturing companies (as distinguished from Proprietorship and Partnership firm, who may also be manufacturers) having not exported in each of the preceding three licencing years but fulfilled the following criterion: (I) The company is registered with Central Excise Authorities and has paid Central Excise duty (unless exempted); and (II) The company is registered with State Sales Tax Authorities and has paid sales tax (unless exempted); and (III) The company furnishes copy of their audited balance sheet; and the minimum investment in plant and machinery must be Rs 50 lakhs.	Bond supported by Bank Guarantee to the extent of 25% of duty saved.
6.	Merchant Exporter, all types of Proprietorship and Partnership firms (Other than Status Holders/PSUs)	Bond supported by Bank Guarantee to the extent of 100% of the duty saved
7.	Service providers other than those in category 1 above.	Bond supported by Bank Guarantee to the extent of

		100% of the duty saved

However, Manufacturer / Merchant Exporters falling under any of the following two categories based on risk profile of the exporter are required to execute bond supported by Bank Guarantee to the extent of 100% of the duty saved amount. This can be prescribed by the Head of the office not being below the rank of Deputy Director General of Foreign Trade by recording the reasons in writing.

(a) Have come under the adverse notice of Customs/ DGFT / Central Excise for serious irregularities;

(b) Having adverse track record in terms of fulfillment of pending export obligation

In cases where the Excise Duty is nil on the items of indigenous procurement, the Bank Guarantee furnished would be for 25% of the basic Customs Duty with 15% interest on the same product. The Bank Guarantee and LUT should be valid as per the terms and conditions incorporated in the Appendix-21 & 21A respectively. The validity of the Bank Guarantee/LUT is required to be extended in case of extension in export obligation period. Specific endorsement to this effect shall be made in the licence by the licencing authority.

In respect of categories 3 & 4 above, if the exporter has not exported for all the 3 preceding years, 25% Bank Guarantee condition shall be imposed on the duty saved amount provided the CIF value does not exceed 200% of the domestic turnover or 200% of FOB/FOR value of supplies, whichever is higher. Licence beyond 200% entitlement shall be subject to 100% BG on the duty saved amount for the CIF value exceeding 200% entitlement. However the entitlement may be re-credited on production of documentary evidence showing fulfillment of export obligation and realization of export/ supply proceed.

In all the above cases, the licencee is required to furnish declaration to the effect that they have not been penalized under the Customs Act, Excise Act, Foreign Trade (Development & Regulation) Act, 1992 and FEMA/FERA. In respect of categories at Sl no. 2,3 and 4 above, the licencee would be required to submit the Export Performance Certificate issued by Jurisdictional Superintendent of Central Excise where the factory is located. As per the relevant Customs Circular, the Jurisdictional Superintendent of Central Excise will issue Export Performance Certificate even in respect of units which are not in Central Excise Control. However, for import/domestic procurement of car under EPCG scheme, 100% Bank Guarantee will be required to be furnished except in case of status holders/PSUs who will furnish Bank Guarantee/LUT as per aforesaid conditions

Bank Guarantee exemption/relaxation as mentioned above shall also be available in respect of past licences where licence holder had earlier filed Bank Guarantee but as on date the licence holder is entitled for Bank Guarantee exemption.

9. A new paragraph 2.20.1 related to "Corporate Guarantee" is added below paragraph 2.20 below:

2.20.1 Corporate Guarantee

A Status holder or a PSU may also submit Corporate Guarantee in lieu of Bank Guarantee/LUT in terms of the provisions of relevant Customs Circular in this regard. In case of a group company, if one company of a Group is a status holder, Corporate Guarantee may be given for another company by this company, which is not a status holder.

10. The provision of Paragraph 4.6 has been incorporated in the paragraph 2.20 as mentioned above. So, the paragraph 4.6 related to "New Comers" stands deleted.

11. Paragraph 3.18(e) is amended as under:

> (e) A single consolidated application for the duty free credit entitlement certificate shall be filed with the jurisdictional regional licensing authority in Appendix-36A by the Registered office in case of a company and Head Office in case of others. The last date for filing of such application shall be 31st March of the licencing year succeeding the licencing year on the basis of which entitlement is claimed.

This issues in the public interest.

(L. MANSINGH)
DIRECTOR GENERAL OF FOREIGN TRADE

Copy to all concerned
By order etc.