

OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT),
JAWAHARLAL NEHRU CUSTOM HOUSE, SHEVA,
TAL URAN, DIST RAIGAD, MAHARASHTRA 400 707.

F. No. S/26-Misc- 86 / 2008 EPCG JCH

Date : 01.10.2009

FACILITY NOTICE NO. 79/ 2009

(Referred / amended vide P.N.No. [51/2010](#), [106/2010](#), [74/2011](#), [81/2011](#), [82/2011](#), [84/2011](#))

(Referred / amended vide S.O.No. [43/2011](#), [45/2011](#))

Subject : Procedure to be followed in case of EPCG scheme reg.

Attention of all Importers / Exporters / CHAs and EPCG Licence Holder and all concerned is invited to procedure to be followed under [Facility Notice No. 50/2006](#) dated 08.08.2006, [01/2007](#) dated 02.01.2007 and [25/2008](#) dated 13.03.2008 and [Boards Circular Nos. 38/97-Cus.](#) dated 19.09.1997 & [24/2002](#) dated 06.05.2002, [58/2004](#) dated 21.10.2004 [17/2009-Cus.](#) dated 25.05.2009 and [Customs Notification No. 44/2002](#) dated 19.04.2002 and [64/2008](#) dated 09.05.2008 in case of EPCG scheme. Keeping in view the changes that have been brought over the years in the Foreign Trade Policy and circulars and notifications issued by the Board from time to time, the following procedure shall hence forth be followed in respect of imports made under EPCG scheme.

2. Pre Import Stage Compliance :

2.1 Registration of Licence : The EPCG Licence Holder will submit Request Letter / Authority Letter for registration of licence, the licence in original, Bond in prescribed format, bank guarantee as applicable.

2.2 The Bond shall be submitted in the prescribed format as per [Boards Circular No. 58/2004](#) dated 21.10.2004 and shall cover the duty ordinarily leviable on the goods but for the exemption and also interest @ 15% per annum thereon.

2.3 Execution of BG :

- (a) The Bank Guarantee should be submitted along with covering letter of the Bank as per the norms prescribed in [Boards Circular No. 58/2004](#) dated 21.10.2004 as amended vide [circular no. 17/2009](#) dated 25.5.2009.
- (b) If the licence holder is availing BG exemption in terms of para 3.1 (a) (b) (c) (d) (e) of the [Boards Circular No. 58/2004](#) dated 21.10.2004, as amended vide [circular no. 17/2009](#) dated 25.5.2009, he shall submit the proof of export performance or payment of duty, as the case may be, duly certified by the jurisdictional Superintendent of Central Excise in case he is registered with the Central Excise. In cases where the exporter is not registered with the Central Excise, but he is a registered member of an Export Promotion Council, he shall produce a certificate from the concerned Export Promotion Council. In other cases the exporter shall produce a certificate duly authenticated by a practicing Chartered Accountant, who is registered with the Central Excise Department for payment of service tax, along with evidences of export to the satisfaction of the Assistant Commissioner or Deputy Commissioner. The Chartered Accountant issuing the certificate will mention his STC code and other registration details in the certificate.
- (c) The licence holder claiming to fall under the category of Other Manufacturer Exporter in terms of Para 3.1(f), as eligible for execution of BG at the rate of 15% of duty saved amount with EPCG section should submit any one of the following documents as prescribed in [Facility Notice No. 01/2007](#) dated 02.01.2007 :-

- (i) Permanent Central Excise Registration Certificate duly certified by Jurisdictional Supdt. of Central Excise with Pan Card.
 - (ii) Permanent S.S.I. Registration Certificate issued by District Industries Centre with Pan Card (Mere acknowledgment is not sufficient).
 - (iii) Permanent Registration Certificate issued by Secretariat for Industrial Assistance, New Delhi with Pan Card (Mere acknowledgement is not sufficient).
 - (iv) Any other Registration Certificate as a proof of manufacturer exporter status along with previous Export Performance certified by Chartered Accountant / any Export Promotion Council with Pan Card.
- (d) Units in Agri Export Zones (AEZ), eligible to furnish BG at the rate of 15% of duty saved amount under EPCG, would furnish requisite documents regarding their status as AEZ unit.
- (e) Established service provider who have foreign exchange earning of Rs. 50 lakhs or more during the previous financial year and have a clean track record, entitled to furnishing BG at the rate of 15% of duty saved amount under EPCG, shall produce a certificate by a practicing Chartered Accountant, who is registered with the Central Excise Department for payment of service tax, evidencing foreign exchange earning in the previous financial year or any other document evidencing foreign exchange earning to the satisfaction of the Assistant Commissioner or Deputy Commissioner.
- (f) Service providers in the port handling sector who are appointed as Custodian by the jurisdictional Customs / Central Excise authorities, entitled to furnishing BG at the rate of 25% of the duty saved amount under EPCG, shall produce copy of a document evidencing their appointment as custodian by the said jurisdictional authorities.

(g) All other licence holders are required to file BG of 100% of duty saved amount.

2.4 The Bond / BG shall be filed for a minimum period of 3 years with an undertaking to keep the BG alive for the entire period of export obligation viz. 8 + 2 = 10 years or 12 + 2 = 14 years etc. Further, all BG should contain an unconditional self renewal clause / undertaking from the Bank to keep the BG alive, till the bond for which the bank guarantee is being given is fully discharged by the Asstt. / Dy. Commissioner of Customs. There should be no over riding clause. However, in case where BG is for 8 + 2 = 10 years 12 + 2 = 14 years, as the case may be, the self renewal clause of bank would not be required.

2.5 The facility of filing Corporate Guarantee as provided in DOR [Circular No. 38/97-Cus.](#) dated 19.09.97 shall be available subject to fulfillment of conditions specified in the circular.

2.6 Further, the licence holder, who wish to avail BG exemption as specified in para 2.3 above, shall furnish an affidavit that he has not defaulted on the export obligation in respect of any Advance licence / EPCG licence issued to him in the past and he has not been penalized under the provisions of the Customs Act, 1962, the Central Excise Act, 1944. The Foreign Exchange Management Act (FEMA), 1995 or the Foreign Trade (Development and Regulation) Act, 1992 during the previous three financial years.

3. Post Import Compliance :

3.1. The capital goods imported, assembled or manufactured are to be installed in the importers factory or premises and a certificate from the jurisdictional Dy. Commissioner of Central Excise or Asstt. Commissioner of Central Excise, as the case may be, shall be produced confirming installation and use of capital goods in the importers factory or premises, within six months from the date of completion of imports or within such

extended period as the Dy. Commissioner of Customs or Asstt. Commissioner of Customs, as the case may be, may allow. If the importer is not registered with central excise or if he is a service provider, as the case may be, he may produce said certificate of installation and usage issued by an independent chartered engineer.

3.2. In case of requisite certificate is not produced by the importer within stipulated period, proceedings would be initiated for recovery of customs duty as applicable on such imports but for the exemption availed under EPCG scheme.

3.3. Export Obligation performance : In terms of [Notification No. 44/2002](#) dated 19.04.2002, [97/2004](#) dated 17.09.2004, [64/2008](#) dated 09.05.2008, the importers under the EPCG Licence Scheme have to submit evidence of their block year wise export obligation performances within 30 days or such extended period, that Assistant Commissioner / Deputy Commissioner may allow, from the expiry of the block period. In the context the importer shall produce following documents as evidence of their export performance after expiry of each block year, as mentioned in the licence, within the prescribed period of 30 days :-

1. Original EPCG Licence
2. Duty debit sheets in original
3. Self attested copies of Shipping Bills & export invoices along with an statement showing shipping bill wise details, particularly FOB amount.
4. Bank Realization Certificates
5. Any other documents required by Group AC.

3.4. In the event of failure to produce to export obligation performance by the importer within stipulated period (including the further period that may be allowed by the Assistant/Deputy Commissioner), the importer shall be liable to pay duty in the manner as prescribed in the exemption notification, failing which proceedings would be initiated for recovery of customs duty, as applicable to the imports but for the concession under EPCG scheme.

4. Cancellation of Bond / BG : After completion of entire export obligation as specified in the license, and on submission of EODC, as received from DGFT, the bond (LUT) and bank guarantee, if any, will be cancelled and released to the licence holder or his authorized representative, within a period of one month from the date of submission of EODC. However, in doubtful cases or where investigations have been launched by Customs or other Agencies, BG release would be subject to suitable corrective action under the law.

5. All pending cases, where export obligation has not yet been fully discharged, would be dealt in the manner as prescribed in this facility notice.

6. Any difficulties faced by the Trade in implementation of this facility notice may be brought to the knowledge of the undersigned immediately.

(B. K. Sinha)

Commissioner of Customs (Exports)