

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

F.No.: S/12-Gen-87/09 DBK

DATED 24/08/2009

STANDING ORDER NO.40/2009

SUB: Drawback- Special Measures for liquidation of Drawback Claims pending on account of Non-receipt of test reports of samples, EGM not filled &Errors and Others-reg

The Chief Commissioner of Customs on 6-08-09 held a meeting with the Commissioner(X) and his officers as part of the observance of the Drawback Clearance Month for liquidating the pendency of drawback claims. Upon deliberations and discussions the Chief Commissioner desired that certain special measures are to be put in place for more effective clearance of drawback claims that are pending on account of non-receipt of test results, non-rectification of EGM errors and non-filing of EGM etc.

2. The pendency position of drawback claims in various queues under EDI System as on 30-06-2009 is as given below:

Current Queue	Description of reason for pending	Total DBK S/Bills
Sample	Non-receipt of test reports from DYCC or Other testing Agencies	1079
Exporter	Non-submission of reply by the exporters to the Query Raised	12787
EGM	Non filing of EGM within the timeframe stipulated	10502
EGM error	Non-rectification and non-filing of application for correcting of EGM errors by the Shipping Lines/Exporters	3359

3. In view of the above, the following measures are being initiated to liquidate pendency of drawback claims in various categories mentioned above : ❖

❖i). Claims pending for want of test results reports from DYCC in cases of S/Bills wherein samples were drawn & sent:

Many a times the nature of the goods are such that they have to be sent for testing to know their composition so as to determine the appropriate rate of Drawback to be disbursed. Hence, a large number of samples are drawn and sent regularly to DYCC for testing and technical opinion. Once the samples are sent for testing, until the report is received nothing much could be done ❖❖ in respect of the concerned claims. As there is no effective monitoring mechanism to track down the fate of the samples sent there obtains considerable amount of avoidable delay. Hence, to ensure effective and speedy disposal of the pendencies the following measures need to be taken:- ❖

a) In order to speed up the disbursement of DBK, in respect of the S/B where samples are sent for testing, pending the test results the claims can be processed at the lowest rate. Once the test results received from DYCC are found to be in the favor of the exporter and the department has accepted such findings of DYCC then, on the strength of the said test results the exporters can lodge supplementary claims with the DBK section for appropriate re-disbursement of drawback for which they are entitled. ❖

b) Since DYCC is the crucial point in the chain of drawback disbursement in respect of the cases where samples are drawn and sent for testing, the Chief Commissioner of Customs desired that periodic interaction and communication has to be established and sustained between the ADC (Labs) and DBK section and DYCC. In order to have a fruitful discussion and communication with the DYCC the Chief Commissioner directed that the age-wise and S/B-wise ❖ data regarding the pending test reports ❖ need to be built-up and the same can be obtained from the EDI/NIC. ❖ In this regard the AC (DBK) is hereby nominated for obtaining the details. He may study the issue and submit a report regarding the age-wise and party wise pendencies in a suitable format. This information shall be placed before the Joint Monitoring Committee (JMC) comprising the ADC (Labs), DYCC and JC (DBK) for deliberation and necessary action. Therefore, it is hereby decided that the ADC (Labs) will henceforth convene a regular meeting with the concerned stakeholders on 2nd Tuesday of every month.

c) Further, the JC (DYCC) may ascertain from the DYCC regarding the testing facilities available at their end and in respect of which goods they have scientific

manpower and thus be willing to undertake the testing processes. This information will be widely circulated among the various groups of the Customs House so that only samples of such goods in respect of which the DYCC has both facilities and manpower will be referred to them for technical opinion /testing. The other samples will be sent to the respective competent testing authorities. It is hoped that this will avoid the duplication of work and delay in sending the samples to the appropriate testing authorities. Hence forth in stead of sending all samples to DYCC the groups may send only such samples that fall within the technical competency and infrastructural capacity of DYCC.

ii) Claims pending on account of non-receipt of reply to the queries raised.

A number of queries are raised by the assessing officers in respect of the drawback claims filed by the exporter and they are sent to the exporters query menu for their response/reply after being approved by the AC/DC(DBK). Once the query has been sent to the exporter drawback claim elapses into suspended animation and resurrects only on receipt of a reply from the exporter. However, in order to expedite the clearance of pendency on account of queries, the chief commissioner desired that the quality of the queries have to be examined and irrelevant, repetitive queries have to be closed and such claims have to be processed on merits and disposed of. Further, since the introduction of S.O No.31/2008 dated 11.07.08, the scope and nature of queries to be raised have become standardized and the Supdt and AC/DC(DBK) shall strictly adhere to the guidelines issued in the said S.O. Similarly, queries that are pending prior to the date of -11.07.08 may be disposed of as per the S.O. In other words, the Non-Standardized queries can be *suo- motu* closed by the department without waiting for the reply/response of the exporters. On careful scrutiny of the queries raised if any reasonable doubt is entertained regarding the genuineness of the exporter and exported goods and if any such investigations are pending against them then those exporters may be placed under intensive surveillance. Such list of exporters may be sent to the SIIB for further probe into the relevant details to safe guard the interest of revenue.

b) Though there is no provision or practice under the EDI or Manual System to *suo-motu* intimate queries to the exporters through individual official letters, yet to facilitate the exporters in this regard a Drawback Help Desk was created vide Public Notice No. 47/2005 dt. 27/09/2005 and vide Public Notice No. 08/2007 it was requested to make full use of this facility. In order to strengthen the working of the DBK Help Desk, it is proposed to provide a dedicated help line so as to attend to the queries of the Exporters.

c) The Chief Commissioner directed that a detailed list of S/Bills in which queries have been raised and drawback claims are pending for submission of replies from

the exporters shall be obtained from EDI / NIC. A Task Force(TF) for accomplishing this is hereby constituted and it will consist of two Superintendents (Drawback). Accordingly the team of Shri. Subhash Chandra and Shri. H D Hinduja will carry out the said task and report the results to enable the liquidation of the pendency.

iii). EGM not filed and EGM Errors:



On account of EGM errors, the pace of processing of Drawback claims gets substantially affected. While feeding the stuffing report or while filing the EGM , the details of the container number, rotation number and loading number etc get wrongly entered and these are called EGM errors.

a) The errors that frequently occur belong to the N, C and L types. The application for rectifying these and such other errors has to be filed with the AC/DC (ECU). The AC/DC will approve the rectification of errors on being satisfied with the veracity and genuineness of the errors. Keeping in view the workload of the AC/DC, it is hereby decided to delegate the power of approving the errors to the officer of Supdt. cadre posted in the ECU. However, the AC/DC will conduct a random percentage check of the errors so approved by the Supdt so as to effectively monitor that the rectifications are done properly and correctly.

b) The EGM has to be filled with in seven days of shipment of the containers by the shipping lines. If the EGM are not filed in time then they cannot be entered into the system and thus the error of EGM NOT FILED automatically pops up in the EDI system. In case of EGM not filed for the old period, the EGM have to be now manually filed with the MCD. If No objection Certificate is given by the MCD in respect of the EGM filed by the Shipping Lines then the drawback benefit can be disbursed to the concerned exporters.

c) It is a known fact that the Shipping lines have the knowledge of EGM errors in case of EGM filed by them through pre and final checklist. As per Facility Notice no. 67/2005 dated 15-12-2005 it is the responsibility of the Shipping line to rectify the EGM errors within 48 hours of the filing of the EGM for which they have to approach the AC/DC in-charge of EGM Co-ordination Unit, Dronagiri and get the EGM errors rectified as per the laid down procedure.. Hence, it has been decided that the shipping bills pending under EGM NOT FILED and EGM ERRORS categories will be processed on merit, subject to production of BRC. The cases where BRC is not produced shall be processed at zero drawback, without affecting right of the exporter to claim the drawback amount by filing supplementary

claim subsequently without any time bar, as provided by P.N. 04/2004 dated 12.01.2004.

d) Further it has been desired by the Chief Commissioner that if the EGM errors are not rectified within the stipulated time the EGM will be treated as not filed and the claims will be processed and disposed of at zero rate. The DC(ECU) will daily put up a list of exporters, shipping lines- wise who have failed to file the EGM in time. The instructions issued vide Facility Notice No.47/06 dated 31.07.06 has to be strictly complied with by the ECU. A monthly report of action taken reflecting the pendencies and disposal will be submitted by the DC(ECU). The EGM hard copies shall be forwarded by the DC(ECU) to MCD within a period of 15 days as opposed to the present practice of keeping the papers for 45 days. The DC(ECU) shall submit a monthly report of such details of the EGMs lots sent to MCD. More over, appropriate action also will be initiated against the shipping lines that habitually indulge in late and non-filing and non-reconciling of EGMs under the provisions of the Customs Act, 1962 on case to case basis. The DC (PORT-CLEARANCE) is required to bring out a list of the defaulting shipping lines and monitor their activities so as to ensure compliance.

4. Any difficulty faced in implementing this Standing Order or any modifications, amendments are to be made may be brought to the notice of Joint / Deputy Commissioner of Drawback Section, JNCH or the undersigned for necessary action.

(B.K.SINHA)

COMMISSIONER OF CUSTOMS(EXPORTS)

To

All the Concerned.

Copy to:-

The Chief Commissioner of Customs, Mumbai Zone ◆ II.,

The Commissioner of Customs (Import), JNCH

All the Addl./Jt. Commissioner of Customs, JNCH

DYCC,JNCH.

All AC/DC ,JNCH.