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09.11.2022

Dear Members,

Sub: Clarification from DGFT and Drawback Deptt on issue of Non-realization of export proceeds on account of Bankruptcy/Insolvency/discounting/ cancellation of export orders.

Dear Members,

1. AEPC has been continuously following up on possible relief measures on the issue of non-realization of export proceeds due to overseas buyers Bankruptcy/Insolvency/discounting/cancellation of export orders. We had represented the issue before the Hon'ble Commerce and Industry Minister and concerned authorities namely DGFT & JS (DBK) seeking relaxation in Policy for exemption from refunds of ROSCTL/Drawback and consideration of fulfillment of EO for Advance Authorizations, SAA, EPCG licenses in respect of these cases.

2. **Clarification from DGFT:**

In response, we had received clarification from DGFT on the provisions, policy and procedures on relaxation of export obligation. The same along with provisions for Drawback Deptt. on issue of Non-realization of export proceeds on account of Bankruptcy/Insolvency/discounting/cancellation of export orders was earlier shared with you vide mail dated 28.11.2020 (copy enclosed).

3. The clarification from DGFT is given as below:

a) Regarding non-realization of proceeds, please refer towards para 2.54 (c) of FTP which states that:-

"The payment realized through insurance cover, would be eligible for benefits under FTP as per Procedures laid down in Para 2.85 of Handbook of Procedure"

b) DGFT had also clarified that it may not be possible to waive export obligation altogether in all such cases, in general terms. However, still in genuine hardship cases, individual firms can always approach Policy Relaxation Committee (PRC) in O/o DGFT.

c) Provisions given in para 2.58 of the FTP and para 2.85 of Handbook of Procedures are given below for ready reference:

(i) **2.58 Exemption from Policy/Procedures:** DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures.

(ii) **Paragraph 2.85 of Handbook of Procedures:** An applicant realizing export proceeds through the Insurance Agency will approach the concerned RA with the proof of payment issued by the concerned Insurance Agency. RA after satisfying itself of the bona fide of the claim, will obtain approval of Additional DGFT (EDI) and then will upload the value (in lieu of e BRC value) in EDI system of DGFT for processing of the case.

You may apply, as per the procedure indicated above, and include the documents indicated above to the concerned RA. For making an application for Policy Relaxation Committee (PRC), you may also like to submit the information in the enclosed proforma for consideration of PRC along with your covering letter containing details of your case and request for policy relaxation.

4. **Clarification from Drawback Deptt:**

We also had received the clarification from the office of the JS Drawback on Bankruptcy, Insolvency, Discounting, Cancellation of export orders (copy enclosed). The clarification says that the waiver from recovery of drawback on account of non realisation of export proceeds is already covered in rule 18 (5) of the Custom and Central Excise Duties Drawback Rules, 2017.

The Rule 18 (5) specifies as follows:

*“Where sale proceeds are not realized by an exporter within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but such non-realization of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd. under an insurance cover and the **Reserve Bank of India writes off the requirement of realization of sale proceeds on merits** and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non recovery of sale proceeds from the buyer, the amount of drawback paid to the exporter or the claimant shall not be recovered”.*

5. RBI, vide its Statement dated 04.12.2020 (copy enclosed) on development and regulatory policies had permitted AD Banks to allow write-off unrealised export bills without limit, in specified circumstances, including bankruptcy and insolvency.

6. AEPC's Circulars are available on AEPC's Website www.aepcindia.com

7. The above information is circulated again for your information please, though we have circulated this earlier as well.

With regards.

Yours sincerely,

Dr. L. B. Singhal
Secretary General

Enclosures: [As above](#)