

**F.No.305/185/2003-FTT**  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

**Sub: Debonding of EOU/EHTP/STP units**

I am directed to say that instances have come to the notice of the Board where EOUs desiring to debond and exit out of the EOU Scheme, have been denied permission by the jurisdictional Customs./Central Excise Officers simply on the ground that some show cause notices or demands are pending against the unit.

2. The matter has been examined by the Board. The procedure for debonding is that the unit first approaches the Development Commissioner for 'in-principle' debonding permission, then pays all pending customs and central excise dues, obtains a no objection certificate from the customs/central excise officers and then goes back to the Development Commissioner for final debonding. It has been observed that if any show cause notice for demand is pending against the unit, the customs/central excise officer does not allow debonding.
3. It may be noted that an EOU normally requests for debonding either on the expiry of its Letter Of Permission (LOP) or it finds it uneconomical to continue to operate under the EOU Scheme. If debonding permission is denied the unit will have no other option but to close down and whatever revenue the Government would have got from an operating unit, would be lost.
4. Apprehensions have been expressed by the field formations that if an EOU is allowed to debond even when show cause notices are pending against it, the unit may dispose of its land, building, capital goods etc. after its conversion to a DTA unit, and these would not then be available to the Department later on for attachment and recovery of dues. Though these apprehensions are not without basis, it is felt that the EOU could be allowed to debond even in such cases after taking some precautions to safeguard revenue. One method could be to ask the unit to give an undertaking on stamp paper to the effect that it would not dispose of its land, building, capital goods etc. till such time the show cause notice is adjudicated and the amount confirmed, if any, paid. This undertaking could be backed by a bank guarantee of, say, 10% of the amount involved in the show cause notices.
5. Before accepting the undertaking certain additional factors should also be kept in mind, e.g. whether the land/building is owned or leased, whether the capital goods are hypothecated to a bank or are free from any encumbrances, etc.
6. Even where the above facility is extended and the unit allowed to debond it should be ensured that duty on the non-duty paid raw materials, non-duty paid capital goods and finished manufactured goods, is discharged before the unit is allowed to debond.
7. Therefore, it is reiterated that an EOU unit should not be denied permission to debond merely because some show cause notice or confirmed dues is pending against the unit. The Commissioners should, therefore, take an overall view of the matter and after taking adequate safeguards, as illustrated above, permission could be given to the unit to debond. For recovery of confirmed dues the normal procedure under law should continue to be taken even after debonding.

8. These instructions would also apply to units working under the EHTP and STP Schemes also.
9. Kindly acknowledge receipt of this circular.
10. Hindi version will follow.

A.K. Sinha  
Technical Officer