

Circular No. 28/2009-Cus

F.No.:DGEP/EOU/16/2009

Govt. of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Directorate General of Export Promotion

New Delhi, the 14th October, 2009

All Chief Commissioners of Customs/Central Excise,

All Commissioners of Customs /Central Excise

Madam /Sir

Sub: Export against supply by Nominated Agencies- procedure and guidelines reg.

Reference is invited to Board's Circular No. 24/98-Cus dated 20.04.1998 as amended by Board's circular No. 12/2008-Cus dated 24.07.2008 (para 27) regarding procedure to be followed by the Nominated Agencies for supplying duty free gold to exporters under various schemes under the EXIM Policy 1997-2002.

2. In order to address the difficulties in supply of gold, silver and platinum to small jewellery exporters, DGFT has included 5 more new agencies/entities as “nominated agencies” for import of gold/silver/platinum (hereinafter referred as the “precious metal”). Now the nominated agencies are as under:

- (1) Metals and Minerals Trading Corporation limited (MMTC);
- (2) Handicraft and Handloom Export Corporation (HHEC);
- (3) State Trading Corporation (STC);
- (4) Project and Equipment Corporation of India Ltd (PEC);
- (5) STCL Ltd;
- (6) MSTC Ltd;
- (7) Diamond India Limited (DIL);
- (8) Gems & Jewellery Export Promotion Council (G&J EPC);
- (9) A Star Trading House (only for Gems & Jewellery sector) or a Premier Trading House under paragraph 3.10.2 of Foreign Trade Policy; and
- (10) Any other agency authorised by Reserve Bank of India (RBI).”;

3. DGFT has specified minimum supply criteria of 15% by nominated agencies (other than the designated banks nominated by RBI and Gems & jewellery units operating under EOU and SEZ scheme) and laid down procedure and condition to be followed by these nominated agencies (other than the designated banks nominated by RBI and Gems & jewelry units operating under EOU and SEZ scheme) vide Policy circular No. 77 (RE-2008)/2004-09 dated 31.03.2009 as amended from time to time. Relevant notifications No. 57/2000-Cus dated 08.05.2000 and 52/2003-Cus dated 31.03.2003 have been suitably amended vide notification No. 106/2009-Customs dated 14.09.2009 allowing aforesaid nominated agencies duty free import of precious metals for supply to exporters for manufacture of jewellery and export thereof subject to the procedure and conditions specified by DGFT.

4. In order to avoid divergent practices and to streamline supply of precious metal for exports, the following procedure, supplementing the procedure specified by DGFT, is being prescribed:

- (i) the Nominated Agencies shall be allowed import of precious metal for warehousing in their own bonded vaults. The vaults shall be licensed by the jurisdictional Dy/ Asstt.

Commissioners of Customs or Central Excise (hereinafter referred as the “said officer”) under Section 58 of the Customs Act, 1962;

(ii) the Nominated Agencies shall furnish a bond to the satisfaction of the said officer undertaking to properly account for the warehoused precious metal and also to discharge the duty liability at the prescribed effective rate of duty in the event of the exporter not fulfilling his export obligation within the prescribed period;

(iii) the Nominated Agencies may be permitted to give a general bond for an estimated amount of duty worked out at the effective rate involved in their monthly import or may give a revolving bond starting with a bond equal to the duty estimated at the effective rate on quantity of precious metal likely to be imported in a month;

(iv) the Nominated Agencies (other than designated banks nominated by RBI and public sector undertakings) shall also furnish a bank guarantee equal to 25% of the estimated amount of duty involved on import of precious metals in a month or the bonds executed by them. The exemption from bank guarantee to the designated banks nominated by RBI and public sector undertakings shall be admissible subject to the following conditions:

(a) the nominated agency has not defaulted in following the procedure and condition specified by DGFT;

(b) in case of default in export of jewellery manufactured out of precious metal supplied by nominated agency within the prescribed period, the nominated agency have not defaulted in payment of duty within the specified period;

(c) the nominated agency has not been served with a show cause notice or no demand confirmed against it, during the preceding 3 years, for violations invoking fraud or collusion or any wilful mis-statement or suppression of facts under relevant provisions of the Customs Act, 1962, the Central Excise Act, 1944, the Finance Act, 1994 covering Service Tax, the Foreign Trade (Development & Regulation) Act, 1992, the Foreign Exchange Management Act, 1999 and the rules made thereunder;

(v) the Commissioner of Customs may allow more than one Nominated Agencies to keep their imported goods in the same vault provided the quantities are kept segregated and separate accounts are maintained;

(vi) the Nominated Agencies will be required to keep the imported duty free goods for supply to the exporters segregated from the quantities imported for domestic consumption on payment of duty;

(vii) the Nominated Agencies shall be exempt from following the double lock system. Physical presence of the Bond Officer will not be required for bonding or ex-bonding the goods. No cost recovery charges would be payable by the Nominated Agencies;

(viii) the Nominated Agencies can be visited by Custom officers for surprise audit or checks. The Commissioner should devise a system of random audit at least once in 6 months initially and once in a year subsequently;

(xi) the exporters intending to receive precious metal from the Nominated Agencies will register themselves with their jurisdictional Asstt. Commissioners who will issue them a one-time Certificate specifying therein the details of their units such as name and address of the unit and the head/owner of the organization. This certificate has to be produced to the Nominated Agencies while taking gold. The units shall submit an undertaking to the Asstt. Commissioner without bank guarantee to follow the conditions of notification under which they are receiving duty free precious metal and export the jewellery made therefrom within the period stipulated in the Foreign Trade Policy. The EOU units may submit a self-declaration to the Nominated Agencies stating therein the details of their unit;

(x) the Nominated Agencies would allow clearance of the goods for export production under the relevant exemption notification under their own internal documents and would submit a consolidated monthly account in format enclosed of the goods released exporter-wise and the duty involved which will be worked on the basis of effective rate of duty;

(xi) the Nominated Agencies shall maintain an account of the goods released to the exporters (exporter-wise) on day-to-day basis. This account shall be liable for inspection by any Customs Authorities as the account of a bonded warehouse;

(xii) the exporter shall furnish the EP copy of the shipping bill and Bank certificate of realization in Appendix 22A to the nominated agencies as a proof of having exported the jewellery made from the duty free goods released to them within the period prescribed in the Foreign Trade Policy;

(xiii) wherever such proof of export is not produced within the period prescribed in the Foreign Trade Policy, the Nominated Agencies shall (without waiting for its recovery from the exporter) deposit the amount of duty calculated at the effective rate leviable on the quantity of precious metal not exported, within 7 days of expiry of the period within which the jewellery manufactured out of the said precious metal was supposed to be exported. The duty so paid by the Nominated Agency shall be reflected in the monthly statement prescribed in para (x) above. The Nominated Agencies will settle their claim with the exporter at their own level;

(xiv) the Nominated Agencies shall report the cases of failure, to export the jewellery made out of precious metal released to the exporter, to the Commissioner of Customs in whose jurisdiction the licensed vault of the Nominated Agencies is installed; and

(xv) the exporters operating under replenishment scheme may be permitted to receive precious metal from the Nominated Agencies on submission of EP copy of the shipping bill. Nominated agencies shall also monitor the export proceeds realization of such shipments against which they have replenished precious metal, on the basis of Bank

certificate of realization in Appendix 22A to be submitted by exporters to the nominated agencies, as a proof of having exported the jewellery.

5. The Circular No. 24/98-Cus dated 20.04.1998 stands withdrawn.
6. Wide publicity may please be given to these instructions by way of issuance of Public/Trade Notice. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Directorate General of Export Promotion.
7. This issues with the approval of Central Board of Excise & Customs.
8. Receipt of this circular may kindly be acknowledged.

Yours faithfully

Sd/-

(Praveen Mahajan)

Director General