

Dr. A. Sakthivel
Chairman



Apparel Export Promotion Council

(Sponsored by Govt. of India, Ministry of Textiles)

AEPC:REG:F&E:596: 2013

Dated: January 17, 2013

Dear Madam,

This has reference to the Public Notice No. 05/2009 dated 7.3.2009 issued by the Office of Commissioner of Customs (Export), Air Cargo Complex, Sahar, Mumbai. The issuance of the said Public notice is on account of Circular Number No. 05/2009 dated 2.2.2009 issued by CBEC on monitoring realization of export proceeds in EDI.

In this connection, AEPC has received representation from individual exporters, regional offices intimating hardships faced by them on account of following:-

- a. Exporters are getting notices from O/o Commissioner of Customs (Exports) for submission of negative statement for a specified six months period from the Authorized Dealer/Chartered Accountant that no foreign exchange is pending realization for the exporter in the given period.
- b. The field formation is insisting that for such where notices has been issued, only the owner should attend the personal hearing and other representative are not allowed. Such stipulation are also being handed over to the outstation exporters for any part of India.
- c. Even after repeated submission of copies of BRCs and negative statement, the field formation insists that the owner would require to attend the personal hearing. Further, during personal hearing they were recording the statement of the exporter. Also if they do not attend the hearing, the case would be decided ex-parte and the custom department would send the notice asking to refund all the duty drawback amount with interest or they have to appeal to Chief Commissioner.

It has been observed that this monitoring realization of export proceeds in EDI was resulted with the issuance of RBI Circular No. 61 dated 31.1.2004 dispensing with submission of declarations for export goods of value not exceeding US\$ 25000, as the shipment details of goods value upto US\$ 25000 are no longer reported through the XOS statement of RBI.

It is noticed that the direct impact is on small exporters where the value of merchandise is below US\$ 25000.

Such exporters are not in a position to travel through their owners to come for personal hearing, particularly in those cases where BRCs or negative statement of third dealer has been given or has been submitted.

In view of the above, following is requested:-

1. Wherever the exporter has not received the such notices issued by the Customs, the notice afresh should be issued.
2. Wherever exporter has submitted BRCs or negative statement, the case may be closed without calling a person for personal hearing and recording of statement etc.
3. Where the exporter have submitted the negative statement and BRCs, the office should provide a proper receipt and photocopy of the receipt should be sufficient in case custom desires for further correspondence.

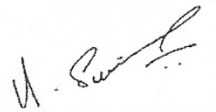
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4. In the case of personal hearing, the field formation should not insist that the owners should come for personal hearing but can be represented by an authorized personnel.

It is requested that the above procedure may be adopted and circulated immediately so as to reduce the hardships particularly to small exporters. It is further requested that till such time above requests is circulated, the field formations may be instructed that the cases are not decided ex-parte for the pending cases for the interest of export promotion.

Warm regards

Sincerely yours,



(DR. A. SAKTHIVEL)

Mrs. Sandhya Baliga
Member-Customs
Central Board of Excise & Customs
North Block
New Delhi.

CC: Mr Rajiv Talwar,
Joint Secretary (DBK)
Ministry of Finance
Drawback Directorate
Jeevan Deep Building
Parliament Street
New Delhi

Commissioner of Customs (Exports)
Air Cargo Complex
Sahar
Mumbai - 400 099.

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**OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)
AIR CARGO COMPLEX, SAHAR, ANDHERI (EAST),
MUMBAI-400099**

F.No. S/3-MISC/DBK(XOS)-10/2012ACC

Date : .01.2013.

To,
Dr. A. Sakthivel (Chairman),
Apparel Export Promotion Council,
Apparel House, Institutional Area,
Sector - 44,
Gurgaon - 122003, Haryana.

Sir,

Sub: Representation from individual exporters regarding hardships faced by them - reg.

Please refer your letter No.AEPC:REG:F&E:596:2013 dated 17.01.2013 on the above subject.

2. In this regard, it is intimated that as per Section 146A(1), any person who is required to appear before an Officer of Customs in connection with any proceedings under this Act, otherwise when required under Section 108 to attend personally for examination on oath or affirmation, may subject to the other provisions of this Section, appear by an authorized representative. Sub-Section (2) prescribes the meaning of authorized representative as

(a) his relative or regular employee; or

(b) a custom house agent licensed under section 146; or

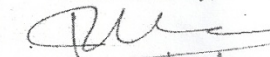
(c) any legal practitioner who is entitled to practice in any civil court in India; or

(d) any person who has acquired such qualifications as the Central Government may specify by rules made in this behalf.

3. In view of the above, it is clear that any person who qualifies to be authorized person as per the above section may appear before the Adjudicating Authority.

4. The same can be intimated to your members and in case any insistence is made for appearance of an individual exporter in any case, the same may be brought to the notice of the undersigned.

Yours faithfully,


4/2/13