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To

All Chief Commissioners of Customs & Central Excise.

Madam/Sir,

**Sub: Import of gold by Nominated Banks/Agencies/Entities - reg.**

Attention is invited to Board's Circular No. 34/2013-Cus dated 04.09.2013 wherein a detailed procedure for import of gold and gold dore bars by nominated Banks/Agencies/Entities has been prescribed.

2. Representations have been received from the stakeholders regarding certain difficulties in the clearance gold and gold dore bars. Issues raised by various stakeholders have been examined and are clarified as under:

(i) **Supply of gold more than 20% to exporters:** Stakeholders have represented that some of the importers, who intend to give more than 20% imported gold of a lot to exporters are not being permitted by Customs under a possible mis-interpretation that only 20% (neither more nor less) of the gold can be supplied to exporters.

RBI Circular dated 14.08.2013 as well as the Customs Circular dated 04.09.2013 clearly indicate that **at least 20%** of the gold needs to be provided to the exporters. Therefore, if importers intend to provide more than 20% gold to exporters, they are free to do so. This will also cover cases where 100% of the imported gold is to be provided to exporters.

(ii) **Import of gold under DFIA Scheme:** The stakeholders have represented regarding difficulties in the clearance of gold in the cases where exports have already taken place before import of gold. As per RBI circular dated 14.08.2013 (Revised), *any authorization such as Advance Authorization/Duty Free Import Authorization (DFIA) is to be utilized for import of gold meant for export purposes only and no diversion for domestic use shall be permitted.*

After issue of RBI Circular of 14.08.2013 (Revised), DGFT vide notification No. 40(RE-2013)2009-2014 dated 06.09.2013 has notified that import of gold under AA/DFIA would have a corresponding export but not necessarily import first and export later.

This has apparently created an anomalous situation as the RBI circular and the DGFT notification are not harmonious in their construct. This issue has been taken up with DEA/DGFT/RBI for a suitable resolution and the same will be communicated as and when a final view is taken.

(iii) **One time registration with Customs for receiving gold:** Circular dated 04.09.2013 provides that exporters intending to receive gold from a nominated agency are required to be registered with Customs Authorities and the exporters who are already registered under Circular dated 14.10.2009 need not take a fresh registration. Stakeholders have represented that field formations are following different practices for registering such exporting entities and exporters who are registered prior to the Circular dated 14.10.2009 are being asked to take a fresh registration.

It is clarified that an exporter who is already registered with Customs authority for the purpose of receiving gold even prior to 14.10.2009 need not take a fresh registration. Further, the procedure specified in customs circular dated 14.10.2009 be followed and the exporting entities need not be asked to produce unnecessary documents for this purpose.

(iv) **Proof of exports - Submission of details of realization of export proceeds:** Stakeholders have represented that even after the issuance of DGFT Public Notice No. 25 (RE-2013)/2009-2014 dated 06.09.2013, some field formations have expressed that Bank Realization Certificate (BRC) as a part of proof of export will be required and, therefore, necessary clarification may be issued so that the submission of Bank Realization Certificate is not insisted upon as proof of exports.

It is clarified that Board's circular dated 04.09.2013 provides that proof of export shall be in accordance with Para 4A.8(a) of HBP Vol. 1. The DGFT Public Notice dated 06.09.2013 amends this para for the purpose of export of gold and, therefore, proof of export would be the document as mentioned in para 4A.8(a) of HBP V.1. Therefore, furnishing of proof of realization of export proceeds need not be insisted upon in regard to export of gold jewellery and articles of gold.

(v) **Clearance of gold imported between 22.07.2013 and 14.08.2013:** Stakeholders have represented regarding difficulties in the clearance of gold imported between 22.07.2013 and 14.08.2013. While RBI Circular dated 22.07.2013 provided for export-related monitoring from 2<sup>nd</sup> lot onwards, the RBI Circular dated 14.08.2013 modified it to monitoring from 3<sup>rd</sup> lot onwards. Accordingly, a view has been proposed that for the gold imported during the interregnum, export-related monitoring (and calculation of import entitlement) would have to be done from 2<sup>nd</sup> lot onwards. It is noteworthy that RBI Circular dated 22.07.2013 was amended on 14.8.2013 in order to address some procedural difficulties, and in supersession of all the earlier instructions, it was clarified that the export-related monitoring will be done from 3<sup>rd</sup> lot onwards.

Therefore, gold which was imported during this period and which has been presented for clearance to Customs should be cleared under the amended and clarified position with respect to export-related monitoring. It is accordingly clarified that the consignments pending for clearance from Customs may be cleared in terms of Revised RBI Circular dated 14.08.2013 and Customs Circular dated 04.09.2013.


(vi) **Clearance of gold to exporters on internal documents of nominated agencies:** Representations have been received from stakeholders regarding difficulties to nominated agencies regarding filing of ex-bond Bill of Entry every time while supplying gold to exporters as provided under para 4(x) of the circular. It has been decided to permit the same and allow the Nominated Agencies clearance of the goods for export production under the relevant exemption notification under their own internal documents. The nominated agencies 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.

(vii) **Acceptance of revolving bond for import of gold by nominated agencies/ banks:** Stakeholders have reported that some of the field formations are not accepting revolving bonds under Customs Circular no. 34/2013-Cus dated 04.09.2013. The provision regarding furnishing of revolving bond is clearly reflected in Para 4(v) of the Customs Circular and it is clarified that the same should be accepted by the field formations as per Customs Rules & Regulations.

3. The above clarification may please be circulated to all the field formations and Trade for necessary compliance.

4. Difficulties faced, if any, in implementation of these instructions may be brought to the notice of the Board immediately.

Yours faithfully,

  
(Jitendra Kumar)  
Addl. Director