

PHARMEXCIL
PHARMACEUTICALS EXPORT PROMOTION COUNCIL
HYDERABAD

POINTS FOR DISCUSSION IN OPEN HOUSE MEET WITH DGFT

1. Issue: EPCG License – submission of Drug License:

As per Public Notice No. 26 (RE-03) dt. 30.9.2003, the applicants have to submit Drug Manufacturing License for obtaining EPCG License. As the Drug authorities issue the Drug License only after verification and inspection of the manufacturing facilities, it is not possible to obtain Drug License before setting up manufacturing unit.

Suggestion: This pre-condition of submission of Drug License by applicants (particularly for new units) may be waived. Drug license can be submitted at the time of fulfillment of export obligation.

2. Issue: EPCG License - Delay in amendment of license

Some of the members are facing a problem with regard to closure of license for want of inclusion of additional product which was manufactured by using the equipment imported under the said EPCG License and the exports made against the licence includes the new product for which request for inclusion in the licence has been submitted to RLA which is getting delayed.

Suggestion: Request for amendment considering the genuineness of the case at the earliest.

3. Issue: EPCG License – issued after the announcement of FTP on 11th April 08 – not accepted by customs.

EPCG Licenses at 3% customs duty issued as per [FTP 2004-09](#) (as amended on 11th April 08) are still not accepted by Customs. There are instances where imports under EPCG scheme have arrived at ports, but Customs are refusing to clear the capital goods. We understand that goods are incurring demurrages at the port.

Suggestion: Corresponding Financial notification needs to be issued at the earliest.

4. Issue: 100% EOUs – Income Tax benefit to 100% EOU

Industry is happy to note that income tax benefit to 100% EOUs is extended till 31.10.2010.

Suggestion: To amend Income Tax Act by deleting Sub-Section 4 of Section 10 AA and incorporating the section available prior to 10.2.2006 so that many EOU can shift to SETz before 31.3.2010 and tax shield is available even after 31.3.2010.

5. Issue: Merger of 3 categories of Advanced Authorizations – clarification

Three categories of Advanced Authorizations i.e. for **physical exports, deemed exports and intermediate supplies** have been merged into one.

Suggestion: Clarification is required whether against a physical Exports Advance authorization, supplies can be made to 100% EOUs/SEZ and also whether supplies can be made against an invalidation letter received from the ultimate exporter as per para 4.13 of HBP under a physical export advance authorization.

6. Issue: Voluntary payments of Duties by the exporters for excess imports against Advance Authorizations:

Some times though the export obligation is fulfilled but export proceeds not realized against some consignments resulting in excess imports of materials. In this situation , if exporter intend to pay the customs duties with interest , Customs Authorities are insisting for approval for the payment from DGFT which is time consuming and also increasing the interest liability.

Suggestion: Customs may accept the payment of duties based on self declaration and subsequently refer the same to DGFT for confirmation.

7. Issue: On line submission of applications – problem with DGFT site/server

Many members are facing the problem while submitting the applications for licenses as the DGFT site is not working due to technical problems frequently.

Suggestion: Appropriate action may be taken to avoid such frequent server problems.

8. Issue: Delays in refund of unutilized Cenvat credit to EOUs from Central Excise Department and Rejection of rebate claims of duty(terminal Excise Duty) paid on export consignments with different interpretations .

Suggestion: Rules 5 of Cenvat Credit Rules and Rule 18 of Central Excise Rules – provisions have to be made clear by CBE&C with proper guidelines /directions to the field formations to prescribe a uniform procedure .

9. Issue: Delays in Duty Draw Back

There is lot of delay in getting the Duty draw back claims from Customs Authorities. Technical queries raised by the appraiser are not informed to the exporters and claims are kept pending for want of replies to the queries.

Suggestion: Any queries raised on the claims may be informed to the exporter immediately or placed on the Notice Board periodically which would help the exporter to clarify the queries in order to get the DBK without any delay.

10. Issue: DGFT Regional office not accepting the letter received by the exporter from DGFT, Delhi informing the recommendations of Norms committee with reference to Advance Licences under para 4.7 on the pretext that they have not received the copy directly from DGFT, Delhi..

Suggestion: Appropriate directions have to be given to the Regional offices for accepting such letters for amending the licences to incorporate the recommended norms.

11. Issue: There are delays in fixation of Adhoc norms by Norms committee

Suggestion: Adhoc norms have to be fixed within 4 months as prescribed in the FTP and in case of delay the applied norms should be accepted as final as provided vide para 4.7.6 of HBP and RLA should not insist for norms committee recommendations for closure of licence.

12. Issue: Payment of duty under EPCG through DEPB

Industry welcomes the provision of payment of duty under EPCG through DEPB. But the effective date is from 1.1.2009 which may not be of immense help in view of the validity of DEPB scheme up to May 2009 which is very short .

Suggestion: The above provision should be made available to exporters with immediate effect so that exporters can utilize this facility without waiting till January,2009.

13. Issue: Issue of installation certificate by Central Excise within 30 days of intimation

Industry welcomes this provision, but it will not be useful for the industry unless proper guidelines are given by the CBE & C on priority.

Suggestion: CBE & C may be given proper guidelines for the strict implementation of the provision.

14. Issue: Focus Market Scheme: Proof of landing

Mandatory requirement of proof of land is causing lot of problems to the exporter and thereby not able to avail the facility .

Suggestion: Bank Realization certificate issued by Bankers may be accepted in place of declaration issued by Airlines, which is very difficult to obtain.

Alternatively, a certificate issued by the CHA confirming the proof of landing is also welcome.

15. Issue: Focus Markets – inclusion of potential markets

Potential markets for pharma industry like Ukraine, Russia in CIS countries, Brazil in LAC countries, Nigeria in African countries etc., are not included in the Focus Market Scheme.

Suggestion: The above pharma potential market countries may be included in the Focus Market Scheme, so that exporters who are exporting to these countries would be encouraged by the benefits under this scheme.

16. Issue: Goods produced/processed under Job work by 100% EOUs for DTA – problem in transferring to another EOU for further Job work to manufacture and export the ultimate Final Products from the said other EOU .

When a DTA unit intend to get some bulk Drugs manufactured at an EOU under Job work and send such Bulk Drugs to another EOU for manufacture of Formulations under Job work and export there from is not being permitted under the pretext that any material produced under job work by an EOU should be exported from the premises of such EOU and should not be sent to another EOU for job work.

Suggestion: Appropriate clarifications are required be issued by DGFT on the ground that the Bulk Drugs though finished goods as such , they become intermediates when the DTA unit want to manufacture and export formulations from such Bulk Drugs under job work at another EOU. – Para 6.14 (b) (i) of FTP to be amended on the lines of Para **6.21.3** of HBP

17. Issue: DEPB License

1. RLAs are effecting the late cut while issuing the DEPB Licences without considering the delays by the Customs in uploading the data to DGFT server and thereby exporter is penalized unnecessarily.
2. As per PN 56(RE-2007)/2004-2009 dated 1.10.2007 clarified that the date of up linking of Shipping Bill details in the DGFT web site to be considered for calculating 12 months time limit for getting the DEPB without late cut . Though system not proposing for late cut while making the application, the authorities are effecting the late cut without considering the date of up linking. system not

Suggestion: Appropriate guidelines are required to be given to RLAs and also to provide the facility in the system to capture such date of up linking in the application to avoid this problem.

18. Issue: Problem in online Registration of DEPB licenses transmitted from DGFT to Customs server .

On line Registration of DEPB Licences are not getting processed due to the following reasons though they are transmitted from DGFT to Customs.

1. Whenever, EDI system is not working due to some technical problems, Customs allow exports through manual Shipping Bills and the details of the same are uploaded in the system after the technical problem is rectified. In such cases the system is not allowing on line registration and giving error message that Shipping Bill details are not available /Let Export date is prior to Shipping Bill date etc. export is latter than the of manual Bills.
2. Some times licences are not getting transmitted from DGFT to Customs resulting delay in registration of the licence by customs

Suggestion: Manual shipping bill has to be accepted in such cases for Registration or in the alternative, the Customs EDI system to allow entry of such manual Shipping Bill details in the old date. Also in the absence of transmission of licences from DGFT, customs should allow manual Registration by way of verification of Shipping bills to avoid the delay.

19. Issue: Definition of 'Freight' in FTP

In the absence of any definition given in the FTP for the word 'Freight' exporters are suffering due to different interpretations of the Customs Authorities who are considering the total amount of Air Way Bill (which includes freight and other charges like FSC, SCC, AWBS,PCAS,ACTG,MCC,XRAY which is shown separately under the head " other Charges") for arriving at the FOB value resulting in exporter getting less DEPB .

Suggestion: Definition of 'Freight' to be incorporated in the Foreign Trade Policy immediately to avoid this confusion and also to safeguard the interest of the Exporters

20. Issue: Not getting the licenses by post and mistakes in the licenses

It is observed that in some cases, the RLAs are not sending the licenses by post and exporters are required to collect the licenses personally. Also, there are many errors/ mistakes in the licenses which require amendments which is time consuming.

Suggestion: Appropriate instructions may be given to the RLAs to avoid such errors/mistakes while issuing the licences

21. Issue: Delays in redemption of Licenses

While redemption of Advance licenses, the RLAs are asking from NOC from Customs which takes lot of time and exporter is declared as defaulter and no further licenses are issued to them.

Suggestion: When exporter submits the licenses for redemption, the same may be accepted subject to getting NOC from Customs and during such period the exporter not to be declared as defaulter.

22. Issue: Delays at customs and excise:

It is observed that Excise department insists that in one container the goods of more than one invoice should not be loaded, goods which do not have DEPB benefit can not be stuffed at factory site etc. Also, samples drawn by the authorities are kept with them for a very long period without proper storage conditions and taking lot of time for issuing ARE1 and EP copy, which is resulting in delays for the exporter to get benefit under DEPB or in fulfilling the export obligation.

Suggestion: Appropriate instructions have to be given to Central Excise and Customs departments.

23. Issue: Advance License Committee Norms not communicated to the RLAs

The minutes of the meetings of Advance Licenses Committee are not communicated to the RLCs and thus the decisions are not implemented by them.

Suggestion: Minutes of the Committees may be communicated to the RLAs and concerned exporter simultaneously and immediately so that decisions are implemented without any problem.

24. Issue: Inclusion of notifications / circulars in the FTP

The notifications and circulars issued by DGFT are not included in the Foreign Trade Policy, thus causing, at times, problems for the exporter.

Suggestion: All the notifications / circulars may be incorporated in the FTP from time to time.

25. Issue: Withdrawal of submission of Non-availment of MODVAT/CENVAT certificate

Industry welcomes the announcement of withdrawal of submission of non-availment of MODVAT/CENVAT certificate in case of quantity based advance license issued prior to 1.4.2002. However, the in the Public Notice No. 2/2004-

2009 dt. 11.4.08, there is requirement of submission of non-availment of MODVAT/CENVAT certificate is there. Thus there is no change in the situation. Also, the issue of Actual Users who have availed MODVAT/CENVAT benefit is not addressed at all.

Suggestion: The Public Notice No.2 needs to be amended appropriately.

26. Issue: Ban on export of industrial Pharma grade sugar

There is ban imposed on export of sugar in general, causing problems for the manufacturers of industrial pharma grade sugar.

Suggestion: Since there is lot of difference between candy sugar and industrial pharma grade sugar, amendment may be made to remove ban on industrial grade sugar.

27. Issue: Benefit of para 4.28(iv) of HBP is being denied by Customs and not converting the Shipping Bills from Advance Authorization Scheme to DBK Scheme by misinterpreting the CBEC Circular No. 4/2004- Cus dated 16.01.2004 that conversion of such shipping bills should arise only where there is a denial/dispute by Customs/DGFT .

Suggestion: Clarification on the intention of the Government while issuing the above circular is requested.

28. Issue: EPCG Authorization – Additional information prescribed in the Annual Supplement – Same information prescribed in 3 different documents which is time consuming.

ANF-5A, ANF-5B and Appendix - 26 are the documents meant for EPCG Application, redemption and chartered Engineer Certificate. The additional information like year wise exports/Average Exports and other details are prescribed in all the forms which nothing but duplication and also time consuming.

Suggestion: To avoid the duplication it is suggested to consider submission of the additional information at the time of redemption. This will help the exporters in order to save time.

29. Issue: Difficulties in Clubbing of Expired Advance Authorizations issued after 31.03.2002 due to other conditions in para .20.4 of HBP. Request for amendment of para **4.20.5** of HBP to allow export licences issued up to 31.03.2004 for clubbing which will help the exporters to club the expired licences without subject to restrictions under para 4.20.4. This restriction is barring the licence holders for clubbing the licences and putting them under disadvantage despite the fact that they have exported the goods and comply all other conditions for

clubbing . As such this restriction under para 4.20.4 is appears to be redundant and meaningless.

Suggestion: It is suggested to amend the para **4.20.5** to include the expired licences issued up to 31.03.2004 eligible for clubbing . In the alternative, it is also strongly suggest to delete para **4.20.4** of HBP.

30. Issue: Extension of DEPB scheme beyond May 2009

Suggestion: DEPB scheme beyond May 2009. In case it is not done so, then the alternative scheme to be notified should be tried and tested before implementation. Similarly, alternative scheme should be well circulated to all the councils in advance.

31. Issue: Increase in transactional costs due to issue of Notification on AYUSH products

At the time when every effort is being done to reduce the transaction cost and ill-effects of rupee appreciation, a notification issued by Ministry of Commerce and Industry likely to increase the transaction cost. Notification stipulates compulsory pre-shipment inspection of AYUSH products with costs involved as inspection charges.

32. Issue: Ban import of Pharma grade gelatin granules

Some of the members are facing problem with regard to import of Pharma grade gelatin granules as Customs is refusing to allow import it under the pretext that the product is an origin of porcine origin (pig skin, which comes under live stock) which is banned vide notification No. 30 (RE-2007)2004-09 dt. 24.9.07, whereas the product is a duly processed one which do not contain any micro-organisms. Since the product is not available in India, the exporters are dependent on import and due to the refusal by Customs, exports and domestic supplies are affected for the last 3 months. We understand that this matter was referred to DGFT, New Delhi, which was referred to Health Ministry for its opinion by DGFT. It seems Ministry of Health had returned the file stating that it does not come under their purview and DGFT can take decision.

Suggestion: Necessary clarifications may be given to Customs for clearance of the above product.