

## OFFICE OF THE COMMISSIONER OF CUSTOMS (NS-IV)

**JAWAHARLAL NEHRU CUSTOM HOUSE, SHEVA,  
TAL-URAN, DIS-RAIGAD, MAHARASHTRA – 400 707**

**File No.: S/26-Misc-392/2016-EPCG**

**Date: 25/10/2016**

### **PUBLIC NOTICE NO.: 140/2016**

**Sub.:** Execution of Bond and Bank Guarantee (BG) for the purpose of permitting clearance of imported goods under Advance License/EPCG Schemes ; supersession to earlier Public Notice No. 84/2011 and Public Notice No. 81/2011- Reg...

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Board vide Circular No. 58/2004-Cus, dated 21.10.2004 as amended vide Circular No.17/2009-Cus dated 25.05.2009 has prescribed norms for Execution of Bond and Bank Guarantee (BG) for the purpose of permitting clearance of imported goods under Advance License/EPCG Schemes. Circular also clarifies that BG exemption as specified in the said Circulars shall be admissible subject to the condition that, "the Licence Holder should not have been penalized under the provisions of the Customs Act, 1962, the Central Excise Act, 1944, the Foreign Exchange Management Act(FEMA), 1999 or the Foreign Trade (Development and Regulation) Act, 1992 and Finance Act,1994(Service Tax) during the previous three financial years." Board Circular No 58/2004-Cus., dated 21-10-2004 was amended by Circular Nos. 17/2009-Cus., 32/2009-Cus., 6/2011-Cus. and 8/2013-Cus and 15/2014-Cus. Para-3.1 of the Circular No. 58/2004-Cus as amended by Board Circular No 17/2009-Cus prescribes quantum of BG/ Cash security as under:

Category of Importer	Quantum of BG/cash security
(a) All exporters who have an export turnover of Rs 5 crores of goods exported physically or of services in current or preceding financial year and having a good track record of three years of exports	Nil
(b) Public Sector Undertaking	Nil
(c) Star Export House	Nil
(d) Manufacturer exporters / Service Providers registered with Central Excise or the Service Tax authorities, as the case may be, who have been exporting during the previous two financial years and have minimum export of Rs. 1 crore or more during the preceding financial year.	Nil
(e) Manufacturer exporter / Service Provider registered with Central Excise or the Service Tax authorities, who has paid central excise duty/ Service Tax of Rs.1 crore or more, as the case may be, during the preceding financial year.	Nil
(f) (1) Manufacturer exporters who are not covered under (a), (b),(c),(d) & (e) above. (2) Units in Agri Export Zones (AEZs), (3) Established Service Providers who have free foreign	15%

Exchange earnings of Rs.50 lakhs or more during the preceding financial year and have a clean track record.	
(g) service providers in the port handling sector who are appointed as Custodians by the jurisdictional Customs / Central Excise authorities	25%
(h) Others	100%

Note: The exemption provided at para (g) is applicable only in respect of import of capital goods under EPCG scheme.

2. Attention of all Importers/ Exporters/ Customs Brokers, EPCG Licence Holders and all concerned is invited to the Facility Notice No. 79/2009 dated 01/10/2009, Public Notice No. 81/2011, dated 16.05.2011 and Public Notice No 84/2011 dated 01.06.2011. Keeping in view the facts ascertained during monitoring of EPCG Licenses registered in this Customs House in terms of aforesaid Public Notices, it has been decided to revise the procedure being followed in respect of registration of licenses and execution of Bond and Bank Guarantee for the purpose of permitting clearance of imported goods under Advance License/EPCG Schemes.

### 3. GENERAL GUIDELINES ABOUT BANK GUARANTEES:

- i. The Bank Guarantee required to be submitted in terms of Board Circular No. 58/2004 –Cus as amended by Circular No. 17/2009, should be submitted along with covering letter of the Bank. The **name, contact no. and email id of the signatory / other responsible person of the Bank** should be mentioned / incorporated in the forwarding letter to enable quick genuineness verification.
- ii. All Bank Guarantees should contain an “unconditional self renewal clause” with an undertaking from the Bank to keep the Bank Guarantees alive, till the bond (for which the bank guarantee is being given) is fully discharged by the Assistant/ Dy. Commissioner of Customs. There should not be any overriding clause in regard to this requirement.

### 4. IF THE LICENCE HOLDER IS AVAILING BG EXEMPTION IN TERMS OF PARA 3.1 OF THE BOARDS CIRCULAR NO. 58/2004-Cus AS AMENDED BY CIRCULAR NO 17/2009-CUS.

It has been provided in Para 3.2 (b) of said Circular 58/2004-Cus that BG exemption as specified in Para 3.1 above shall be admissible subject to the following conditions:

- i. For the purpose of availing BG exemption in terms of Para 3.1 above, the **exporter shall submit the proof of export performance or payment of duty**, as the case may be, duly certified by the jurisdictional Superintendent of Central Excise in case he is registered with the Central Excise.
- ii. In cases where the exporter is not registered with the Central Excise, but he is a registered member of an Export Promotion Council, he shall produce a certificate from the concerned Export Promotion Council.
- iii. In other cases the exporter shall produce a certificate duly authenticated by a practicing Chartered Accountant (who is registered with the Central Excise Department for payment of service tax), along with evidences of export to the satisfaction of the Assistant Commissioner or Deputy Commissioner. The Chartered Accountant issuing the certificate will mention his STC code and other registration details in the certificate.

In order to ensure compliance of requirements prescribed vide Para 3.2 (b) of said Circular 58/2004-Cus in respect of Manufacturer exporters claiming BG **at the rate of 15%** of duty saved amount in terms of Para 3.1(f) of Board's circular no. 58/2004-Cus, it would be essential for Manufacturer exporter to submit following documents at the time of claiming concessional amount of (BG @15%):

**A. For Manufacturer exporters who are registered with Central Excise:**

Permanent Central Excise Registration Certificate, duly certified by Jurisdictional Superintendent of Central Excise. Mere acknowledgment of Registration Certificate is not sufficient. They should submit any one of the following documents, duly certified by Superintendent of Central Excise of concerned Range:-

- (a) **the proof of export performance** i.e. they have exported goods during the current financial year or preceding financial year duly certified by the jurisdictional Superintendent of Central Excise; or
- (b) **the proof of payment of central excise duty** during the current financial year or preceding financial year duly certified by the jurisdictional Superintendent of Central Excise; or
- (c) **EODC** or Redemption letter issued by DGFT (alongwith copy of License) during the current financial year or immediate preceding financial year in respect of earlier Licences issued under Advance Authorisation or EPCG Scheme, if any.

**In addition to above,** Manufacturer Exporter shall also submit Installation certificate pertaining to earlier imported or domestically procured capital goods, by the Manufacturer exporters, issued by Jurisdictional Superintendent of Central Excise certifying manufacturing activity;

**B. For Manufacturer exporters who are not registered with Central Excise:**

- i. In cases where the exporter is not registered with the Central Excise, but he is a registered member of an Export Promotion Council, he shall produce a certificate of **proof of export performance along with certificate of status of applicant as "Manufacturer Exporter"** from the concerned Export Promotion Council.
- ii. In other cases, the exporter shall produce a certificate of proof of export performance by a practicing Chartered Accountant (who are registered with the Central Excise Department for payment of service tax) **alongwith certificate of status of applicant as "Manufacturer Exporter"** duly authenticated by a practicing Chartered Engineer to the satisfaction of the Assistant Commissioner or Deputy Commissioner. The Chartered Accountant issuing the certificate will mention his STC code and other registration details in the certificate and such certificates shall certify:
  - the proof of export performance; during the current financial year and preceding financial year; and
  - the proof of payment of **CST or VAT or service tax**, as the case may be, during the current financial year or preceding financial year.

In addition to above, Manufacturer Exporter shall submit one of the following documents:

- (a) Installation certificate pertaining to earlier imported or domestically procured capital goods, by the Manufacturer exporters, issued by Jurisdictional Superintendent of Central Excise certifying manufacturing activity; or
- (b) Installation certificate pertaining to earlier imported or domestically procured capital goods, issued by a Chartered Engineer certifying manufacturing activity. In such cases, Manufacturing Premises shall be post verified by the Jurisdictional Superintendent of Central Excise and Monitoring Cell shall ensure that such verification report is received; or
- (c) EODC or Redemption letter issued by DGFT (alongwith copy of License) during the current financial year or preceding financial year in respect of earlier Licence issued under Advance Authorisation or EPCG Scheme

**5.** The Manufacturer exporters claiming BG at the rate of 15% of duty saved amount in terms of Para 3.1(f) of Board's Circular No. 58/2004-Cus should also submit following documents as proof of address / operation or functioning of manufacturing unit :

- a. AADHAR CARD of the Importer/ License Holder, if available / applicable and,
- b. Last three months electricity bill of the premises, where Capital Goods are installed and
- c. Bank Statement of the Importer/ License Holder for last six months duly certified by Bank, showing source of funds in respect of goods to be imported under EPCG License.

Request letter of the importer for registration of license should contain Mobile No./ Land Line No. and email id of the importer.

**6.** Attention is also invited to Para 5 of Board Circular No 58/2004-Cus which provided that in individual cases where the jurisdictional Commissioner of Customs/ DGFT authority/ EPCG Committee/ ALC is satisfied that a higher quantum of Bank Guarantee is justified on account of risk to revenue, 100% BG may be taken by the Customs after recording the reasons therefore in the file.

**7.** Difficulties faced, if any, in implementation of these instructions may be brought to the notice of the Additional/ Joint Commissioner of Customs, NS-IV, JNCH.

**Sd/-**

(SUBHASH AGRAWAL)  
COMMISSIONER OF CUSTOMS-NS-IV

To:

1. The Chief Commissioner of Customs, Zone-II, JNCH.
2. The Pr. Commissioner of Customs NS-I, NS-II, JNCH
3. The Commissioner NS-Gen, NS-II / III/ V, JNCH
4. All Additional / Joint Commissioner of Customs, JNCH
5. All Dy. / Asstt. Commissioner of Customs, JNCH
6. All Sections / Groups.
7. AC/DC, EDI for uploading on JNCH website.