

F.No.18/01/HQ/2017-18/ECA.II/534
Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Udyog Bhawan, New Delhi
Dated the 28 July, 2017

✓ To

All Regional Authorities of DGFT.

Subject: -Guidelines on monitoring/revalidation of Bank Guarantee-regarding.

Sir/Madam,

I am directed to say various references have been received in this Directorate from various banks informing that validity of Bank Guarantees (BGs) has either expired or likely to expire shortly; but there has been no communication from DGFT authorities whether such Bank Guarantees are to be released/redeemed or enforced or their validity to be extended.

2. These references have been returned to the concerned banks for taking up the matter with the Regional Authorities of DGFT who signed and accepted the BG on behalf of the President. The concerned RAs have also been informed accordingly.

3. It appears that BGs are not being properly monitored by the Regional Authorities of DGFT. Foreign Trade Policy and the Foreign Trade Procedures (Vol.I) provide for furnishing of BG. Relevant provisions of FTP (2009-14) and FTP (2015-20) are reproduced below:

(i) Para 2.27 of FTP 2009-14 provides that wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute prescribed LUT / BG / Bond with Customs Authority before clearance of goods. In case of indigenous sourcing, Authorisation holder shall furnish LUT / BG / Bond to RA concerned before sourcing material from indigenous supplier / nominated agency as prescribed in HBP v1.

(ii) Para 2.35 of FTP 2015-2020 provides that (a) wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute, Legal Undertaking (LUT) / Bank Guarantee (BG) / Bond with the Customs Authority, as prescribed, before clearance of goods; and (b) in case of indigenous sourcing, Authorisation holder shall furnish LUT/BG/Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency as prescribed in Chapter 2 of Handbook of Procedures.

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4. Similarly, corresponding provisions laid down in Para 2.20 of HBP 2009 -14 (Vol. I) and Para 2.29 of HBP 2015-20 stipulate that in case of indigenous sourcing, Authorization holder shall furnish BG / LUT to RA as per Customs Circular No.58/2004 dated 31.10.04, as amended from time to time. In case, the firm has already executed BG/LUT for the full value of the licence/ certificate / authorization / permission (covering the items indigenously procured) to the Customs and furnishes proof of the same to Regional Authority (RA), no BG/LUT shall be required to be executed with the RA. The RA concerned shall endorse on the authorization that the Customs Authority shall release / redeem BG/ LUT only after receipt of NOC or EODC from the RA concerned. RA shall endorse a copy of the same along with a forwarding letter to the Customs Authority at the Port of registration for their information and record.

5. Therefore, all the RAs are directed to update the Bank Guarantee Register. RAs would ensure that all the BGs, where the export obligation has not been fulfilled or case has not been redeemed, shall be entered in the BG Register and this Register shall be checked by the concerned Dy. DGFT/Jt. DGFT/Addl. DGFT on 5th of every month so as to ensure that all Bank Guarantees (received earlier and during the last month) have been entered properly and action taken as and when required as per the provisions of the FTP/HBP. Necessary steps for extension of validity period of BG may be taken by the RA at least three months before the expiry of the validity. It must be ensured by the RA that the decision to either enforce the BG or to get it extended for at least one year 03 months before expiry of validity. The decision to either enforce or get the BG extended must be taken by Head of The Office, as this has revenue implications.

6. This issues with the approval of the competent authority.

Yours faithfully,


28/7
(Rajbir Singh)

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