



सत्यमेव जयते

## Report of the Comptroller and Auditor General of India



लोकहितार्थ सत्यनिष्ठा  
Dedicated to Truth in Public Interest

### Performance Audit on Advance Authorisation Scheme

Union Government  
(Department of Revenue – Indirect Taxes -Customs)  
No. 10 of 2021

**Report of the  
Comptroller and Auditor General of India**

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Laid on the table of Lok Sabha/Rajya Sabha on .....



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## Preface

This Report has been prepared for submission to the President of India under Article 151 of the Constitution of India.

The Report contains significant results of the Performance Audit on 'Advance Authorisation Scheme'.

The instances mentioned in this Report are those which came to notice in the course of test audit conducted during the period 2019-20, and covering transactions of the period April 2015 to March 2019.

The audit has been conducted in conformity with the Performance Auditing Guidelines issued by the Comptroller and Auditor General of India.

Audit wishes to acknowledge the cooperation received from Ministry of Finance (MoF), Department of Revenue (DoR), Department of Commerce (DoC) and its field formations at each stage of the audit process.



## Executive Summary

### About this Performance Audit

The objective of the Advance Authorisation Scheme (AAS) is to provide registered exporters with their requirement of basic inputs/raw materials at international prices without payment of Customs duty in India, subject to the condition of export of manufactured goods with specified percentage of value addition. Performance Audit of this Scheme was conducted to ascertain whether the issue, utilization, redemption and implementation of Authorisations by the Directorate General of Foreign Trade (DGFT) and the Customs Department is being done in an efficient and effective manner. Audit also examined the effectiveness of inter-departmental coordination involved in the administration of the Scheme and whether the internal control measures are sufficient to minimize the risks of revenue loss, misuse, etc. Audit covered DGFT, its Regional Authorities (RAs) and related Customs field formations through the Customs Commissionerates concerned.

There are a total of 38 RAs across India wherein 88,157 Advance Authorisations (AAs) involving Cost, Insurance and Freight (CIF) value for imports of ₹7,58,141 crores were issued during the period 2015-16 to 2018-19 covered under the Performance Audit. This audit was carried out between December 2019 and March 2020. Audit selected a sample of 4,048 AA files (4.96 percent) involving CIF value of ₹2,08,126 crores (29.56 percent) for the period 2015-16 to 2018-19 from the 23 major RAs (60.52 percent) out of the total of 38 RAs. Audit also selected jurisdictional Customs field offices where the selected sample cases were registered for effecting duty free imports and exports.

Out of the 4,048 selected cases, 405 AA files involving CIF value of ₹9,906.73 crores pertaining to seven RAs (mainly Mumbai, Ahmedabad and Delhi) were not produced for audit, despite repeated requests/reminders to RAs.

### Structure of the Report

This report contains 66 audit observations and 17 recommendations. The performance audit has revenue implication of ₹1,386.80 crore, out of which 44 paras amounting to ₹1291.93 crore were accepted by DGFT/Department of Revenue (DoR), final outcome of action/recovery was awaited in 5 paras amounting to ₹0.24 crore, and 17 paras amounting to ₹94.61 crore were not accepted by DGFT/DoR. Till date, recovery of ₹0.70 crore was made in respect of 8 paras. Similarly, 11 out of 17 recommendations have been accepted by DGFT/DoR; response awaited in respect of five recommendations (R1, R3, R6, R11 and R12) and not accepted in respect of one recommendation (R7).

## Chapter I : Overview of Advance Authorisation Scheme

The Scheme is administered by the DGFT while exemption from the levy of Customs duty on imported inputs is allowed by the Central Board of Indirect Taxes and Customs (CBIC), DoR under Ministry of Finance (MoF).

The application for licence is to be submitted to the jurisdictional RAs under DGFT, as specified under the Hand Book of Procedure (HBP). The RA verifies the information furnished in the application and issues the licence, which is then registered with the specified Customs Port for allowing import and export of goods under the licence. The registration is subject to execution of bond, and if necessary, Bank Guarantees (BGs) with the Customs Department. On discharge of Export Obligation (EO), the Authorisation Holder (AH) makes an application of redemption to the RA, who issues an Export Obligation Discharge Certificate (EODC) to the AH and sends a copy of the same to the Customs Department for redemption of bonds and BGs, if any.

AA is issued for inputs in relation to the resultant product based on certain norms such as Standard Input Output Norms (SION) or based on Self-declaration, Self-Ratification Scheme or applicant specific prior fixation of norms, where SION is not notified.

### (Para 1.1, 1.2)

Analysis of AA Scheme for the period covered under the PA revealed that the Free on Board (FOB) value of exports increased by 25 per cent from ₹3,03,539 crore in 2015-16 to ₹3,78,808 in 2018-19.

Sectoral analysis of AAs in terms of CIF value showed a declining trend in respect of Gems and Jewellery and Handicrafts from 2015-16 to 2018-19 and significant growth in electronics, textiles, chemicals, leather etc. As of 2018-19, chemical, engineering and plastic sectors accounted for nearly 82 per cent, by CIF value, of the AAs.

Analysis of FOB value fixed in AAs vis-à-vis total physical exports effected during the year revealed that in two sectors, chemicals and plastics, the FOB value for AAs was more than 50 per cent of the total physical exports, as of 2018-19, followed by engineering. In these three sectors, the AA Scheme was an important driver of total sectoral exports.

DGFT implemented mandatory online filing of prescribed documents along with online application for issuance of AAs in May 2019 and has subsequently rolled out a new IT system effective from 1 December 2020 wherein all the prescribed documents (including for redemption) are required to be uploaded online, deficiencies and their responses be handled online and data would be seamlessly transferred to Customs for better monitoring of EODC finalization and making the AA scheme paperless. The period covered during the audit was 2015-16 to 2018-19; therefore, the implementation of these features,

effective May 2019 and December 2020, would be reviewed in subsequent audits.

**(Para 1.4, 1.4.1 and 1.4.2)**

**Summary of Audit Findings**

**Chapter II : Issuance of Advance Authorisations (AAs)**

Audit examined the implementation of facilitation measures introduced for simplifying the process of issuance of AAs by analyzing the data for the period from 2015-16 to 2018-19 and the key features of the automated system. The analysis revealed that the AA Scheme was partially automated with the receipt of application being automated while the process of issue of AAs remained largely manual. The automated system developed for the AA Scheme required, during the period covered in audit, manual intervention, thereby leading to avoidable physical interface and discretion in the hands of authorised officials, resulting in significant delays in issuance of AAs. AAs based on no-norms which are finalized by the Norms Committees (NCs) at DGFT Headquarters remained manual.

65 per cent of AAs issued during the period from 2015-16 to 2018-19 were SION based and the remaining 35 per cent pertained to the no-norms category which are required to be finalized by the concerned NCs; the sample selected for review was accordingly drawn in the same proportion. However, out of the total 1,422 AAs commented in this chapter, 621 AAs were SION based (44 per cent) and the remaining 801 AAs belonged to the no-norms category (56 per cent). Thus, most of the audit issues related to the AAs issued under the no-norms category, even though this constituted only about one-third of the total AAs.

There were acute staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies, which could be adversely impacting the ability of DGFT in ensuring effective implementation and monitoring of not only Advance Authorisation but also other schemes under FTP.

**(Para 2.1)**

The substantial delay in issue of AAs indicated failure of the automated system in achieving the objective of simplification of procedures and ease of doing business during the audit period of 2015-16 to 2018-19. The process of issuance of AAs though automated, required manual intervention as the mandatory online filing of prescribed documents along with the application could be implemented only in May 2019, whose implementation will be reviewed in future audits. Till then, all the prescribed documents were being submitted physically which defeated the purpose of facilitating an online

system besides resulting in inordinate delays in issuing of AAs despite having prescribed timelines.

**(Para 2.2)**

Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. As on 31<sup>st</sup> March 2019, the pendency was 5606 which increased to 6044 by 31<sup>st</sup> March 2020 (7.8 per cent). There were significant delays in fixation of norms beyond the prescribed period of four months, ranging from 4 months to 16 years, as against the time limits of 12 months and 18 months respectively for imports and fulfillment of export obligation. With non-finalization of norms in time, EODC cannot be issued to exporters within the prescribed period, which results not only in blocking of bonds and BGs but also results in increase of non-fulfillment of EO cases. Further, this also delays the initiation of proceedings against the firms by RAs and Customs Authorities for making recovery of Customs duty and interest thereon for default cases, besides penalizing genuine AHs, who are not getting EODCs even after complying with all the stipulated conditions.

**(Para 2.4.1 and 2.4.2)**

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of licences, to be ineffective with inordinate delay in placing the entities under DEL which ranged upto 8 to 13 years and issuing of multiple abeyance orders. There is no limit fixed for number of abeyance orders that can be issued to an exporter under the extant rules/procedures. Besides, there is no mechanism for the RA to know if the applicant has been penalized under the Customs Act and rules thereunder, as there is no exchange of information about such penalized entities between Customs and DGFT offices. Issue of authorisation is purely on self-declarations of the applicant.

**(Para 2.5)**

There is no verification of credentials by RAs before issuing multiple AAs, especially to Small Scale Industries (SSI) Units with no past export performance and seeking to make substantial imports beyond its capacity. Further, issuing of new licences to a firm in the absence of non-fulfillment of export obligation of previous AAs in a timely manner defeats the very purpose of the Scheme.

**(Para 2.6.1 and 2.6.2)**

### **Chapter III : Implementation of the Scheme**

Implementation of the scheme by both the Customs Department and DGFT was examined in audit. Audit also verified whether any institutional mechanism exists for coordination between DGFT and Customs and whether

exchange of information between the two departments is done effectively and in a timely manner.

Allowing duty free imports after the validity period of authorisations or excess imports against licences indicates weakness in the monitoring mechanism in the Customs Licence Utilisation module. Further, the primary purpose of execution of bond is to secure due compliance with rules and procedures as laid in the AA Scheme; it also serves as a collateral security to ensure payment of appropriate duty and interest in cases of non-compliance. Non-cancellation of the bonds in a timely manner, as prescribed in CBIC instructions, not only results in locking up of funds of the genuine AHs but also sends a wrong signal to the trade at large.

**(Para 3.1.1 to 3.1.3)**

RAs depend on AH to claim for redemption as no mechanism exists with the RAs in the extant system to ascertain the cases where the EO period has expired. Instances of non-monitoring of excess imports, non-compliance with the pre-import conditions and undue extension of Export Obligation Period (EOP) were observed.

**(Para 3.2.1.1 to 3.2.1.3)**

There is no time limit prescribed in FTP/HBP for seeking revalidation of licences and such requests are sought even after expiry of the validity period of licence. As validity of the licence is specified (12 months from issue date) in Para 2.16 of the HBP and authorisations must also be valid on the date of imports/exports (Para 2.18 of HBP), in audit's opinion any request for revalidation should be entertained within the validity of the licence only.

**(Para 3.2.1.4)**

RAs do not insist for declaration of all the inputs actually consumed in the manufacture of exported items as required under Appendix 4H/4E. Audit is of the opinion that the practice of considering CIF value of only imported inputs does not reflect the complete picture of value addition. Non-inclusion of value of indigenous supplies, incorrect consideration of GST/Commission/IGST amount and non-declaration of actual imports by AHs were observed in audit, which is fraught with the risk of diversion of duty free imports as well as misuse of the scheme. RAs may ascertain the actual usage of non-declared goods and take appropriate action for disallowing the incorrectly availed exemption.

**(Para 3.2.3.1 to 3.2.3.3)**

Non-activation of the online facility for redemption/EODC application resulted in delay in issue of EODC and increase in transaction cost and time.

Even though the redemption application were filed online, however, all documents like BEs, SBs, e-BRCs, input and export consumptions and certificates were required to be filed manually during the period of audit 2015-16 to 2018-19. The complete digitization of the redemption process and its integration with licence data would help in reducing the delay and to achieve the benchmark of 15 days set for disposal of redemption applications.

**(Para 3.2.6)**

In the absence of an effective online Message Exchange Module (MEM), CBIC often had to depend on the AH to ascertain EODC status granted by DGFT. Similarly, DGFT was not aware about the duty payment status for cases where EO period is over but documents have not been submitted. Non-communication of EODC data by DGFT/non-usage of EODC data by Customs authorities results in delay in closure of bonds and increase in pendency.

**(Para 3.3.1)**

Non-issuance of Show Cause Notices (SCNs) by Customs Department against defaulters and delays in adjudication process indicates weakness in coordination between the two Departments and ineffective utilization of the EDI system or 'eodc.online' of DGFT to ascertain export performance and take concerted action. DGFT should notify DoR about extensions granted to AAs, SCNs/demand notices issued and update its portal regularly thereby facilitating action by Customs in a timely manner.

**(Para 3.3.3)**

#### **Chapter IV : Internal Control Management**

Absence of an effective policy on internal/special audit had contributed to non-monitoring of implementation of the Scheme wherein licences are issued for export of various goods by allowing duty free import of inputs among other functions. Many RAs at field level were unaware of any such mechanism.

**(Para 4.1)**

Specific timelines should be prescribed in the FTDR Act for issuing of SCNs and adjudication orders so that all cases liable for action should be dealt in the same manner without any prejudice. This would also help to minimize the blockage of government revenue.

**(Para 4.2)**

MIS reports submitted by RAs are not being adequately monitored/reconciled by the DGFT and non-reporting of vital information is not being pursued with RAs. The delay in initiation of action as well as delay in disposal of demand

notices/SCNs resulted in huge accumulated pendency. No timelines were specified in the FTP and no administrative orders were issued containing instructions to initiate action and escalate legal proceedings against the defaulters.

(Para 4.3)

### Recommendations

1. *DGFT/ Department of Commerce should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that it is well equipped to ensure implementation and monitoring of Advance Authorisation and other Schemes, in case DGFT intends to continue with the schemes.*
2. *DGFT may review the manual and automated processes for timely issuance of AAs by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents. The sufficiency of timelines (or otherwise) of such issuance may also be reviewed. Significant delays (ranging from three months to more than two years) in issuing AAs by DGFT vis-à-vis the prescribed timelines of three days defeats the very purpose of the scheme of getting imported items at prevalent international prices as the possibility of fluctuation of prices cannot be ruled out in such extended period.*
3. *With advancement in manufacturing processes and facilities as well as technological upgradations across sectors over time, DGFT should conduct a comprehensive review of the SION notified through HBP Volume-II in 2009.*
4. *With delays in fixation of norms ranging from four months to 16 years (when the time limit prescribed for duty free inputs and exports under the AA scheme is 12 months and 18 months respectively), the Norms Committee (NC) system for the no-norms category is not working effectively and DGFT needs to review the system comprehensively to assess its practicability and feasibility, while minimizing the scope for misuse.*
5. *DGFT may consider prescribing a time limit within which appeals for reviewing NC decisions can be made.*
6. *DGFT may ensure updating of DEL in a timely manner and may review the process of issuing abeyance orders. Further, the DEL should include details of penalties imposed for the prior period, and results of action taken, recoveries made, adjudications, etc. Interest of revenue may be protected in the form of BG either for the duty involved in pending exports before grant of*

*abeyance order or full BG for duty involved in respect of fresh licences issued against abeyance orders.*

7. *DGFT needs to put in place a mechanism for verifying credentials of exporters before issuing multiple AAs to firms (especially SSI Units with no past export performance) seeking to import/export goods for the first time. Further, DGFT should verify completion of EODCs in respect of earlier AAs, if any, before issuing fresh AAs.*

8. *DGFT may reiterate its instructions to RAs on monitoring of non-furnishing of redemption documents of pending AAs by the AH, before issuing fresh AAs.*

9. *CBIC may consider having an automated alert system for expiry of EO period to ensure appropriate bond renewal/cancellation and obviate the need for depending on AHs for ascertaining EODC status.*

10. *DGFT needs to have an effective mechanism to continuously and regularly monitor EO. Till recently, there was no system to track cases where EOP had lapsed, and RAs depended on AHs to ascertain the EODC status. To minimize possible misuse of AAs, there is a need to have validation checks in the DGFT's EDI system to address possible diversion of imported inputs through substitution of indigenous inputs.*

11. *DGFT should review the procedure for granting revalidation and requests for revalidation should be accepted only within the validity period of the authorisation so that any duty free imports or exports reckoned for export obligation is well within the currency of the authorisation.*

12. *DGFT may insist for complete disclosure in Appendix 4H requiring AHs to declare the "details of all the inputs consumed in the manufacture of exported goods including the indigenously procured inputs and the source of such procurements", for facilitating better monitoring of actual consumption by RAs thereby preventing diversion of duty free imports and misuse of the scheme.*

13. *DGFT should review the procedure for issuance of EODC to meet its prescribed timeline of 15 days by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents.*

14. *DGFT should implement the Message Exchange Module (MEM) across all its RAs for effective and timely exchange of information between DGFT and Customs as well as update the EODC status in its eodc.online website on a regular basis. Periodical meetings may be held in an ongoing manner between DGFT and Customs field formations for timely sharing of information, reconciling the EODC status and recovering the government revenue involved*

*in the shape of duty forgone. Appropriate action may be initiated by DGFT/DoR against defaulters for not complying with the Scheme provisions.*

*15. Internal Audit is an important mechanism for identifying potential areas to improve and hence an effective tool of Internal Control. DGFT should ensure that Internal Audit is appropriately staffed and is being conducted regularly and effectively in its field offices. Further, Special Audit was envisaged specifically for cases wherein AAs are issued under Self-ratification/declaration and therefore should have been carried out in at least a few test cases to act as a deterrent for applicants making wrong declarations.*

*16. DGFT may consider fixing of time limit for issue and adjudication of SCNs in order to enforce better regulation of the adjudication process in a timely and effective manner.*

*17. DGFT needs to monitor the MIS reports submitted by RAs and instances of wrong/non reporting may be pursued with RAs. Action may be initiated by DGFT on the basis of information collated from MIS reports.*



## Glossary of Terms and Abbreviations

Abbreviation	Expanded Form
AA	Advance Authorisation
AAS	Advance Authorisation Scheme
AH	Authorisation Holder
ANF	Aayat Niryat Forms
ARO	Advance Release Order
BCD	Basic Customs Duty
BG	Bank Guarantee
BRC	Bank Realisation Certificate
BWC	Bond Waiver Certificate
CA	Chartered Accountant
CBIC	Central Board of Indirect Taxes
CE	Chartered Engineer
CENVAT	Central Value Added Tax
CIF	Cost, Insurance and Freight
CLA	Chief Licencing Authority
CTH	Customs Tariff Heading
DEEC	Duty Entitlement Exemption Certificate
DEL	Denied Entry List
DGFT	Directorate General of Foreign Trade
DIPP	Department for Industrial Policy and Promotion
DL	Deficiency Letter
DoC	Department of Commerce
DoR	Department of Revenue
DRI	Directorate of Revenue Intelligence
e-BRC	Electronic Bank Realization Certificate
ECA	Enforcement-cum-Adjudication
EDI	Electronic data Interchange
EEPC	Engineering Export Promotion Council
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EOP	Export Obligation Period
EOU	Export Oriented Unit
EP	Export Promotion
EPC	Export Promotion Council
EXIM	Exports-Imports
FEMA	Foreign Exchange Management Act
FIEO	Federation of Indian Exports Organisation
FOB	Free on Board
FOR	Freight On Road
FTDR	Foreign Trade Development and Regulation
FTP	Foreign Trade Policy
GST	Goods and Services Tax

<b>Abbreviation</b>	<b>Expanded Form</b>
HBP	Hand Book of Procedure
IEC	Importer Exporter Code
IGST	Integrated Goods and Services Tax
LUT	Letter of Undertaking
ME	Merchant Exporter
MES/M	Message Exchange System/Module
MFP	Minor Forest Produce
MIS	Management Information System
MOCI	Ministry of Commerce and Industry
MoF	Ministry of Finance
MPR	Monthly Progress Register
MVA	Minimum Value Addition
NC	Norms Committee
PH	Personal Hearing
PIP	Person-in-Position
PN	Public Notice
PRC	Policy Relaxation Committee
PSU	Public Sector Undertaking
RA	Regional Authority
RCMC	Registration-cum-Membership Certificate
RMS	Risk Management System
SAR	Sample Analysis Report
SB	Shipping Bill
SCN	Show Cause Notice
SCOMET	Special Chemicals, Organism, Materials and Technologies
SEZ	Special Economic Zone
SRS	Self-Ratification Scheme
SRTEPC	Synthetic & Rayon Textiles Export Promotion Council
SS	Sanctioned Strength
SSI	Small Scale Industries
VA	Value Addition

## CHAPTER I

### Overview of Advance Authorisation Scheme

#### 1. Introduction

The Advance Licensing Scheme also known as 'Duty Entitlement Exemption Certificate (DEEC)' was introduced in the Foreign Trade Policy (FTP) in the year 1976. The objective of the Scheme was to provide registered exporters with their requirement of basic inputs/raw materials at international prices without payment of Customs duty in India subject to the condition of export of manufactured goods with specific percentage of value addition. The name of the Scheme was subsequently changed to 'Advance Authorisation Scheme' (AAS) under FTP 2004-09 effective from 1 September 2004.

Advance Authorisation (AA) is issued to allow duty free import of inputs, which are physically incorporated in the export product, allowing normal allowance for wastage. In addition, fuel, oil and catalyst that is consumed/utilised in the process of production of the export product, is also allowed duty free. AAs are issued based on Standard Input Output Norms (SION) fixed by the Directorate General of Foreign Trade (DGFT) and also on the basis of *ad hoc*/self-declared norms subject to approval by the Norms Committees (NC)/Self-ratification Scheme of FTP.

#### 1.1 Authorities involved in implementation of the Scheme

The Scheme is administered by the DGFT (Ministry of Commerce) while exemption from levy of Customs duty on imported inputs is allowed by the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue (DoR) under Ministry of Finance (MoF).

The application for licence is to be submitted to the jurisdictional Regional Authority (RA) under DGFT, as specified under the Hand Book of Procedure (HBP). The RA verifies the information furnished in the application and issues the licence, which is then registered with the specified Customs Port for import of inputs and export of goods under the licence. The registration is subject to execution of bond, and if necessary, Bank Guarantees (BG)<sup>1</sup>with the Customs Department. On discharge of Export Obligation (EO), the Authorisation Holder (AH) makes an application of redemption to the RA, who issues an Export Obligation Discharge

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<sup>1</sup>Bank Guarantees are taken by Customs at the time of registration of AAs at the Customs Ports as per Customs Circular 58/2004 dated 21-10-2004 as amended from time to time. BG is exempted for certain categories of exporters under the AA Scheme, viz., Public Sector Undertakings (PSUs), Star House Exporters, exporters with export turnover of more than ₹5 crores in the current or preceding financial year and having good track record, Manufacturer exporters registered with Central Excise exporting in the previous two financial years with export turnover of more than ₹one crore and Manufacturer exporters registered with Central Excise and having paid excise duty (pre-Goods and Service Tax (GST) era) or GST of more than ₹one crore during the preceding financial year. All other manufacturer exporters are required to submit 15 per cent BG and others 100 per cent BG.

Certificate (EODC) to the AH and sends a copy of the same to the Customs Department for redemption of bond and BG, if any.

### 1.2 Norms for AAs

As per Para 4.03 of FTP, AAs are issued for inputs in relation to the resultant product based on the following:

- (a) SION notified in the HBP;
- (b) Self-declaration, where SION is not notified;
- (c) Applicant specific prior fixation of norms;
- (d) Self-ratification Scheme.

The SION determines the proportion of various inputs required in the manufacture of different resultant products. In case where norms have not been notified, the RA may issue AA based on self-declaration by the applicants. Wastage so claimed shall be subject to wastage norms as decided by the NCs. Applicant specific prior fixation of norms was introduced with effect from 20 September 2017 vide PN 26 and Self Ratification Scheme (SRS) was introduced with effect from 22 March 2018 vide PN 68.

### 1.3 Salient features of the Scheme

The registered exporters have to apply online for AA and upload the prescribed documents. RA issues the AA and communicates it to the Customs Port under the Message Exchange System (MES) for registration at the Port for import and export of goods through that authorisation. Inputs specified in quantities in the authorisation as per SION are free from Customs duties. Alternatively, inputs can also be procured domestically without duties by invalidating the licences for imports.

BGs are taken by Customs at the time of registration of AAs at the Customs Ports as per Customs Circular 58/2004 dated 21-10-2004 as amended from time to time. In exceptional cases, Para 4.13 of HBP provides for authorisation in excess of entitlement of Cost, Insurance and Freight (CIF) mentioned in paragraph 4.12(a) subject to furnishing of 100 per cent BG to the Customs authority to cover exemption from customs duties. RAs shall make specific endorsement to this effect on the authorisation. Similarly, as per Par 2.29 (b) of HBP, RAs may also insist for BG from AH in case of indigenous sourcing of inputs.

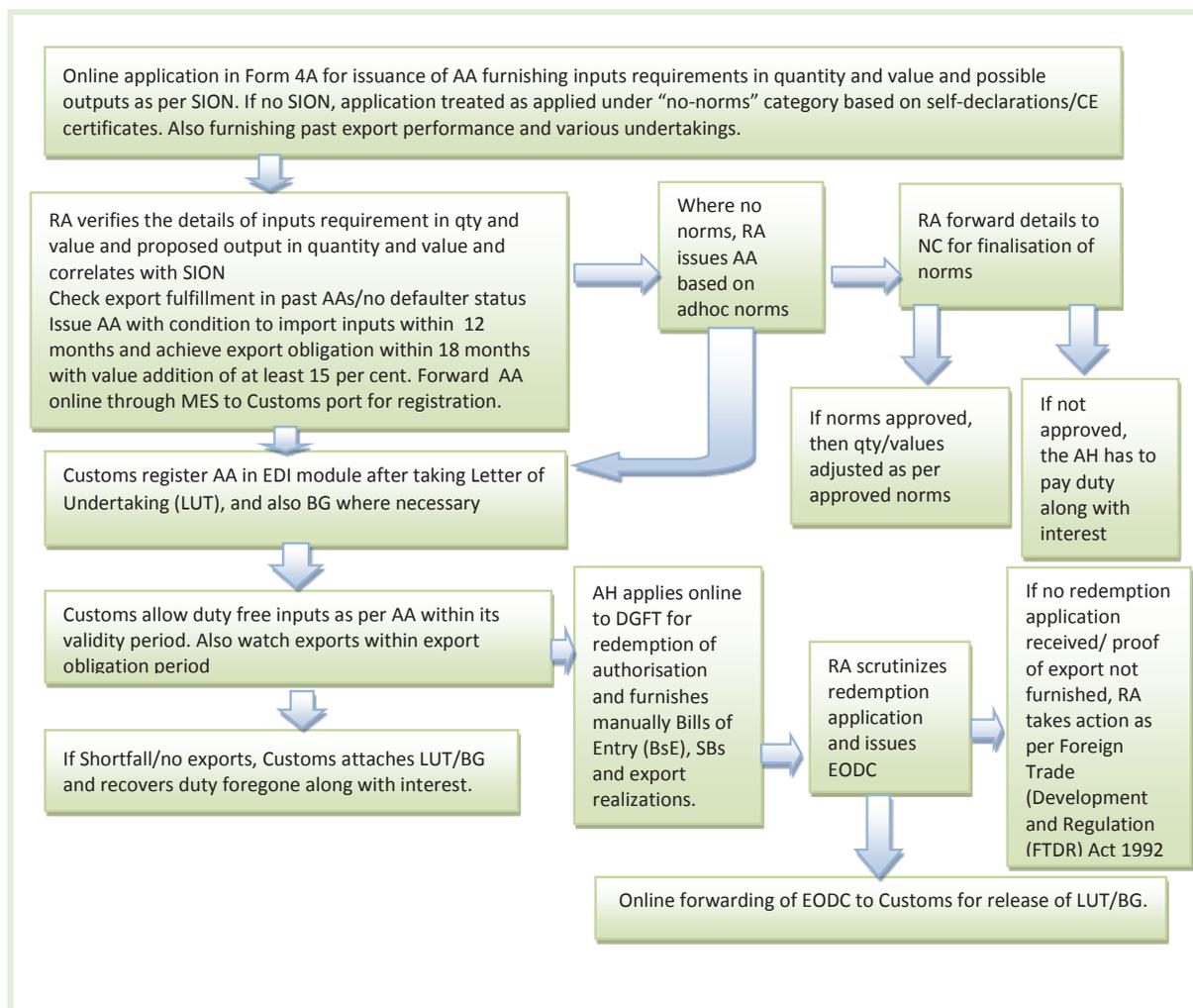
Licences are issued on condition of achieving EO with Minimum Value Addition (MVA) of 15 per cent within the period of 18 months (other than Appendix 4J inputs). The time limit is further extendable twice, for six months each, subject to the stipulated conditions. Non-fulfillment of EO in terms of quantity requires regularization of authorisation by paying custom duties foregone, along with interest on inputs proportionately required for export quantity not

fulfilled. Failure in value terms requires regularization by paying penalty at one per cent of shortfall in value.

On fulfillment of EO, the exporter applies for EODC to the RA by furnishing Shipping Bills (SBs) and Electronic Bank Realization Certificates (e-BRCs) of export proceeds. When EODC is issued, the same is also communicated to the Customs Authorities through MES for redeeming Bond and BGs, if any, executed at Ports.

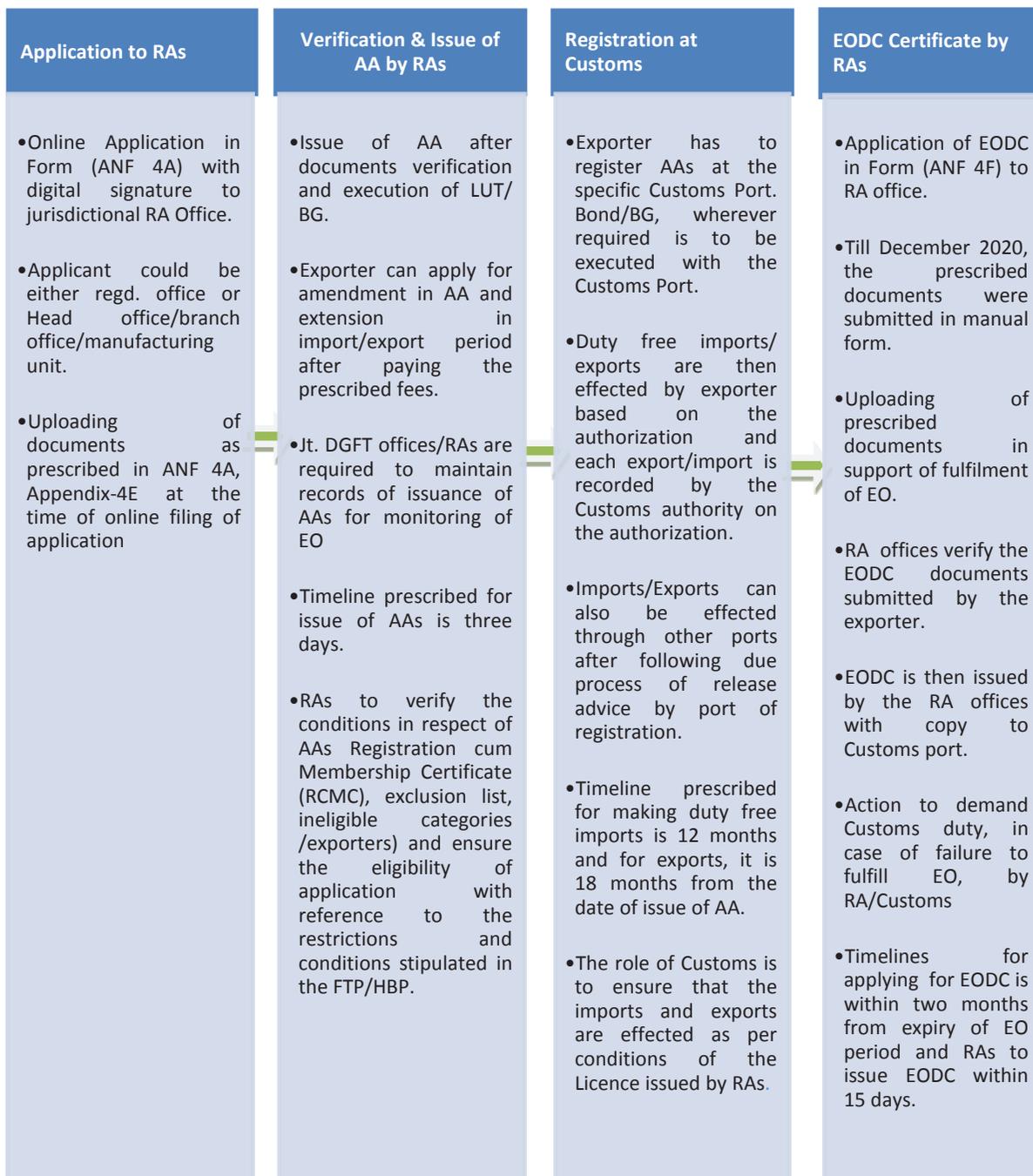
As per Para 4.44 (f) of HBP, in case the AH fails to complete EO or fails to submit relevant information/documents, RAs shall enforce condition of authorisation and Undertaking and also initiate penal action as per law including refusal of further authorisation to the defaulting exporter. The process involved in the AA Scheme from issuing of AAs to EODC is depicted in the following flow chart:

**Figure 1: Summary flowchart of processes in the AA Scheme**



The process involved in AAS vis-à-vis authorities involved is summarized below in Figure 2:

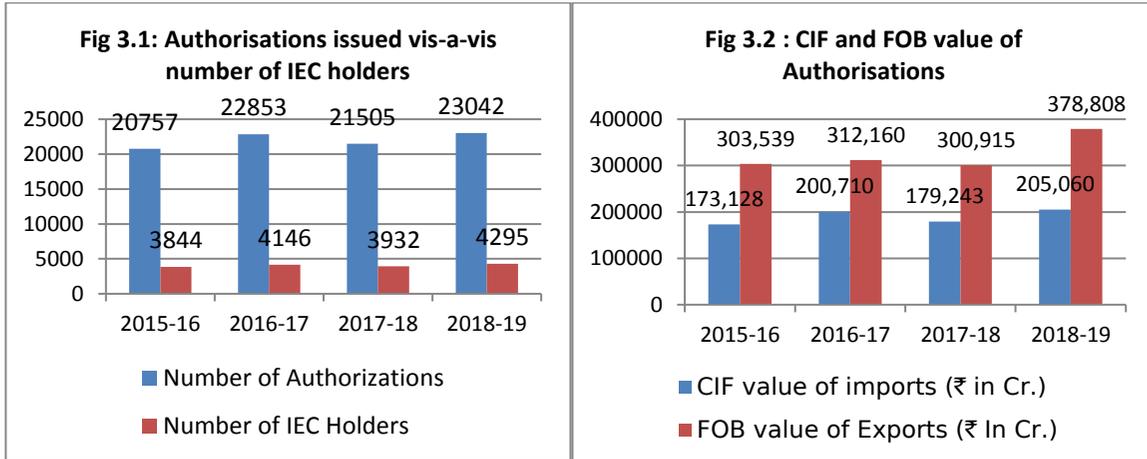
**Figure 2: Process involved in AA Scheme**



#### 1.4 Statistical Overview

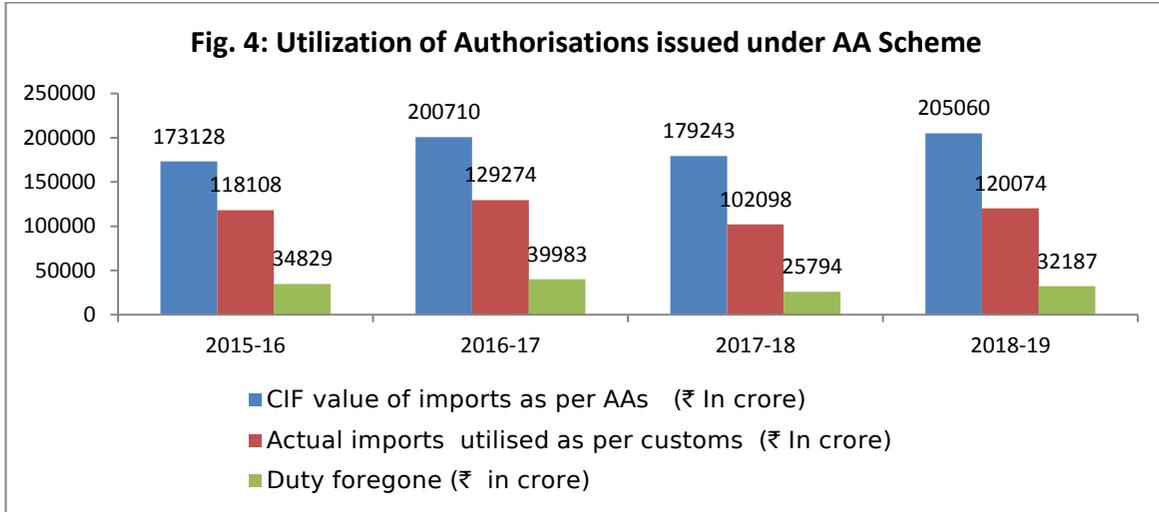
An analysis of AA Scheme for the period covered under the PA from 2015-16 to 2018-19 was done in terms of number of AAs and number of Importer Exporter Code (IEC) holders to total imports and exports allowed under the Scheme as detailed hereunder:

**Figure 3: Authorisations issued and value of Exports/Imports allowed under AA Scheme**



The Free on Board (FOB) value of exports increased by 25 per cent from ₹3,03,539 crore in 2015-16 to ₹3,78,808 in 2018-19. Similarly, the number of AAs and AHs and CIF value of imports also increased by 11 per cent, 12 per cent and 18 per cent respectively.

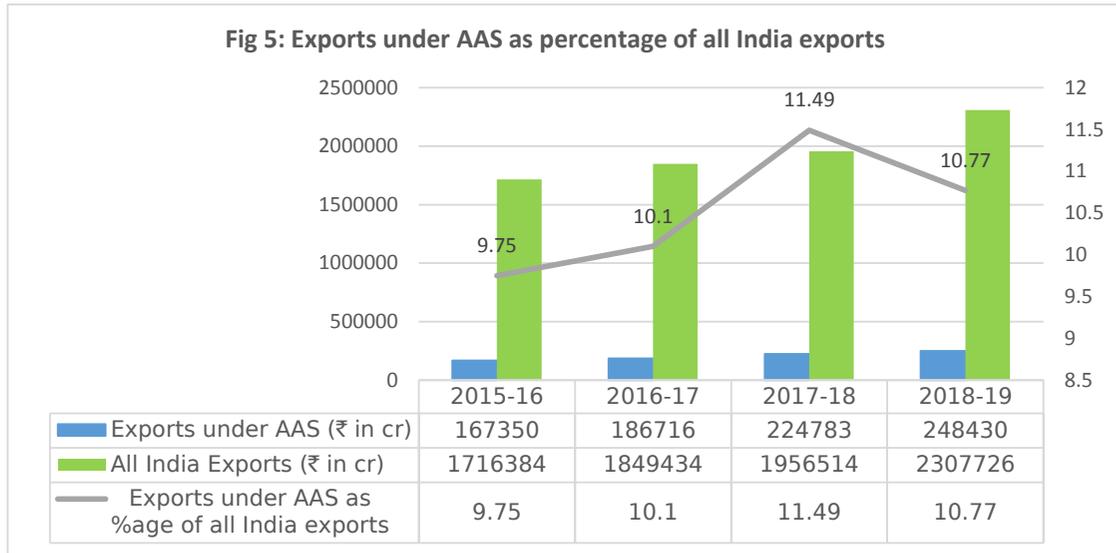
Actual utilization of AAs at Customs ports was analysed from Customs EDI (Electronic Data Interchange) data as detailed in Figure 4 below:



As can be seen above, the percentage of utilization of AAs decreased from 68.22 per cent in 2015-16 to 58.56 in 2018-19 and the corresponding duty foregone decreased from 29.49 per cent in 2015-16 to 26.81 in 2018-19.

**1.4.1 Share of exports under the AA Scheme**

The share of exports under the AA Scheme to that of total physical exports in value terms stood at 9.75 percent in 2015-16, which increased to 10.77 percent in 2018-19 as detailed hereunder:



Duty foregone for achieving ₹One crore of exports undertaken through AA scheme, varied from ₹21 lakh in 2015-16 to ₹13 lakh in 2018-19 as detailed below:

**Table 1: Duty foregone vis-à-vis FOB value**

Year	2015-16	2016-17	2017-18	2018-19
Duty foregone (₹ in crore)	34828.72	39982.55	25793.52	32187.01
FOB (₹ in Crore)	167349.93	186715.94	224782.57	248430.08
Duty foregone/One crore of FOB (₹ in Crore)	0.21	0.21	0.11	0.13

#### 1.4.2 Sectoral distribution of Authorisations:

Details of AAs (number and CIF value of imports) under various sectors for the period from 2015-16 to 2018-19 is given hereunder:

**Table 2 : Sectoral distribution of AAs**

Sectors	2015-16		2016-17		2017-18		2018-19		%age change	
	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	Numbers	Value
Chemical	9589	57064.29	9849	57822.56	9259	65196.81	9309	77052.82	-2.92	35.03
Electronics	185	777.09	187	984.26	126	856.74	143	1830.41	-22.70	135.55
Engineering	4293	48835.99	4333	60869.03	4157	57697.25	4299	64687.82	0.14	32.46
Fish	23	147.01	19	108.35	14	127.1	19	170.96	-17.39	16.29
Food	582	6154.85	1400	14067.76	841	9626.42	814	8546.5	39.86	38.86
Gems and Jewellery	77	40707.9	63	44000.78	51	21840.52	94	18700.32	22.08	-54.06
Handicrafts	31	47.36	34	21.82	31	20.28	47	31.52	51.61	-33.45

Sectors	2015-16		2016-17		2017-18		2018-19		%age change	
	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	No. of AA	CIF Value (₹ in Cr.)	Numbers	Value
Leather	55	153.65	86	270.41	105	290.96	84	388.11	52.73	152.59
Plastics	3749	15072.71	4039	17737.89	4120	18347.46	4471	26258.11	19.26	74.21
Sports	0	0	0	0	0	0	2	2.56	200.0	256.00
Textiles	1917	3549.16	2393	3791.51	2529	4426.05	3225	5597.36	68.23	57.71
Misc.	256	617.87	451	1035.32	272	1139.26	535	1793.81	108.98	190.32
<b>Total</b>	<b>20757</b>	<b>173127.9</b>	<b>22853</b>	<b>200709.7</b>	<b>21505</b>	<b>179568.9</b>	<b>23042</b>	<b>205060.3</b>	<b>11.01</b>	<b>18.44</b>

Sectoral analysis of AAs in terms of CIF value showed a declining trend in respect of Gems and Jewellery and Handicrafts from 2015-16 to 2018-19 and significant growth in electronics, textiles, chemicals, leather, etc. As of 2018-19, the chemical, engineering and plastic sectors accounted for nearly 82 per cent, by CIF value, of the AAs. Overall, there is a growth of around 18.44 per cent in terms of CIF value and 11 per cent in terms of number of AAs issued from FY 16 to FY 19.

Details of FOB fixed in AAs under major sectors was compared with the total physical exports effected as shown below:

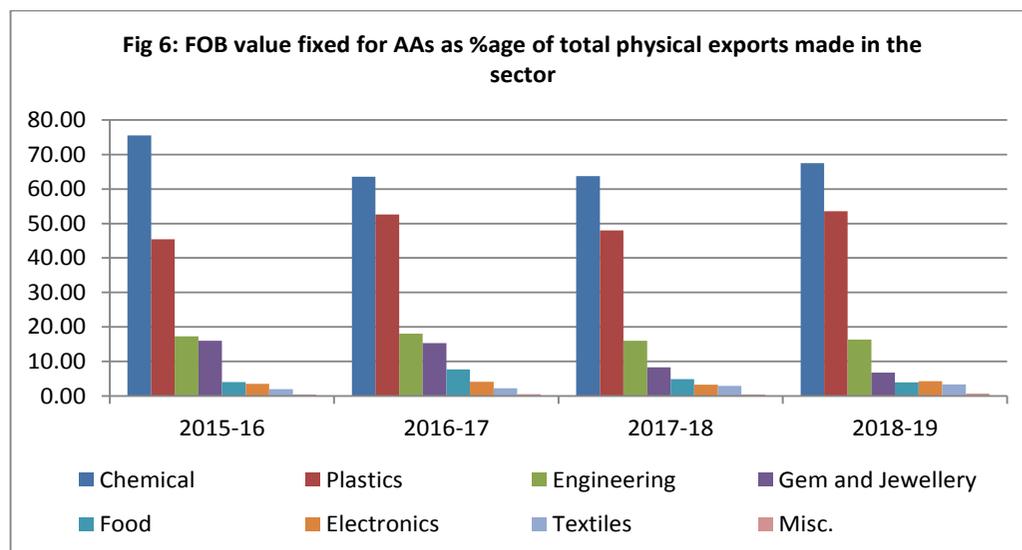
**Table 3: FOB fixed in AAs vis-à-vis total physical exports made in the sector**

Sectors	2015-16			2016-17			2017-18			2018-19			%age change	
	FOB fixed in AAs (A)	Value of total Physical Exports (B)	%age of (A) to (B)	FOB fixed in AAs (A)	Value of total Physical Exports (B)	%age of (A) to (B)	FOB fixed in AAs (A)	Value of total Physical Exports (B)	%age of (A) to (B)	FOB fixed in AAs (A)	Value of total Physical Exports	%age of (A) to (B)	EO fixed	Total Exports
	(₹ in Cr.)	(₹ in Cr.)		(₹ in Cr.)	(₹ in Cr.)		(₹ in Cr.)	(₹ in Cr.)		(₹ in Cr.)	(₹ in Cr.)			
Chemical	159008	210542	75.52	139760	219810	63.58	154302	242114	63.73	206517	306131	67.46	29.88	45.40
Electronics	1312	37453	3.50	1566	38144	4.11	1275	39148	3.26	2516	58858	4.27	91.77	57.15
Engineering	67847	391359	17.34	78595	435769	18.04	78705	490244	16.05	92161	564688	16.32	35.84	44.29
Food	8612	212459	4.05	17140	223207	7.68	12130	247708	4.90	10743	270618	3.97	24.74	27.37
Gem and Jewelry	41334	257421	16.06	44672	290903	15.36	22206	267833	8.29	19173	281408	6.81	-53.61	9.32
Plastics	19077	42029	45.39	22725	43173	52.64	23449	48814	48.04	35365	66059	53.54	85.38	57.17
Textiles	4900	243030	2.02	5681	249575	2.28	6976	240949	2.90	8990	267108	3.37	83.47	9.91
Misc.	1449	322091	0.45	2024	348853	0.58	1870	379704	0.49	3342	492856	0.68	130.64	53.02
<b>Total</b>	<b>303539</b>	<b>1716384</b>	<b>17.68</b>	<b>312163</b>	<b>1849434</b>	<b>16.88</b>	<b>300913</b>	<b>1956514</b>	<b>15.38</b>	<b>378807</b>	<b>2307726</b>	<b>16.41</b>	<b>24.80</b>	<b>34.45</b>

It is seen that the growth of AAs (in terms of EO fixed) increased in Electronics (92 per cent), Plastics (85 per cent) and Textiles (83 per cent) while it declined sharply in case of Gems and Jewellery (54 per cent) from ₹41,334 crore (FY16) to

₹19,173 crore (FY 19). Overall, there was a growth of around 24.80 per cent in terms of FOB value fixed in AAs from FY 16 to FY 19.

The FOB values fixed for AAs when compared with total physical exports effected under the sector revealed the following:



Analysis of FOB value fixed in AAs vis-à-vis total physical exports effected during the year revealed that in two sectors, chemicals and plastics, the FOB value for AAs was more than 50 per cent of the total physical exports, as of 2018-19, followed by engineering. In these three sectors, the AA Scheme was an important driver of total sectoral exports.

Possible reasons<sup>2</sup> for significant growth in the electronics and plastics sectors may be attributed to dedicated exports promotion councils offering an array of services (facilitating Global Trade Shows/Expositions and Conferences, providing commercially useful information and assistance to its members, undertaking Market research/studies and publicity campaigns, etc.) to its members for accelerating exports. Besides, SION norms are already fixed for most of the products falling in these industries and AHs have the option of making duty free imports even after effecting the exports.

The Gems and Jewellery sector suffered significantly on account of the global economic slowdown<sup>3</sup>. Besides, presence of other FTP schemes specifically for the sector, levy of Integrated Goods and Services Tax (IGST), discontinuance of AA scheme for import of precious metals for exports of gold medallions and coins, etc., were other possible reasons for reduction of the share of Gems and Jewellery sector in the AA Scheme.

Ministry has taken various initiatives to revive the growth of the sector as well the trade at large by restoring GST exemption since October 2017, removing the pre-import conditions for availing IGST exemption, extending the exemption of

<sup>2</sup> MOCI Annual Report 2019-20

<sup>3</sup> MOCI Annual Report 2019-20

Integrated Tax and Compensation Cess to deemed supplies and 3 per cent IGST on gold sourced by exporters from nominated agency to help the Gems and Jewellery sector by freeing blocked capital since January 2019.

Overall, in the new FTP 2015-20, many facilitation measures have been enabled through digital platforms in the administration of the scheme which include online submission of all information and certificates from Chartered Accountants/Engineers during application. For redemption of licence, any copy of shipping bill can now be submitted instead of Export Promotion (EP) copy of SBs<sup>4</sup>, and there is no need to attach e-BRCs. DGFT also enabled to ratify Authorisations issued on adhoc norms at RA level based on Authorisations issued to the applicant earlier or to other applicants<sup>5</sup> for the same products. Status of redemption application can be known from the public portal 'eodc.online'<sup>6</sup>.

DGFT implemented mandatory online filing of prescribed documents along with online application for issuance of AAs in May 2019 and has subsequently rolled out a new IT system effective from 1 December 2020 wherein all the prescribed documents (including for redemption) are required to be uploaded online, deficiencies and their responses be handled online and data would be seamlessly transferred to Customs for better monitoring of EODC finalization and making the AA scheme paperless. The period covered during the audit was 2015-16 to 2018-19; therefore, the implementation of these features, effective May 2019 and December 2020, would be reviewed in subsequent audits.

### 1.5 Audit Objectives

The objectives of the Performance Audit were to assess:

- i) Whether the issue, utilisation and redemption of Authorisations by DGFT offices is being done in an efficient and effective manner;
- ii) Whether the implementation of AAS by the Customs Department is being done in an efficient and effective manner;
- iii) Whether the inter-departmental co-ordination mechanism involved in administration of the Scheme is effective;
- iv) Whether the internal control measures are sufficient to minimize the risks of revenue loss, misuse etc.

### 1.6 Audit scope

The Performance Audit covered the records and transactions over a four year period from 2015-16 to 2018-19. Audit covered DGFT, its RAs and the Customs field formations where the AAs were registered.

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<sup>4</sup>PN 9/2015-20 dated 9.7.2018 of DGFT

<sup>5</sup> PN No.64/2015-20 dated 27.12.2018 of DGFT

<sup>6</sup> Trade Notice 1/2018-19 dated 4.4.2018 of DGFT

### 1.7 Audit Coverage

There are a total of 38 RAs across India wherein 88,157 AAs involving CIF value for imports of ₹7,58,141 crores were issued during the period 2015-16 to 2018-19 covered under the PA. Audit selected a sample of 4,048 AA files (4.96 per cent) involving CIF value of ₹2,08,126 crores (29.56 per cent) from the 23 major RAs (60.52 per cent) which accounted for 92.64 per cent number-wise (81,674 licences) and 92.86 per cent value-wise (CIF value of ₹7,04,008 crores) of the total of 38 RAs (**Appendix 1**). Audit also selected jurisdictional Customs field offices where the selected sample cases were registered for effecting duty free imports and exports.

Out of the 4,048 selected cases, 405 AA files involving CIF value of ₹9,906.73 crores pertaining to seven RAs (mainly Mumbai, Ahmedabad and Delhi) were not produced for audit, despite repeated requests/reminders to RAs (**Appendix 1**).

### 1.8 Audit criteria

Audit used the relevant provisions of the applicable Acts, manuals, rules, government notifications as criteria, to benchmark the findings. The important provisions are listed below:

- FTP 2015-20;
- HBP and its Appendices;
- Public Notices (PNs)/Circulars etc., issued by the DGFT;
- Foreign Trade (Development and Regulation) (FTDR) Act,1992;
- The Customs Act, 1962;
- Customs Tariff Act, 1975;
- Customs Notifications and Circulars on Advance Authorisation Scheme;
- Foreign Exchange Management Act (FEMA),1999;
- Conservation of Foreign Exchange, Prevention of Smuggling Activities Act, 1974.

### 1.9 Audit methodology

The Performance Audit was conducted using the Performance Auditing Guidelines of the CAG of India, and in line with the CAG's DPC Act, 1971.

Audit was conducted during the period November 2019 to March 2020. DGFT provided Dump data in two installments i.e. data upto October 2018 on 18 December 2018 and data for the period from November 2018 to March 2019 on 3 January 2020. Audit examination included analysis of DGFT data and test check of authorisations issued and fulfillment of EO by the AHs in the selected RA offices of the DGFT and test check of utilization of authorisations in the selected Customs Ports. Coordination between DGFT and Customs Department in the administration of the Scheme was also analysed.

The Entry/Exit Conference for the PA was conducted on 18 December 2019 and 19 January 2021 respectively with members of DoC/DoR. The first draft was sent to MOCI/DoR on 6 October 2020, reply to which was received 9 December 2020 (DGFT) and 16 December 2020 (DoR). The second draft was issued on 9 January 2021, response to which was received on 1 February 2021 (DGFT) and 12 February 2021 (DoR).

#### **1.10 Acknowledgement**

Audit wishes to acknowledge the cooperation received from MoF, DoR and Ministry of Commerce and Industry (MOCI), Department of Commerce (DoC) and its field formations at each stage of the audit process.



## CHAPTER II

### Issuance of Advance Authorisations

DGFT, in pursuit of its objectives of better trade facilitation and paperless processing as envisaged in FTP 2015-20, introduced system driven receipt of applications and issue of licences with minimum interface between RAs and exporters. Audit examined the implementation of facilitation measures introduced for simplifying the process of issuance of AAs by analyzing the data for the period from 2015-16 to 2018-19 and the key features of the automated system. The analysis revealed that the AA Scheme was partially automated with the receipt of application being automated while the process of issue of AAs remained largely manual. The automated system developed for the AA Scheme required, during the period covered in audit, manual intervention, thereby leading to avoidable physical interface and discretion in the hands of authorised officials, resulting in significant delays in issuance of AAs. AAs based on no-norms which are finalized by the NCs at DGFT Headquarters remained manual.

65 per cent of AAs issued during the period from 2015-16 to 2018-19 were SION based and the remaining 35 per cent pertained to the no-norms category which are required to be finalized by the concerned NCs; the sample selected for review was accordingly drawn in the same proportion. However, out of the total 1,422 AAs commented in this chapter, 621 AAs were SION based (44 per cent) and the remaining 801 AAs belonged to the no-norms category (56 per cent). Thus, most of the audit issues related to the AAs issued under the no-norms category, even though this constituted only about one-third of the total AAs.

The audit findings further indicated the deficiencies in the automated system as well as in the manual system in achieving the objective of simplification of procedures and ease of doing business, as summarized below:

- Review of staffing pattern in DGFT(Para 2.1);
- Delay in issuance of AAs (Para 2.2);
- Lack of timely review/update of SION (Para 2.3);
- Irregularities in fixation of norms by NC (Para 2.4);
- Inadequate monitoring of Denied Entity List (DEL) (Para 2.5);
- Irregular issuance of AAs to ineligible applicants (Para 2.6);
- Irregular issuance of AAs on ineligible supplies (Para 2.7);
- Other irregularities (Para 2.8)

#### **2.1 Review of staffing pattern in DGFT**

Audit reviewed the staffing pattern and vacancy position at DGFT Headquarters as well as its field formations (RAs) to ascertain the extent of staff shortages with potential for impacting the ability of DGFT in ensuring effective implementation and monitoring of AA Scheme.

It was noticed that over the period 2015-16 to 2018-19 the vacancy position at DGFT Headquarters increased from 43 per cent to 47 per cent, despite a decrease in the Sanctioned Strength (SS) by 9.4 per cent as detailed below:

**Table 2.1 : PIP vis-à-vis SS<sup>7</sup> in DGFT Headquarters**

Year	Gazetted		Non Gazetted		Total		Vacancy
	SS	PIP	SS	PIP	SS	PIP	Number (per cent)
2015-16	155	97	343	188	498	285	213 (42.7)
2016-17	155	93	343	172	498	265	233 (46.7)
2017-18	147	85	343	185	490	270	220 (44.8)
2018-19	147	83	304	154	451	237	214 (47.4)

Despite the fact that audit requested for SS and Person-in-Position (PIP) at RA level for the period 2015-16 to 2018-19, DGFT shared the incumbency position only as of 30 June 2021 wherein PIP was 775 against the sanctioned strength of 1,849 with vacancies of 1,074 (58 per cent) as detailed below:

**Table 2.2 : PIP vis-à-vis SS at RA level**

Criteria	Gazetted		Non-Gazetted		Total		Vacancy
	SS	PIP	SS	PIP	SS	PIP	Number (per cent)
<b>Incumbency position as on 30 June 2021</b>	211	153	1638	622	1849	775	1074 (58.0)

As can be seen above, there were acute staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies, which could be adversely impacting the ability of DGFT in ensuring effective implementation and monitoring of not only Advance Authorisation but also other Schemes under FTP.

***Recommendation No. 1: DGFT/ Department of Commerce should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that it is well equipped to ensure implementation and monitoring of Advance Authorisation and other Schemes, in case DGFT intends to continue with the schemes.***

## 2.2 Delay in issuance of AAs

PN 16/ 2015-2020 dated 4 June 2015 read with Para 9.10 of HBP 2015-2020, prescribes the time limit of “three days” for disposal of applications in respect of AA Scheme, from the date of receipt of the online application. The same timeline was also promulgated in the DGFT Citizen’s Charter document.

For achieving the targeted timelines, DGFT envisaged uploading of all the prescribed documents in Aayat Niryat Forms (ANF) 4A at the time of online filing

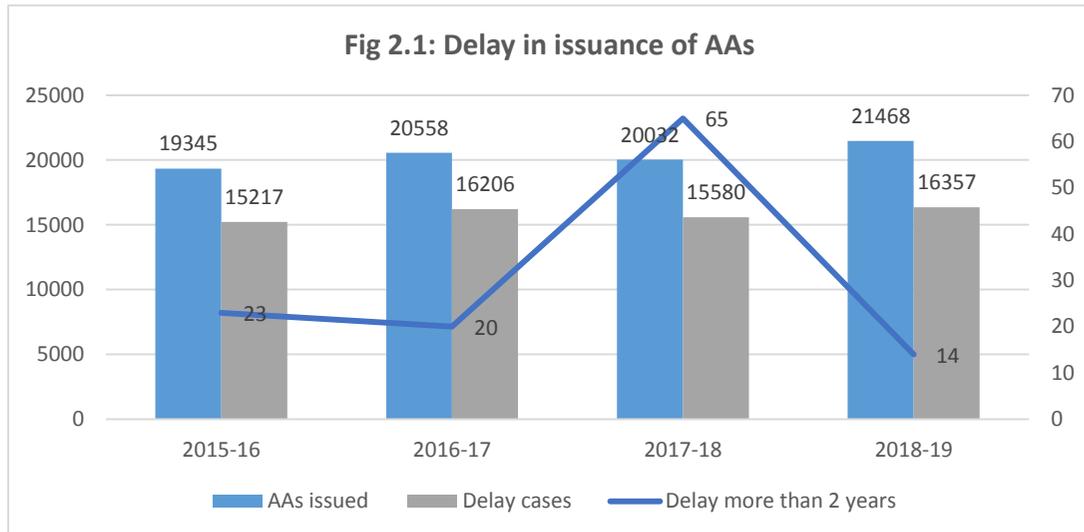
<sup>7</sup> SS- sanctioned Strength; PIP-Person in Position

of application vide Para 4.02 of HBP 2015-2020 and no physical copy of application was required to be submitted to the RAs.

It was however noticed that only the receipt of application was automated and the mandatory online filing of documents along with application, though envisaged in April 2015 could only be implemented in May 2019 vide Policy Circular no. 23/2015-20. All the prescribed documents were being submitted physically in all the sampled cases selected by audit and the RAs processed the applications only after receipt of the hard copy of the documents.

Audit examined the success of facilitation measures vis-à-vis timelines prescribed and observed delay as detailed below:

1. Analysis of data on AAs issued by the selected 23 RAs revealed delay in 63,360 cases out of a total of 81,403 AAs (77.83 per cent) issued during the period covered in review (2015-16 to 2018-19) as detailed below:

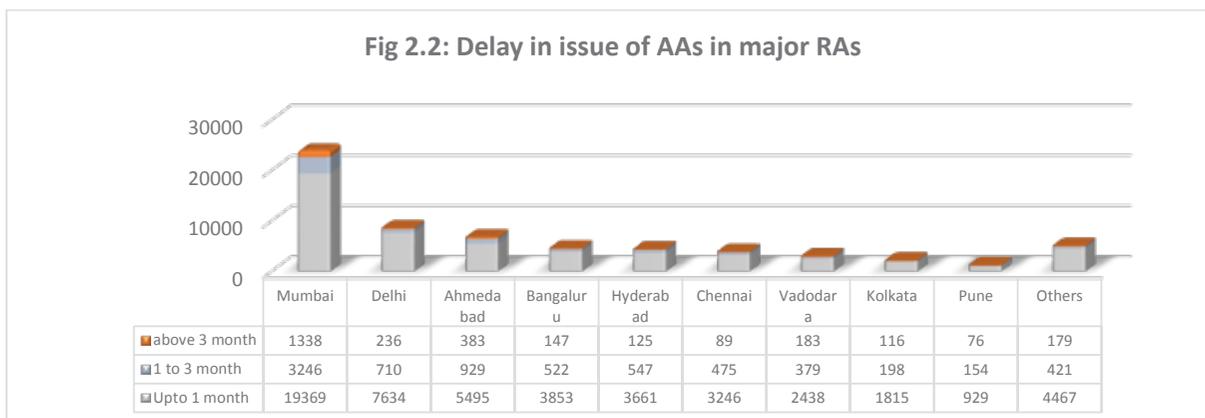


The delay ranged from four days to 2,349 days with delays upto 1 month in 52,907 AAs, upto 3 months in 7,581 AAs, upto two years in 2,750 AAs and more than 2 years being observed in 122 AAs (**Annexure 1A**). Year-wise, delay was observed in 15,217 licences (78.66 per cent) during 2015-16, 16,206 licences (78.78 per cent) during 2016-17, 15,580 licences (77.78 per cent) during 2017-18 and 16,357 licences (76.19 per cent) during 2018-19, as detailed below:

**Table 2.3: Age-wise analysis of delay in issuance of AAs**

Year	Total AAs issued	Delay of					
		4 days-1 month	1-3 months	3-6 months	6-12 months	1-2 years	more than 2 years
2015-16	19345	12417	1979	485	220	93	23
2016-17	20558	13527	1984	397	200	78	20
2017-18	20032	13120	1758	392	164	81	65
2018-19	21468	13843	1860	414	162	64	14
<b>Total</b>	<b>81403</b>	<b>52907</b>	<b>7581</b>	<b>1688</b>	<b>746</b>	<b>316</b>	<b>122</b>

The analysis of nine RAs having major delays is given below in the graph:



While the majority of delays are less than one month, there are significant delays beyond one month too. The prescribed time limit of three days remained undelivered by a substantial margin.

2. Review of 3,497 sampled cases in 20 of the 23 RAs selected for Audit, revealed delay in 1,012 cases with delays ranging from four days to 2,199 days. The profile of delays in the sampled cases is lower than the overall population, but since our sampling focused on higher value cases, the profile of delays in lesser value cases was even higher, causing unjustified hardship to smaller exporters. In the case of three RAs (Cochin, Chandigarh and Ludhiana), no delays were observed in the selected sample. In 792 out of the total 1,012 delayed cases, no Deficiency Letter (DL) was issued and there were no ostensible reasons for delay in issuance of AAs which should have been issued in three working days **(Annexure 1B)**.

The main reasons for delay were requirement of submission of physical documents after filing of online applications, inadequate monitoring of Denied Entity List (DEL) etc., which delayed the issuance of AAs.

The substantial delay in issue of AAs indicated failure of the automated system in achieving the objective of simplification of procedures and ease of doing business. The process of issuance of AAs though automated, required manual intervention as the mandatory online filing of prescribed documents along with the application could be implemented only in May 2019. Till then, all the prescribed documents were being submitted physically which defeated the purpose of facilitating an online system besides resulting in inordinate delays in issuing of AAs despite having prescribed timelines.

**Recommendation No. 2: DGFT may review the manual and automated processes for timely issuance of AAs by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents. The sufficiency of timelines (or otherwise) of such**

***issuance may also be reviewed. Significant delays (ranging from three months to more than two years) in issuing AAs by DGFT vis-à-vis the prescribed timelines of three days defeats the very purpose of the scheme of getting imported items at prevalent international prices as the possibility of fluctuation of prices cannot be ruled out in such extended period.***

DGFT stated (February 2021) that a new IT system was launched on 1 December 2020 wherein all required documents need to be uploaded online, deficiencies and their responses to be handled online, authorisations issued online and the data being transferred to Customs seamlessly thereby making the scheme paperless.

The period covered during the audit was 2015-16 to 2018-19; therefore, the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### **2.3 Lack of timely review/update of Standard Input Output Norms (SION)**

Under the Advance Authorisation Scheme, the quantity of inputs allowed for a given product is based on specific norms defined for that export product, which considers the wastage generated in the manufacturing process. DGFT provides a sector-wise list of Standard Input-Output Norms (SION) under the Handbook of Procedures (HBP Volume-II).

It was observed that the SION was last notified by DGFT in May 2009 vide HBP 2009-14 (Volume-II). Thereafter, no comprehensive review of SION was undertaken by DGFT, even though HBP for 2015-2020 was introduced with effect from 1 April 2015 and HBP for 2021-2026 is to be notified. However, SIONs were introduced/revoked/modified on a case to case basis, by means of public notices, based on representations from trade.

***Recommendation No. 3: With advancement in manufacturing processes and facilities as well as technological upgradations across sectors over time, DGFT should conduct a comprehensive review of the SION notified through HBP Volume-II in 2009.***

### **2.4 Norms Committees (NCs)**

Para 4.03 of FTP stipulates that AAs are issued for inputs in relation to the resultant product on the basis of notified SION which is available in the HBP. Para 4.06 of HBP provides for fixation of norms by NCs in DGFT Headquarters for cases where norms have not been notified. Applicants have to apply online in ANF 4B, along with prescribed documents to the concerned NC.

#### **2.4.1 Constitution of NCs**

In order to understand the working of NCs and also to ascertain possible reasons for delays in fixation of norms by NCs, Audit requested DGFT to furnish the details of NC composition, manpower, Committee wise workload and backlog. DGFT stated (July 2021) that there were seven NCs at DGFT for major commodities eg. (plastics & rubber, chemical products, pharmaceuticals products, engineering products (group A & B), textile & leather and marine,

foods & misc.). Applicants under no norms category have to approach the respective NCs through the jurisdictional RAs. The composition of NCs includes Chairperson, Convenor, representatives from the Ministry of Finance, Directorate of Drawback, Department for Industrial Policy and Promotion (DIPP), representative from the Ministry/Department concerned, concerned export promotion council/commodity board and any other technical authority that the Chairperson may like to invite.

The pendency position with the NCs are detailed below:

**Table 2.4: Pendency position with NCs (NC-1 to NC-7)**

Period	Opening Balance	Number of application received for fixation	Number of application approved	Number of applications rejected	Closing Balance pending for fixation	Pendency percentage
2015-16	3660	5280	3820	349	4771	53.36
2016-17	4771	5306	4406	470	5201	51.61
2017-18	5201	5083	2932	274	7078	68.82
2018-19	7078	5345	6326	491	5606	45.12
2019-20	5606	3996	Not given	not given	6044	62.95
<b>Total</b>		<b>25010</b>	<b>17484</b>	<b>1584</b>		

Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. As on 31<sup>st</sup> March 2019, the pendency was 5606 which increased to 6044 by 31<sup>st</sup> March 2020 (7.8 per cent). It was the highest (69 per cent) during 2017-18. NC-wise, pendency was observed mostly in NC-3 (Chemical products) and NC-4 (Pharmaceuticals products) wherein pendency as on 31<sup>st</sup> March 2019 was 1,286 and 938 respectively.

Review of authorisations issued during the period from 2015-16 to 2018-19 revealed that 65 per cent of AAs were SION based and the remaining 35 per cent pertained to the no-norms category which are required to be finalized by the concerned NCs. The sample selected for review was accordingly drawn in the same proportion. Test check of selected sample revealed the following inconsistencies:

#### **2.4.2 Delay in fixation of norms by NC**

Para 4.16(i) of HBP 2015-20 states that norms, as applied for, may be treated as final, if the norms are not finalized by NCs within four months from the date of receipt of complete application along with documents / technical details as specified in Appendix 4E.

The provision regarding deemed treatment of applied norms as final was subsequently deleted in December 2017.

Audit reviewed 3,139 cases in nine RAs and found exceptions in 2,113 cases (67 per cent). A few cases of non/delayed fixation of norms as observed at RA level are highlighted hereunder:

Table 2.5 : Non/delayed fixation of norms by NCs

S/No	Name of the RA	No. of cases	Delay range	Remarks
1	Mumbai	2030	Upto 16 years	Test check of licences issued during the period FY16 to FY19 revealed inconsistencies in Management Information Systems (MIS)-3 report viz., 136 files were already redeemed, NC approved in 10 cases and refusal orders issued in 12 cases and yet all these licences featured in the MIS-3 as pending for norms approval with NCs.
2	Delhi	24	19 to 65 months	In 17 cases, EOP was already over, even after considering two extensions allowed under the scheme.
3	Hyderabad	31	4 to 33 months	In 16 out of 31 delayed cases, quantity of input fixed by the NC was less than the quantity applied by the exporters; however, AH in the intervening period had already imported goods against these AAs.
4	Visakhapatnam	9	48 months (till May 2021)	Not yet fixed in any of the cases. In six other cases, nothing was found on record to suggest that NC was approached for fixation of norms.
5	Kolkata	8	68 months (till May 2021)	AH imported goods against each Authorisation, though the cases have neither been finalized by NC nor any letter/ Show Cause Notices (SCNs) issued by RA to the AH for regularization, even after three years from the expiry of EOP.
6	Kanpur	3	66 months (till May 2021)	Not yet fixed in any of the cases. RA kept pending issue of EODC on the basis of non-finalization of norms by NC.
7	Bengaluru	3	66 months (till May 2021)	The EO period expired in all these cases and AH could not submit the closure/EODC applications as the SION approval/norms ratification was still pending with DGFT. In one case, M/s. A Ltd. approached RA Vadodara for EODC as Customs held its export consignment due to pendency of its redemption/ EODC application. However, EODC is pending due to non-fixation of norms by NC.
8	Vadodara	2	65 months (till May 2021)	
9	Jaipur	3	50 months (till May 2021)	
<b>Total</b>		<b>2113</b>		

Scrutiny revealed that the major reasons for delay in fixation of norms were delayed listing of cases in the agenda of NC meetings and also delays in furnishing of technical opinions/comments from Competent Authorities of the concerned Ministry/Department/Technical Experts. Besides, non/late receipts of application from RAs to the NC also added to the overall delay.

**Recommendation No. 4: With delays in fixation of norms ranging from four months to 16 years (when the time limit prescribed for duty free inputs and exports under the AA scheme is 12 months and 18 months respectively), the Norms Committee (NC) system for the no-norms category is not working effectively and DGFT needs to review the system comprehensively to assess its practicability and feasibility, while minimizing the scope for misuse.**

DGFT stated (February 2021) that pendency is being reviewed periodically at Headquarters and all NCs have been asked to expedite the fixation of norms. The revamped IT Systems effective from 1 December 2020 is envisaged to be paperless wherein intermediate stages viz., forwarding application to NCs, Comments of Technical Authorities and its responses would be handled online and the prescribed time limit of four months for fixation of norms is expected to be achieved.

There were significant delays in fixation of norms beyond the prescribed period of four months, ranging from 4 months to 16 years, as against the time limits of 12 months and 18 months respectively for imports and fulfillment of export obligation. With non-finalization of norms in time, EODC cannot be issued to exporters within the prescribed period, which results not only in blocking of bonds and BGs but also increases non-fulfillment of EO cases. Further, this also delays the initiation of proceedings against the firms by RAs and Customs Authorities for making recovery of Customs duty and interest thereon for default cases besides penalizing genuine AHs, who are not getting EODCs even after complying with all the stipulated conditions. Progress of implementation of the new IT systems will be reviewed in subsequent Audits.

#### 2.4.3 Non-existence of maximum time limit to represent a case

Para 4.17 of HBP 2015-20 stipulates that the applicant may represent against the decision of the NC with regard to fixation of norms within 90 days from the date of hosting of decision on DGFT site. Representation beyond 90 days shall be subjected to payment of composition fee of ₹5000/-.

RA Bengaluru issued (September 2015) AA to M/s. B Ltd. under “no norms” category, which was to be ratified by NC. NC rejected (August 2018) the case and the firm submitted (October 2018) a representation for review of NC decision, which is still pending. The EO period was upto March 2017. No response was given by the firm to the RA when asked (January 2019) to regularise the case by paying duty on the imports made, as the case for “no norms” was rejected by the Committee. No further action has been taken by the RA till date.

Test check by CLA Delhi revealed that in three cases, the applicant represented after 216 to 1,118 days from the date of decision made by NC and all the three cases are still under consideration with NC.

RA Bengaluru stated that firm had represented to the NC against the rejection as per provision of HBP 2015-20. Reply from CLA Delhi is awaited.

There is no maximum time limit in the FTP/HBP to represent against the decision of NCs resulting in delay in the initiation of proceedings against AH by RAs and Customs Authorities for making recovery of Customs duty and interest thereon.

***Recommendation No. 5: DGFT may consider prescribing a time limit within which appeals for reviewing NC decisions can be made.***

DGFT while appreciating the recommendation stated (February 2021) that this would be examined in detail at the time of bringing out the next FTP.

#### 2.4.4 Excess Import entitlements approved by NC

Excess imports approved by NCs or delay in approving of norms by NCs were observed in seven of the 893 AAs audited, involving duty recoverable amounting to ₹2.04 crores in three RAs as given in the table below:

**Table 2.6 : Excess import entitlements approved by NC**

S/ No	RA	Name of the Firm	Number of AAs	NC Decision	Excess imports (₹ in lakh)	Remarks
1	Jaipur	M/s. C Ltd.	1	August 2018	147.80	NC decision came after 19 months restricting wastage to 5 and 2.9 per cent whereas the firm claimed 32 per cent
2	Mumbai	M/s. D Ltd.	3	April 2016	48.87	AA issued under no norms repeat basis but Appendix 4E and previous three years declaration revealed that the consumption of input was less than the norms fixed by NC
3	Delhi	M/s. E & F	3	All three AAs redeemed by CLA	6.98	Comparison of imported inputs to that actually consumed in production of exported quantity revealed excess imports
<b>Total</b>			<b>7</b>		<b>203.65</b>	

DGFT stated (February 2021) that CLA Delhi recovered ₹8.94 lakh, and RA Mumbai and Jaipur have initiated action against the firms to recover the applicable customs duty.

#### 2.4.5 Non-payment of Customs Duty on rejection of AA application for norms

As per para 4.07 (i) of HBP, RA may issue AA where there is no SION/valid adhoc norms for an export product or where SION/adhoc norms have been notified/published but exporter intends to use additional inputs in the manufacturing process, based on self-declaration by the applicants. In case of revision/rejection, applicant shall pay duty and interest as notified by DoR within thirty days from the date of hosting of NC decision on DGFT website.

RA Mumbai issued (June 2018) AA to M/s. G Ltd. under “no norms” category and the case was referred to NC. It was seen that NC rejected (September 2018) the norms stating that “technical inputs are not available from the Department/Ministry, concerned”. The applicant was advised to adopt the drawback route<sup>8</sup> and not the Ad-hoc AA route. Henceforth, the RA was directed not to issue any fresh AA on Ad-hoc norms basis for such export product.

As NC rejected the norms, the AH was required to pay import duties on all import and regularize the licence. However, RA extended the validity of AA by six

<sup>8</sup>Duty drawback is provided under Customs Act whereby the exporters get the refund of taxes paid on inputs used in the export goods. This drawback is given at Scheduled rates fixed on year-to-year basis. The exporters who use the Scheme of Advance authorisation are not entitled to opt for drawback route. Even if they want to claim drawback on some inputs which are domestically procured on payment of duties, the exporter is required to state their intention of claiming drawback on such inputs at the time of application to authorization.

months (from June 2019 to December 2019) and the applicable duty of ₹3.52 crore on imports of CIF ₹23.49 crore made against the AA is still recoverable.

The same unit was issued (June 2017) AA and case referred to NC for fixation of norms. NC rejected the norms and therefore duty forgone estimated at ₹7.03 crore should have been recovered.

Similarly in RA Kochi, in two out of four cases rejected by NC, the AH did not pay Customs duty of ₹24.50 lakh forgone on import of inputs involving CIF value of ₹1.06 crore. Further, in one case, RA revalidated the Authorisation for a further period of six months even after rejection by NC, which is not in order.

DGFT, in respect of RA Mumbai, stated (February 2021) that the matter was being taken up with NC concerned and in respect of RA Kochi, demand notices had been issued against the firms to pay the applicable customs duty.

#### **2.4.6 Fixation of norms without certificate of Chartered Engineer (CE)**

As per Paragraph 4.06 of HBP 2015-20, in case where SION have not been notified, application in ANF 4B, along with prescribed documents shall be uploaded online to the NC concerned in DGFT for fixation of norms. For fixation of SION, Technical data sheet (Appendix-4E) and CE certificate (in Appendix-K) are required to be submitted by the exporter.

In eight of the selected sample of 335 AAs (2 per cent) reviewed in RA Ahmedabad, it was seen that none of the exporters submitted the prescribed Appendix-4K (CE certificate for fixation of SION) in any of the applications; however, NC fixed norms in all the authorisations. Based on these SION, import/exports were effected by the exporters and EODC was issued by the RA in five out of eight cases while remaining three cases are pending for EODC. This resulted in irregular fixation of SION without Appendix 4K in eight Authorisations involving total CIF value of ₹164.28 crore.

RA Ahmedabad stated (November 2020) that fixation of adhoc norms are done by respective NCs. The reply of RA is not acceptable as SION was fixed without the required CE Certificates.

#### **2.4.7 Applying for fixation of norms within the validity period of earlier norms on same Export/Import**

Para 4.12 of HBP stipulates that when NC ratifies norms for the same export and import products in respect of an authorisation obtained under self-declaration norms, such norms shall be valid for a period of two years reckoned from the date of ratification and the same applicant can avail repeat authorisation based on such adhoc norms. DGFT vide PN 64 dated 27 December 2018 amended Para 4.12 of HBP and stated that norms ratified by NCs shall be valid for the entire period of the FTP i.e. up to March 2020 or for a period of three years from the date of ratification, whichever is later. Since all decisions of the NCs are available in the form of minutes on the DGFT website, all other applicants of Advance

Authorisation are also eligible to apply and get their authorisations based on such ratified norms on repeat basis during validity of these norms.

RA Mumbai issued (April and June 2018) two AAs to M/s. H Ltd., based on two different norms fixed by NC for same export/import to the same firm during May and June 2018.

Similar observation was made in RA Kanpur where although the firm, M/s. I Ltd. applied (July 2016) for AA under repeat basis based on norms finalized for the same import/export previously in January 2015, RA forwarded (July 2016) the case to NC for fixation of norms, which is still pending even after lapse of four years.

DGFT stated (February 2021) that only 2 per cent wastage was allowed in the norms and any other benefits taken by the AH would be recovered.

RAs should have allowed the successive AAs on repeat basis as NC had already ratified the same export/import norms for the same company previously and NC, wherein huge pendency are already existing, could have returned the application as norms were already fixed and are valid for the next two years/extended period as revised.

#### 2.4.8 Other Inconsistencies in the fixation of norms by NC

Other inconsistencies in fixation of norms were observed in three RAs (Ahmedabad, Kochi and Pune) in respect of nine AAs involving duty foregone amounting to ₹4.24 crore as detailed below:

**Table 2.7 : Other inconsistencies in fixation of norms**

S/No	RA	Name of the Firm	No. of AAs	Item description	Duty Foregone (in lakh)	Remarks
1	Ahmedabad	M/s J Ltd	2	Direct brown SBR (Dye)	398.62	RA issued EODC (October 2018) even though there was inconsistency in fixation of SION by NC for the same quantity of exports for two AAs and non-furnishing of central excise consumption certificate to NC despite its insistence.
2	Kochi	M/s K Ltd	1	Capsaicin Powder	25.58	As per the ANF 4F, 42.50 per cent of imported inputs remained unutilized. However, NC disposed (July 2019) the case, directing RA to redeem the AA based on Sample Analysis Report (SAR) of Spice Board, Cochin. The import item does not fall in the category of Spices and therefore does not come under the purview of Spice Board. No action was taken by RA, Kochi and also the case is pending with Customs Department.
3		M/s L Ltd	5	Refined oleoresin Paprika	-	RA issued EODC even though the export item was not compatible with SION E-95.
4	Pune	M/s. M Ltd	1	Knitted Sweaters	-	Applied to NC even though SION norms 71/161 exists
<b>Total</b>			<b>9</b>		<b>424.2</b>	

DGFT stated (February 2021) that the matter was under examination and demand notices issued. It would be ensured that norms would be fixed expeditiously and excess imports, if any, would be recovered.

### 2.5 Inadequate monitoring of Denied Entity List (DEL)

Para 2.15 (c) of FTP 2015-20 read with Rule 7 of the FTDR Rules, 1993 states that for contravention to law relating to Customs or foreign exchange, default of EO and in case of fraud and mis-declaration, an entity can be placed under DEL. On issuance of such order, for reasons to be recorded in writing, a firm may be refused grant or renewal of licence, certificate, scrip or any instrument bestowing financial or fiscal benefits. Para 2.15 (d) of FTP states that DEL order may be placed in abeyance, for reasons to be recorded in writing by RAs for a period not more than 60 days at a time. Further, Para 2.15 (e) enables RAs to remove a firm's name from DEL, for reasons to be recorded in writing, if the firm completes EO/pays penalty/fulfils requirement of Demand Notice(s) issued by the RA/submits documents required by the RA.

Therefore, DEL mechanism helps RAs to refuse authorisations to applicants who have not complied with conditions of previous authorisations/procedures of FTP and HBP and deny the benefit to such firms. The following irregularities were observed in 193 (19 per cent) of the 1,033 cases audited:

**Table 2.8 : Inadequate monitoring of DEL**

S/ No	Name of the RA	Number of AAs	Remarks
1	Hyderabad	175	RA placed three firms under DEL for non-compliance to Authorisations after more than 10 years from the date of placing the exporter in DEL. Meanwhile, the same firms were issued 175 AAs (150-redeemed and 25-unredeemed) involving CIF value of ₹712.32 crore
2	Mumbai	12	RA issued 12 fresh licences with CIF value of ₹123.91 crore by putting 68 DEL orders in abeyance in respect of two firms despite the fact that multiple DEL orders were issued for non-compliance to statutory provisions viz., non-submission of export documents, etc.
3	Ahmedabad	3	RAs issued five licences with CIF value of ₹43.52 crore to five firms under DEL without issuing formal abeyance orders as specified in DGFT Circular (December 2003) for management of DEL cases.
4	Pune	2	
5	Kanpur	1	RA issued AA with CIF value of ₹5.38 crore without recording any reasons, even though the firm had been placed under DEL list by RAs Kolkata and Vadodara. It was noticed that after a lapse of 20 months from the expiry of EOP, the RA listed the AA holder on DEL (July 2019) and asked Customs Port (ICD-JRY Kanpur) for utilization of licence (November 2019). However, scrutiny of Customs port records revealed that the licence was not registered at the Port.
<b>Total</b>		<b>193</b>	

DGFT stated (February 2021) that abeyance is given to IEC and not to the individual files. Therefore, once abeyance is given, all files in DEL under the said

IEC are deemed to have been non-operational. The matter is under examination and status will be intimated in due course.

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of licences, to be ineffective with inordinate delay in placing the entities under DEL which ranged upto 8 to 13 years and issuing of multiple abeyance orders. As seen from the above instances, abeyance orders were issued without recording any reasons and AAs were issued to DEL status without issuing abeyance orders. Further, there is no limit fixed for the number of abeyance orders that can be issued to an exporter under the extant rules/procedures. DGFT last uploaded the DEL on its website in March 2021, wherein penalties imposed since 21 October 2016 were indicated.

Besides, there is no mechanism for the RA to know if the applicant has been penalized under Customs Act and rules thereunder, as there is no exchange of information about such penalized entities between Customs and DGFT offices. Issue of authorisation is purely based on the self-declaration of the applicants.

***Recommendation No. 6: DGFT may ensure updating of DEL in a timely manner and may review the process of issuing abeyance orders. Further, the DEL should include details of penalties imposed for the prior period, and results of action taken, recoveries made, adjudications, etc. Interest of revenue may be protected in the form of BG either for the duty involved in pending exports before grant of abeyance order or full BG for duty involved in respect of fresh licences issued against abeyance orders.***

DGFT stated (February 2021) that ECA Division have issued (January 2021) Model Guidelines and Timelines to all RAs for Adjudication Proceedings under FTDR Act. The new IT System was being put in place for comprehensive monitoring of adjudication proceedings.

Response of DGFT is not pertinent, as monitoring of DEL and issue of abeyance orders are not part of the adjudication process.

## **2.6 Irregular issuance of Authorisations to ineligible applicants**

Audit reviewed 2,555 cases in six RAs and found the following deficiencies in 56 cases (two per cent):

### **2.6.1 Issue of Authorisations to Small Scale Industries (SSI) units beyond its capacities**

RA Pune issued 18 Authorisations (nine each to M/s. N Ltd. and M/s. O Ltd.) from August 2015 to May 2016 permitting import of copper rods with CIF value of ₹132.28 crore with duty saved amounting to ₹29.64 crore.

Scrutiny of records revealed that both the firms based in Kondhwa, Pune were having SSI registration, whose turnover as per Central Excise provision are expected to be within ₹one and half crore only. None of the firms had any past

export performance nor had they effected any exports against the AAs issued though their EOP expired way back in August 2017. SCNs have been issued to both the firms.

It was seen from publically available information that Directorate of Revenue Intelligence (DRI) booked (press release dated 31 December 2018) cases on exporters based in Pune having units in Kondhwa and Baddi misusing AA Scheme to import copper rod with CIF value of ₹173 crores involving Customs duties of ₹40 crore. These units in fact had no manufacturing facilities and they diverted their inputs into open market.

Issuing of 18 authorisations without checking of credentials, past performances and annual capacities and allowing duty free imports valuing ₹132.28 crore within a span of 10 months to small units, applying for the first time is fraught with the risk of being misused.

In a similar observation, RA Mumbai issued 15 AAs to three SSI Unit (M/s. P Ltd., M/s. Q Ltd. and M/s. R Ltd.) who were applying for the first time and who did not have any past export performance, for importing goods with CIF value of ₹92.38 crore with duty saved amounting to ₹20.48 crore. Two firms failed to fulfill EO even though the EOP had already expired and the third firm has not submitted any proof of export performance so far.

DGFT stated (February 2021) that FTP does not comment on credentials of exporters having SSI units with no export performance. Based on DRI's reference, the firm has been put under DEL. SCNs have been issued to the two firms and progress in the matter would be updated. Response in respect of other three Mumbai based firms is awaited.

***Recommendation No. 7: DGFT needs to put in place a mechanism for verifying credentials of exporters before issuing multiple AAs to firms (especially SSI Units with no past export performance) seeking to import/export goods for the first time. Further, DGFT should verify completion of EODCs in respect of earlier AAs, if any, before issuing fresh AAs.***

DGFT stated (February 2021) that extant provisions have value limitations for AAs issued on self-declaration basis. DGFT quoted Customs Circular 58/2004 (October 2004) wherein revenue interest is protected by imposing BG and there appears no need to verify credentials before issuing multiple AA in every case.

The value limitation is prescribed for AAs on self-declaration basis and not for all categories of AAs i.e, SION based, self-ratification scheme, applicant specific prior fixation of norms and self-declaration scheme. As SSI registration is expected to have turnover of only ₹one and half crore, firms applying for multiple AAs without having any past exports records are fraught with the risk of misuse as evident from DRI's reference. It would be prudent to verify the credentials in such instances. On being ascertained whether the BG of 15 per

cent or enhanced value was taken, DGFT stated that the matter pertained to DoR and comments of DoR may be obtained. Response of DoR is awaited.

### 2.6.2 Issuance of AAs to ineligible firms

As per rule 4.42 (a) of HBP, the period for fulfillment of EO under AA shall be 18 months from the date of issue of authorisation and as per rule 4.44 (b) of HBP, AH shall file an application online by linking details of shipping bills against the authorisation within two months from the date of expiry of the EO period. In case AH fails to complete EO or fails to submit relevant information/documents, RA shall enforce the condition of authorisation and Undertaking and also initiate penal action as per law, including refusal of further authorisation to the defaulting exporter.

CLA Delhi and RA Jaipur issued fresh licences with CIF value of ₹52.07 crore involving duty foregone of ₹13.94 crore despite the fact that AH had not furnished the required documents of redemption of previous pending five AAs. In CLA Delhi, the applicant while applying for the new licence stated in its declaration that the previous EO were not fulfilled even though the prescribed EO period had expired.

RA Jaipur replied (March 2020) that the said file was sent to the record branch without reviewing with the redeemed files bundle and the firm has already submitted documents towards redemption of the case and DL/reminders already sent to the firm for furnishing the required documents. CLA Delhi replied (August 2020) that firm was not in DEL and therefore AAs were issued with conditions.

Reply is not acceptable as new authorisation issued to the ineligible firm was in contravention of provision of Rule 7 of Foreign Trade (Regulation) Rules, 1993.

The aim of the AA Scheme is to allow duty free imports of inputs to promote export to earn net foreign exchange. Issuing of new licences to a firm in the absence of non-fulfillment of export obligation of previous AAs in a timely manner defeats the very purpose of the Scheme.

***Recommendation No. 8: DGFT may reiterate its instructions to RAs on monitoring of non-furnishing of redemption documents of pending AAs by the AH, before issuing fresh AAs.***

DGFT stated (February 2021) that autofill feature has been implemented and necessary instructions have been reiterated to RAs for due monitoring of non-furnishing of redemption documents of pending AAs.

The period covered during the audit was 2015-16 to 2018-19; therefore the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### 2.6.3 Issue of Authorisations to entities with no/relevant RCMC

As per Para 2.94 (a) of HBP, while applying for RCMC<sup>9</sup>, an exporter has to declare his main line of business in the application. The exporter is required to obtain RCMC from the Council which is concerned with the product of his main line of business. As per Para 2.94 (b) in case an export product is not covered by any Export Promotion Councils (EPC)/Commodity Board etc., RCMC is to be obtained from the Federation of Indian Exports Organisation (FIEO). While applying for AA, details regarding RCMC are required to be mentioned by the applicant in ANF 4-A.

Review of RCMC in 927 cases in two RAs (Mumbai and Pune) revealed that exporters did not have RCMC issued by the relevant EPC in nine authorisations involving duty foregone of ₹51.96 crore as detailed below:

**Table 2.9 : Issue of AAs based on no/relevant RCMC**

S/ No	Name of RA	No of AAs	Duty foregone (₹ in cr)	RCMC required from	RCMC taken from	Remarks
1	Mumbai	1	11.77	Synthetic & Rayon Textiles Export Promotion Council (SRTEPC),	Cotton Textiles Export Promotion Council	Exporters of polyester and viscose based textiles were required to obtain RCMC from SRTEPC
2	Mumbai & Pune	8	40.19	Engineering Export Promotion Council (EEPC), Chemical and Allied EPC, Plastic EPC, Agricultural and Processed Food Products Export Development Authority	FIEO	Exporters had taken RCMC from FIEO instead of applicable certificate from relevant councils
<b>Total</b>		<b>9</b>	<b>51.96</b>			

RA Mumbai and Pune stated that cases where exporters have multiple products, RCMC from FIEO was acceptable as per extant provisions.

Reply is not acceptable as in cases of multiple products, RCMC is to be taken from specified council concerned with the product of its main line of business.

### 2.6.4 Irregular issue of AA and Non-fulfillment of actual user condition

Para 4.16 of FTP 2015-20 specifies that the AA and/or material imported under AA shall be subject to "Actual User" condition. The same shall not be transferable even after completion of EO.

<sup>9</sup>RCMC is Registration cum Membership Certificate which is granted by various Export Promotion Councils (EPCs). This is a mandatory requirement for grant of AAs. Para 2.94 of HBP stipulates that RCMC is to be taken from the Council which is concerned with product of applicant's main line of business. In case an export product is not covered by any Export Promotion Council/Commodity Board etc., RCMC in respect thereof is to be obtained from FIEO.

RA Kolkata issued three AAs to M/s. S Ltd. as Merchant Exporter with Baddi, Himachal Pradesh unit of M/s. T Ltd. endorsed as supporting manufacturer in the AA. It was observed in audit that M/s. S Ltd. itself is registered as a manufacturer exporter as per RCMC. Besides, the address, phone, e-mail, fax and website was the same for both the firms (M/s. S Ltd. and M/s. T Ltd.). The goods were exported by M/s. T Ltd. located in Ahmedabad whereas AAs were issued for manufacturing by the other plant located in Baddi, Himachal Pradesh. Export documents (SB/BRCs/Invoices) nowhere reflected the name of the supporting manufacturer (M/s. T Ltd.) and the condition of actual user condition was therefore not fulfilled by M/s. S Ltd. Hence, availing of duty exemption of ₹24.25 lakh was irregular, which needs to be recovered along with interest.

RA Kolkata subsequently redeemed the three AAs issued to M/s. S Ltd. without verification of tie-up agreement and the correctness of the declaration of the firm as a merchant exporter.

DGFT stated (February 2021) that response from RA Kolkata is awaited.

## 2.7 Irregular issuance of Authorisation on ineligible supplies

### 2.7.1 Issue of AA on supplies made to other AH and spices

Para 4.05(c)(iii) of FTP specifies the goods for which AA shall be issued and excludes supply of goods under category 7.02(a) i.e., AA shall not be issued for supply of goods to another holder of AA. Similarly, Para 4.11(iii) of FTP states that "all Spices other than light black pepper (light berries) having a basic Customs duty of more than 30 per cent classified under Chapter 9 and 12 of ITC (HS) book" are not eligible for Advance Authorisation to import on self-declaration basis.

Irregularities in issue of AAs in respect of intermediate supplies and spices were observed in RA Mumbai and RA Kochi as detailed hereunder:

**Table 2.10 : Irregularities in issue of AAs on intermediate supplies and spices**

S/No.	RA	Number of cases	Amount involved (₹ in cr)	Remarks
1	Mumbai	1	2.22	RA issued (October 2017) an AA to M/s. U Ltd. for supply of materials with FOB Value of ₹21.78 crore to three other AHs under category 7.02(a), which is not allowed.
2	Kochi	1	1.15	RA issued (July 2016) an AA to M/s. V Ltd. on self-declaration basis for import of Light White Pepper which attracts Customs duty of 70 per cent. As the duty was more than the prescribed limit allowed under the scheme, the firm was therefore not eligible for grant of AA. The firm however imported White Pepper berries with CIF value of ₹143.33 Lakh against the licence.
<b>Total</b>		<b>2</b>	<b>3.37</b>	

DGFT, in respect of intermediate supplies pertaining to RA Mumbai, stated (February 2021) that AA can be issued to intermediate supplies i.e., supplies to other AHs as per Para 4.05(ii) of the FTP. Since it is already mentioned in Para 4.05(c)(ii), the same is not mentioned against serial No. 4.05(iii) to avoid duplication and confusion. In respect of RA Kochi, DGFT stated (February 2021) that demand notice has been issued to the firm.

The reply in respect of RA Mumbai is not tenable as Para 7.02(a) is not included in Para 4.05(iii) in the new FTP 2015-20.

### **2.7.2 Issue of AA for Export of Special Chemicals, Organism, Materials and Technologies (SCOMET) Items**

Para 4.18 (v) of FTP r.w. Para 4.27 (c) of HBP stipulates that export of restricted SCOMET items shall be subject to all conditionality or requirements of export Authorisation or permission, as may be required, under Schedule 2 of ITC (HS), which include requisite SCOMET Authorisations to be obtained from DGFT.

Further, while applying for AA, the firm gives an undertaking/declaration to the effect that list of SCOMET items as contained in Appendix 3 to the Schedule 2 of the ITC (HS) Classifications of Export-Import Items, 2004-09 has been perused and that the item(s) exported / proposed to be exported does not fall within this list.

RA Bengaluru issued six AAs involving CIF value of ₹150.60 crore to M/s. W Ltd. Limited for export of components of aircrafts under aerospace category. However, on verification the exported goods were found to be components of military aircraft and coming under the category of SCOMET (Sl. No. 5D001 of appendix 3 to schedule 2 of ITC (HS)) item. Therefore, the firm should have filed the application for export authorisation in ANF-2E to DGFT and should have got permission letter (SCOMET authorisation) for obtaining export authorisation from the concerned Zonal/Regional office of the DGFT. However, it was observed that the firm had submitted application for AA directly without taking approval for the same from DGFT, and RA issued Authorisations too, without verification of the application/documents properly, in contravention of policy. Besides, the firm is liable to penal action under FTDR Act 1992 for giving wrong declaration in this regard.

DGFT stated (February 2021) that the firm gave an undertaking assuring that the items exported are not covered under SCOMET and it is the responsibility of the firm to obtain SCOMET Licence for clearance of goods for exports at Customs at the time of obtaining of AA.

The reply is not acceptable because it is the responsibility of RAs to verify export items and ascertain whether they fall under category of SCOMET items before issuing Authorisation, and cannot depend entirely upon the declaration made by firm. Thus, poor due diligence by RA resulted in issue of AA to items which are either prohibited or permitted under a licence contrary to the guidelines for export of SCOMET items.

## 2.8 Other Irregularities

### 2.8.1 Non-observance of financial powers while issuing AAs

The financial powers for issue of AAs have been specified by DGFT in terms of CIF value vide O.M. 1/2015 (February 2015) to be issued by the respective designated Authorities such as FTDO, Deputy DGFT, Jt. DGFT, DGFT and MOCI, including AAs for annual requirement/DFIA/Advance Release Order (ARO)/Invalidation letter under duty exemption Scheme.

Non-observance of financial powers in issuing AAs was observed in the following instances:

(i) RA Bengaluru issued 86 AAs to M/s. X Ltd. during 2015-16 and 2017-18 having total CIF value of ₹84,201.64 crores and FOB value of ₹85469.52 crores for importing Gold Bars and exporting Gold medallions. Scrutiny revealed that during 2016-17, two to three AAs were issued on the same day in respect of 11 cases. The CIF value of each of Authorisation was marginally kept at less than ₹1000 crores (within the delegated financial power for sanction at the level of Additional DGFT) in all these cases so that AAs may not have to be sent to DGFT Delhi for approval and sanction. **(Annexure 2)**

(ii) Non-observance of delegated powers in issuing of AAs was observed in 12 instances out of 835 cases across five RAs (Ahmedabad, Guwahati, Hyderabad, Kolkata and Panipat). DGFT stated (February 2021) that financial power is upto ₹1000 crore and AAs were issued within the delegated financial powers. In other cases, RAs have sought ex-post facto approval of DGFT.

The reply of DGFT is not acceptable because both input and output were identical in all these cases, and AAs have been issued on the same day. The Authorisations were split to avoid forwarding the same to DGFT for further scrutiny and approval, thereby circumventing the O.M. *ibid*.

### 2.8.2 Condition of Bank Guarantee not endorsed on Authorisation

Para 4.12 of HBP 2015-20 stipulates that maximum CIF value of authorisations to be issued under Para 4.07 of HBP (No norms category) shall be 300 per cent of FOB value of the preceding year's export/supplies for status holders and ₹10 crore or 300 per cent, whichever is more, for others. Para 4.13 states that an applicant shall be entitled for Authorisation in excess of entitlement mentioned in Para 4.12 subject to furnishing of 100 per cent BG to Customs authority to cover exemption from Customs duties. A specific endorsement to this effect shall be made on Authorisation so that Customs Department insists on BG before registration of AA.

RA Mumbai issued two AAs with CIF value of ₹268.37 crore to M/s. Y Ltd. under no norms category during 2018-19. As the FOB value of exports for the preceding year was ₹16.54 crore, the CIF value without BG condition should

have been allowed only for ₹49.62 crore (300 per cent of FOB value of ₹16.54 crore) which resulted in allowing excess imports of ₹218.75 crore without any BG condition. During 2019-20, the AH was further issued eight AAs with CIF value of ₹1189.36 crore without any BG condition endorsed in the AAs.

Similarly, RA Pune issued AA (November 2016) to M/s. Z Ltd, Pune for CIF value of ₹18.20 crore without endorsement of 100 per cent BG condition on excess CIF value, although the firm itself had given working of balance entitlement of ₹3.47 crores.

RA Mumbai stated that the 2<sup>nd</sup> licence was issued on repeat basis as per Para 4.12 (ii), and once ad-hoc norms were fixed by the NC, limits would not be applicable for licences issued under no norms. RA Pune stated that AA was issued correctly within the entitlement.

The reply of RA Mumbai is not acceptable as both the licences were issued on the same date (19.02.2019) and norms in the licence were finalized in July 2019, and the 2<sup>nd</sup> licence was issued under no norms case only. Hence, BG should have been insisted for the 2<sup>nd</sup> licence. Response of RA Pune is not tenable in view of firm's declaration of excess CIF amounting to ₹3.47 crores.

### **2.8.3 Irregular removal of 100 per cent BG condition**

Para 2.58 of the FTP mandates DGFT to grant exemption, relaxation or relief to any person from provisions of the FTP or any procedures after consulting with the relevant committee specified therein. In case of giving relaxation to any conditions of authorisations, DGFT has to consult Policy Relaxation Committees (PRC<sup>10</sup>).

RA, Pune issued (November 2017) AA to M/s. AA Ltd with 100 per cent BG condition, as the firm had already crossed the maximum entitlement. It was however, noticed that the BG condition was removed based on an e-mail dated 27.11.2017 received from the Addl. DGFT, New Delhi. Since the power to relax the policy condition vested with DGFT after consulting with PRC, removal of 100 per cent BG condition based on an e-mail from Addl. DGFT was not justified. Moreover, the copy of the email was not available on record. Further, the AH had defaulted in submitting the proof of export fulfillment.

DGFT stated (February 2021) that the demand-cum-SCN has been issued for submission of documents evidencing EO fulfillment. The reply, however, was silent about the waiver of the BG condition.

### **2.8.4 Incorrect issue of Authorisation on net to net basis**

As per General Note on Engineering Products, Para 4 (a) of SION, where norms have not been standardized/published and the applicant seeks to import only

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<sup>10</sup>Policy Relaxation Committee (PRC) is also referred to as Exemption from Policy/Procedures (EPP). DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures.

components, the same may be allowed to import on net to net basis without any wastage, by the licensing authority. In such cases, the import of components allowed shall be permitted with accountability clause and the type, technical specifications etc. of the components sought for import should conform to those utilized in the manufacturing of the resultant product, which should be reflected in the export documents and a condition to this effect shall be endorsed on the licence.

RA Mumbai issued (May 2017) AA to M/s. AB Ltd. for export of Integrated wiring harness. It was noticed that Appendix 4E (technical data representing inputs required for each unit of export product) submitted by the firm did not indicate specific quantity of the components required for each export product, and only stated 'Net to Net' in the relevant column. The consumption data of the last 3 years certified by Chartered Accountant failed to exhibit any specific pattern of consumption for any of the component, which varied from 0.06 to 22.74 per export item. The application was not in conformity with the Net to Net provision of General Notes for Engineering products; still, licence was issued based on this irregular information and incorrect certified data.

Similar observation was made in RA Coimbatore which issued (July 2015) an AA to M/s. AC Ltd. Quilon/Pollachi for import of Cashew Kernels Broken with CIF value ₹660.27 lakh involving a duty of more than 30 per cent for export of dry/roasted cashews on Net to Net basis. NC rejected (December 2013) the case citing the reason that import item being a Chapter 8 item with Customs duty of more than 30 per cent was not eligible for grant of AA. Subsequently, NC allowed (June 2014) licence on net to net basis with accountability clause.

The concept of "net to net" is not mentioned in the general notes of Import Policy for food products, indicating that Cashew Kernel being in the category of food products is not eligible under net to net category; however, the licence was issued. The duty foregone worked out to ₹297.12 lakh based on actual utilization of Authorisation.

DGFT stated (February 2021) that the firm (M/s. AB Ltd.) has been placed in DEL and RA Coimbatore has issued SCN to the other firm (M/s. AC Ltd.)

#### **2.8.5 Short collection of application fees**

Appendix-2K of HBP prescribes application fee on AAs at the rate of rupee one per thousand of CIF value of import subject to a minimum of five hundred rupees and maximum of one lakh rupees. As per Paragraph 4.40 of HBP, the application fee payable for enhancement would be the difference in CIF value of original and final Authorisation.

Review of 1,409 selected sample cases in five RAs (Ahmedabad, Kolkata, Mumbai, Hyderabad, and Visakhapatnam) revealed short collection of application fees amounting to ₹9.68 lakh in 34 cases (2.4 per cent).

DGFT stated (February 2021) that RA Visakhapatnam recovered ₹1.29 lakh in four cases and other RAs have asked the firms to pay the application fee.

### Conclusion

There were acute staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies, which could be adversely impacting the ability of DGFT in ensuring effective implementation and monitoring of not only Advance Authorisation but also other Schemes under FTP.

The substantial delay in issue of AAs indicated failure of the automated system in achieving the objective of simplification of procedures and ease of doing business during the audit period of 2015-16 to 2018-19. The process of issuance of AAs though automated, required manual intervention as the mandatory online filing of prescribed documents along with the application could be implemented only in May 2019, whose implementation will be reviewed in future audits. Till then, all the prescribed documents were being submitted physically which defeated the purpose of facilitating an online system besides resulting in inordinate delays in issuing of AAs despite having prescribed timelines.

Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. As on 31st March 2019, the pendency was 5606 which increased to 6044 by 31st March 2020 (7.8 per cent).

There were significant delays in fixation of norms beyond the prescribed period of four months, ranging from 4 months to 16 years, as against the time limits of 12 months and 18 months respectively for imports and fulfilment of export obligation. With non-finalization of norms in time, EODC cannot be issued to exporters within the prescribed period, which results not only in blocking of bonds and BGs but also results in increase of non-fulfillment of EO cases. Further, this also delays the initiation of proceedings against the firms by RAs and Customs Authorities for making recovery of Customs duty and interest thereon for default cases, besides penalizing genuine AHs, who are not getting EODCs even after complying with all the stipulated conditions.

There is no time limit prescribed in FTP/HBP for representation against the decision of the NCs resulting in delay in initiation of proceedings against the AHs by RAs and Customs Authorities for making recovery of custom duty and interest thereon.

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of licences, to be ineffective with inordinate delay in placing the entities under DEL which ranged upto 8 to 13 years and issuing of multiple abeyance orders. There is no limit fixed for number of abeyance orders that can be issued to an exporter under the extant rules/procedures. Besides, there is no mechanism for the RA to know if the applicant has been penalized under the Customs Act and rules thereunder, as there is no exchange of information about such penalized entities

between Customs and DGFT offices. Issue of authorisation is purely on self-declarations of the applicant.

There is no verification of credentials by RAs before issuing multiple AAs, especially to SSI Units with no past export performance and seeking to make substantial imports beyond its installed capacity. Further, issuing of new licences to a firm in the absence of non-fulfillment of EO of previous AAs in a timely manner defeats the very purpose of the Scheme.

### Recommendations

- 1. DGFT/ Department of Commerce should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that it is well equipped to ensure implementation and monitoring of Advance Authorisation and other Schemes, in case DGFT intends to continue with the schemes.**
- 2. DGFT may review the manual and automated processes for timely issuance of AAs by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents. The sufficiency of timelines (or otherwise) of such issuance may also be reviewed. Significant delays (ranging from three months to more than two years) in issuing AAs by DGFT vis-à-vis the prescribed timelines of three days defeats the very purpose of the scheme of getting imported items at prevalent international prices as the possibility of fluctuation of prices cannot be ruled out in such extended period.**
- 3. With advancement in manufacturing processes and facilities as well as technological upgradations across sectors over time, DGFT should conduct a comprehensive review of the SION notified through HBP Volume-II in 2009.**
- 4. With delays in fixation of norms ranging from four months to 16 years (when the time limit prescribed for duty free inputs and exports under the AA scheme is 12 months and 18 months respectively), the Norms Committee (NC) system for the no-norms category is not working effectively and DGFT needs to review the system comprehensively to assess its practicability and feasibility, while minimizing the scope for misuse.**
- 5. DGFT may consider prescribing a time limit within which appeals for reviewing NC decisions can be made.**
- 6. DGFT may ensure updating of DEL in a timely manner and may review the process of issuing abeyance orders. Further, the DEL should include details of penalties imposed for the prior period, and results of action taken, recoveries made, adjudications, etc. Interest of revenue may be protected in the form of BG either for the duty involved in pending exports before grant of abeyance order or full BG for duty involved in respect of fresh licences issued against abeyance orders.**

**7. DGFT needs to put in place a mechanism for verifying credentials of exporters before issuing multiple AAs to firms (especially SSI Units with no past export performance) seeking to import/export goods for the first time. Further, DGFT should verify completion of EODCs in respect of earlier AAs, if any, before issuing fresh AAs.**

**8. DGFT may reiterate its instructions to RAs on monitoring of non-furnishing of redemption documents of pending AAs by the AH, before issuing fresh AAs.**

## CHAPTER III Implementation of the Scheme

The AA scheme is administered by DGFT (MOCI) with regard to issuance of AAs to redemption and issue of EODC to AHs, while the registration of AAs at Customs ports for allowing exemption from levy of Customs duty on imported inputs as well as accounting of exports against the AAs is administered by the Customs Department (Ministry of Finance). Audit examined the process of issuance of AAs and our main findings were mentioned in Chapter 2. In this Chapter, implementation of the AA Scheme by both the Customs Department and DGFT was examined in audit. Audit also verified the adequacy of the institutional mechanism for coordination between DGFT and Customs and whether exchange of information between the two Department is done effectively and in a timely manner.

The observations were categorized under the following three heads:

- **Implementation of the Scheme by the Customs Department (Para 3.1)**
  - Import of duty free materials beyond the validity period of AAs (Para 3.1.1);
  - Non-monitoring of excess imports (Para 3.1.2);
  - Non-monitoring of Bonds (Para 3.1.3);
  - Incorrect exemption of IGST under AA (Para 3.1.4);
  - Other irregularities (Para 3.1.5).
- **Implementation of the Scheme by DGFT (Para 3.2)**
  - Non/inadequate monitoring of AA Scheme by RAs (Para 3.2.1);
  - Irregularities in clubbing of Authorisations (Para 3.2.2);
  - Irregularities related to Value Addition (VA) (Para 3.2.3);
  - Non realization of export proceeds in freely convertible foreign currency (Para 3.2.4);
  - Filing of application by AH for redemption certificate/EODC (Para 3.2.5);
  - Irregularities during issue of EODC/Redemption letter by RAs (Para 3.2.6);
  - Other irregularities (Para 3.2.7).
- **Interdepartmental Coordination in administration of the Scheme (Para 3.3)**
  - Non-implementation of online MEM for sharing of information (Para 3.3.1);
  - Mismatch between DGFT and Customs in action taken against defaulters (Para 3.3.2);
  - Weakness in institutional mechanism to ascertain export performance and to take action on defaulting AHs (Para 3.3.3).

### 3.1 Implementation of the Scheme by the Customs Department

#### 3.1.1 Import of duty free materials after the validity period of authorisations

As per Para 4.17 of FTP read with Para 2.16 of HBP, the validity period for import under AA Scheme shall be 12 months from the date of issue of AA. Para 4.41 (c) of HBP further allows two extensions of six months each by revalidation. Thus, the maximum period of validity for import is 24 months in normal category of AAs.

Analysis of EDI data on import utilization under AA revealed that imports were allowed even after the expiry of the extended period of 24 months in 786 cases involving CIF value of ₹25.42 crore with delays ranging from 191 to 2,156 days **(Annexure 3)**.

DoR stated (February 2021) that the issue regarding extension of validity period of AA beyond 12 months period pertains to DGFT and the end date of validity of authorisation for import is accordingly transmitted to Customs by DGFT.

The cases commented in audit were after considering two six monthly extensions. As the validity period of AAs are specified, Ministry (DoR) may restrict debiting licence beyond the validity period (considering the maximum of two extensions allowed under the scheme) and need not wait for DGFT to transmit the end date of licence to act upon, since there is no provision whatsoever for further extension. Besides, the fact could not be denied that duty free imports are being allowed without the licence being valid on date of imports.

Allowing duty free imports beyond the maximum validity period of 24 months (considering two six monthly extensions) indicates weakness in the monitoring mechanism in the Customs Licence Utilisation Module.

#### 3.1.2 Non-monitoring of excess imports

As per Para 4.49 of HBP, bonafide default in fulfillment of EO may be regularized by paying Customs duties on unutilized value of imported/indigenously procured material along with interest as notified by DoR.

It was observed that Customs Department was not monitoring excess imports made by AHs in the following 70 AAs involving duty foregone of ₹15.47 crore as detailed below:

**Table 3.1 : Non-monitoring of excess Imports**

S/No	Name of the Port	Number of AAs	Duty Foregone (₹ in lakh)	Remarks
1	ACC Hyderabad	68	1487.88	68 AHs voluntarily paid customs duty on unutilized imports after expiry of EO period, which ranged from 24 to 1743 days.
2	NCH Mangaluru	1	55.26	AH confirmed non-meeting of EO within the prescribed period. SCN issued and recovery of ₹11.28 lakh made by enforcing the BG
3	Kolkata Port	1	3.71	Customs failed to update the reduced value of the Bond Waiver Certificate in their system which led to excess import of goods by the firm without execution of Bond/BG
<b>Total</b>		<b>70</b>	<b>1546.85</b>	

DoR stated (February 2021) that presently Customs field formations do not get information regarding cases in which AHs have submitted documents to DGFT for EODC/Redemption/extension/clubbing etc., and therefore CBIC instructed field formations to issue simple notices to AH. In cases where EODC is not submitted or evidence of having applied for EODC with DGFT Office is not submitted, recovery action as per condition of the Bond is to be initiated by the Customs.

### 3.1.3 Non-monitoring of Bond

#### 3.1.3.1 Delay in cancellation/non- cancellation of bonds executed with the Customs

CBIC Instruction (December 2015) states that AAs where EO period allowed is getting over can be identified in advance with the help of various reports available in the EDI System and directed the Commissioners to make it a general practice that the bond file is retrieved and readied for processing in a day. The said instruction inter alia also states that all processes related to compliance of conditions of notification should get expeditiously completed and the bonds/BGs returned to exporter normally within 10 days from the date of receipt of exporter's application for cases which are not selected for random checks as per Customs Circular (March 2010). In respect for cases selected for random checks, the norm of within 30 days be adopted, except for cases under investigation. Instances of delay in cancellation/non-cancellation of bonds were observed in 224 cases (20 per cent) of 1,107 cases reviewed in audit at the following ports:

**Table 3.2: Delay/Non cancellation of bonds executed with Customs**

S/No	Name of the Port	Number of Bonds	Remarks
1	Chennai Sea	155	Bonds pending for cancellation even though EODC was granted by DGFT Office.
2	ACC & ICD Hyderabad	20	11 AAs were already redeemed and EO period elapsed for the other nine AAs
3	ACC & ICD Bengaluru	49	Bonds not cancelled even though EO period over. RA Bengaluru issued redemption letters; however, bonds were cancelled and returned to exporters with delays of 30 to 591 days.
	<b>Total</b>	<b>224</b>	

DoR stated (February 2021) that the bond cancellation process for AA is initiated after the exporter applies with documents like EODC, original authorisation with condition sheet etc., for cancellation of bond. In case of non-receipt of EODC even after the prescribed time period, action is to be initiated by Customs authority within sixty days of expiry of EO period. The field formations are being advised to follow the time frame prescribed for bond closure.

The primary purpose of execution of bond is to secure due compliance with rules and procedures as laid in the AA Scheme; it also serves as a collateral security to ensure payment of appropriate duty and interest in case of non-compliance. Non-cancellation of the bonds in a timely manner, as prescribed in CBIC instructions, not only results in locking up of funds of the genuine AHs but also sends a wrong signal to the trade at large.

### 3.1.3.2 Non/insufficient execution of Bond

Customs Notification No.18 (April 2015) stipulates execution of bond by the importer at the time of clearance of the imported material under the AA Scheme with such surety/security, binding him to pay on demand an amount equal to the duty leviable on such imports. In respect of AAs issued to Merchant Exporters (MEs), the bond shall be jointly executed by the ME and its supporting manufacturer.

Audit reviewed 2,496 Bonds executed with the Customs Department, which revealed non/insufficient execution of Bonds in 119 cases (4.76 per cent) in the following six ports as detailed below:

**Table 3.3 : Non/insufficient execution of Bond**

S/ No.	Name of the port	Number of Cases	Remarks
1	ACC Bengaluru	51	No action was taken to identify cases of non-fulfillment of EO within the allotted period and debit the bonds in lieu of duty foregone amounting to ₹2,638.19 crore. NCH, Mangaluru issued letters till date, calling for details from AH in respect of ten cases with duty foregone amounting to ₹46.73 crore.
2	ICD Bengaluru	15	
3	NCH Mangaluru	11	
4	JNCH Mumbai	4	Cross-verification of BG data given by Mumbai Customs to that of AAs issued by RA Mumbai revealed that no BG was taken in respect of 4 AAs with CIF value of more than ₹10 crores, even though no exports were effected by these AHs.
5	Tuticorin Port	22	Validity of bonds expired in 22 out of the registered 314 bonds pertaining to RA Chennai and Coimbatore.
6	ICD JRY Kanpur	16	In 16 cases out of 56 licences pertaining to RA Kanpur and Varanasi, the bond amounts were not debited properly against each import. In one instance, pertaining to M/s. AD Ltd. Kanpur, the CIF value of licence was entered in the bond ledger, instead of bond amount.
	<b>Total</b>	<b>119</b>	

DoR stated (February 2021) that action has been taken on cases pointed in audit as per the extant provisions. No time limit has been prescribed regarding validity of bonds in the relevant Customs notifications pertaining to AA scheme. These bonds have continuous liability till the exporter submits EODC issued by the DGFT or the required customs duty in case of non-fulfillment of EO in terms of the relevant Customs notification governing the AA scheme. In respect of non-insisting on 100 per cent BG in four cases of RA Mumbai, DoR stated that no endorsement was made by DGFT and therefore the quantum of BG was taken as per the norms prescribed in Customs Circular 58/2004. In Audit's opinion, not

fixing any time for validity of the bonds does not serve the purpose when the Authorisations for which bonds are executed have a fixed validity period. In the four cases of RA Mumbai commented upon in audit, no BG was taken even though the AHs had not effected any exports. Reason for not endorsing BG conditions by DGFT is awaited.

### 3.1.3.3 Non-furnishing of specific bond for post-import cases

Customs Notification No. 18 (April 2015) stipulates furnishing of bond by the importer, if imports are made after the discharge of EO in full and facility under Rule 18 (rebate of duty) or Rule 19(2) of the Central Excise Rules, 2002 has been availed, binding himself, to use the imported materials in his/supporting manufacturer's factory for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified Chartered Accountant within six months from the date of clearance of the said materials, that the imported materials have been so used.

It was seen in ACC, ICD Hyderabad and Visakhapatnam Sea port that no specific bonds were obtained in any of the 133 BEs in 58 AAs. Further, no information was available to ascertain whether the facility of Central Value Added Tax (CENVAT) Credit was availed or not, in the absence of which the AHs were required to furnish bonds to Customs, binding themselves to use the imported inputs for the manufacture of dutiable goods and also to submit a certificate, from the jurisdictional Central Excise officer or from a specified Chartered Accountant within six months from the date of clearance of the said materials, that the said materials had been so used. The total duty forgone on such duty-free imports without furnishing of bond was ₹12.39 crore.

DoR in respect of cases pointed in Visakhapatnam Sea Port replied (December 2020) that letters were issued to the importers concerned, directing them to submit the necessary certificates/specific bonds against the post imports made. With regard to Hyderabad Customs Commissionerate, DoR stated (February 2021) that EO was required to be fulfilled and imports took place before EO fulfillment wherein condition (v) is not applicable.

The cases commented in audit pertained to imports made subsequent to fulfillment of the entire EO and therefore condition (v) was applicable. Cross-verification in JDGFT also confirmed that the imports had taken place subsequent to fulfillment of EO in 22 BEs involving CIF value of ₹5.39 crore and duty foregone of ₹1.99 crore as evident from ANF 4F applications filed by the licencees at the time of redemption.

***Recommendation No. 9: CBIC may consider having an automated alert system for expiry of EO period to ensure appropriate bond renewal/cancellation and obviate the need for depending on AHs for ascertaining EODC status.***

DoR stated (February 2021) that data is being captured and reports on bonds and EO period approaching expiry are available. DoR is in liaison with DGFT for

receiving EODC data online, which will also obviate the need for Customs officer to write to DGFT for obtaining the same.

Till EODC online data is received from DGFT, Audit recommended that DoR may ascertain EO status in a timely manner for effective monitoring of bond renewal/cancellation.

### **3.1.4 Incorrect exemption of IGST under AA**

Customs Notification No. 18 (April 2015) exempts the entire Customs duty on imports against a valid AA licence. Customs Notification No. 79 (October 2017) exempts IGST subject to pre-import condition and EO fulfilled through physical exports. Pre-import condition contemplates that raw material imported under advance authorisation is physically incorporated in the final products manufactured in India, which is then exported. Subsequently, DGFT notification No.53 (January 2019) removed the pre-import condition for availing IGST exemption.

#### **3.1.4.1 Incorrect grant of IGST due to non-fulfillment of pre-import condition**

Review of EODC files and cross-verification of (Exports-Imports) EXIM data from Customs ports revealed that the Customs Department at authorised ports had not levied the IGST amounting to ₹8.35 crore in respect of 29 AAs issued by RAs (Hyderabad, Visakhapatnam, Jaipur, New Delhi, Ahmedabad and Kochi). RAs redeemed 12 AAs (out of the 29 AAs) without any demand towards the non-levy of IGST even though AHs did not fulfill the pre-import condition as prescribed in the Customs Notification.

In another four cases in RA Ahmedabad, imports amounting to ₹2.34 crore were made without complying with the pre-import condition and therefore IGST was payable. The amount of IGST could not be calculated in the absence of details in the files.

DoR stated (February 2021) that Visakhapatnam and Jaipur Customs have asked the importers to pay IGST along with interest. With regard to Hyderabad Customs, all the 16 authorisations are issued prior to discharge of EO. Necessary action has been initiated to safeguard the Government revenue. DGFT stated (February 2021) that letters have been issued to firms for compliance to DGFT Notification No.33 and their response is awaited.

#### **3.1.4.2 Incorrect grant of IGST on deemed exports**

Customs Notification No. 79 (October 2017) exempts IGST, provided the export obligation is fulfilled by physical exports only. Irregular grant of IGST exemption of ₹14.80 crores were observed in 17 AAs in the following three Ports:

Table 3.4 :Incorrect grant of IGST on deemed exports

S/ No	Name of the Port	No. of AAs	IGST exemption availed (₹ in cr)	Remarks
1	JNCH Mumbai	14	14.66	14 AAs in respect of 4 firms in JNCH Mumbai wherein IGST exemption of ₹14.66 crore was availed without complying with the required condition of effecting physical exports. One of the firm, M/s. AE Ltd. had registered a total of eight AAs with JNCH Mumbai and availed IGST exemption of ₹26.80 crore. However, Audit commented on only two of the eight AAs wherein IGST exemption of ₹11.87 crore was availed which were examined in Audit.
2	Visakhapatnam Customs	1	0.14	Scrutiny of EODC revealed that IGST exemption was claimed even though all the exports made by the firm were deemed <sup>11</sup> exports and no physical exports were made. In one BE, IGST availed was ₹14.21 lakh
3	Navasheva Mumbai	2	-	RA Vadodara issued two AAs to M/s. AF Ltd. and also issued EODC even though the exports were effected through deemed exports. Besides, the required pre-import condition was also not complied by the AH. Due to non-availability of copy of BEs in RA files, audit could not ascertain the details of payment of IGST involved in these BEs.
	<b>Total</b>	<b>17</b>	<b>14.80</b>	

As at the time of import, it is not possible for the Customs Department to ascertain about deemed export and hence, it is the responsibility of RAs to notify the Customs Department for recovery of IGST in cases where the prescribed post-exemption conditions are not complied with. Non-communication of this fact by the RAs to Customs resulted in non-recovery of IGST amounting to ₹14.80 crore, which needs to be recovered along with instances where BE details of AAs commented was not available on record. DoR stated (February 2021) that SCNs have issued in all the cases commented in audit. DGFT, in respect of RA Vadodara, stated (February 2021) that necessary action is being taken.

### 3.1.5 Other Irregularities

#### 3.1.5.1 Non-observance of financial power in passing adjudication order pertaining to AA Scheme

The financial powers for adjudication of matters related to export promotion schemes in terms of quantum of incentive allowed are specified vide Customs Circular 24 (May 2011) read with Para 4.6 of Customs Manual 2018.

It was seen in ACC Mumbai that all the adjudication orders were passed by Asst./Dy. Commissioner of Customs/ Duty Exemption Entitlement Certificate (DEEC) cell without adhering to the monetary limits prescribed *ibid*. Out of the 42 cases adjudicated, only 17 were below ₹five lakhs and hence within the financial limit prescribed for AC/DC. In the remaining 25 cases, 21 involved duty

<sup>11</sup>As per Para 7.02 of FTP 2015-20, "Deemed Exports" refers to those transactions in which goods supplied do not leave the country, and payment for such supplies is received either in Indian rupees or in free foreign exchange

amounts ranging from ₹five to 50 lakhs and should have been adjudicated by Additional/Joint Commissioner and the remaining four cases involved duty amount of more than ₹one crore and therefore should have been adjudicated at the level of Commissioner of Customs.

DoR stated (December 2020) that the matter pertained to recovery of Govt. dues under Section 143 of Customs Act, 1962. The notice hitherto issued is restricted to recovery of Govt. revenue for enforcement of provision laid down in Section 143 of Customs Act, 1962, in the manner laid down in Section 142 of Customs Act, 1962, for which the proper officer is AC/DC as mentioned in the provisions of the said Section.

The reply is in contradiction of the monetary limits fixed for Export Promotion Schemes i.e. Advance Authorisation/DFIA/Export rewarding Schemes vide Customs Circular no. 24 (May 2011) & Para 4.6 of Chapter 13 of Customs Manual 2018.

#### **3.1.5.2 Non-fulfillment of conditions of AAS resulting in non-issue of EODC**

RA Bengaluru issued 11 AAs to M/s. X Ltd, Bengaluru during 2015-16 & 2016-17 for importing Gold bars under Customs Tariff Heading (CTH) 71081200 with CIF value of ₹10,992.76 Cr and exporting Gold medallions under CTH 71131990.

Customs amended the AAs with a different CTH (71081300) as they were not in agreement with the descriptions of the product stated by the exporter. RA Bengaluru while processing EODC observed that the ITC(HS) codes of imports and exports were not matching with that of the licence and referred the matter to DGFT which in turn forwarded the case to DoR. The clarification is yet to be received from DGFT/DoR. Meanwhile, RA amended four licences (twice in respect of two licences) and the fact of such amendment was not communicated to Customs, who also allowed imports and exports as per the CTH claimed by the firm in BsE/SBs without verifying the amendments issued. The AH has since applied for EODC in all these cases; however no redemption letter could be issued by the RA awaiting clarification from DGFT/DoR.

DoR stated (December 2020) that imports were allowed under the same CTH as per authorisations and DoR is not aware about any reference made by DGFT. Reply of DGFT is awaited.

**3.1.5.3** Other inconsistencies like re-export of imported goods and non-selection of detailed scrutiny by ports are summarized below:

Table 3.5: Other inconsistencies

S/No.	Name of the Port/RA	Issue	No. of cases	Remarks
1	RA Bengaluru	Re-export of goods imported under AA Scheme	26 defective items in 3 AAs	Proof of re-export was not available with Customs port and the stipulated time allowed for re-export had already passed.
2	NCH Mangaluru	Random checks in at least five per cent of authorisations registered at a port is to be done in terms of CBIC instructions (January 2011 & December 2015)	-	NCH Mangaluru is conducting such test check of AA cases registered at their port. However, no response on conducting of test check was given by ICD and ACC Bengaluru.

DoR in respect of re-export of goods imported under AA scheme stated (February 2021) that SCN is being issued to recover the duty foregone along with interest. Necessary action in the matter also needs to be taken by DGFT in terms of para 4.43 A of HBP 2015-20.

In respect of test checking the correctness of address shown on authorisation/availability of inputs imported duty free, DoR stated (February 2021) that test check has been conducted in some cases on random basis and Board's instructions in this regard will be followed.

### 3.2 Implementation of the Scheme by DGFT

#### 3.2.1 Non/inadequate monitoring of AA Scheme by RAs

Para 4.44(b) and (f) of HBP stipulates that AH shall file EODC applications online by linking details of SBs against the authorisation within two months from the date of expiry of the EO period. RA shall not only enforce the conditions of AA and Undertaking but also initiate penal action as per law including refusal of further authorisations to the defaulting exporters.

The following deficiencies on non/inadequate monitoring of AA Scheme by RAs were observed:

##### 3.2.1.1 Non-monitoring of Export Obligation

It was seen that no effective system existed with RAs to ascertain the cases where redemption period had expired as seen from the following observations:

Table 3.6 :Non-monitoring of Export Obligation

S/ No.	Name of RA	Pending cases	Remarks
1	Mumbai & Pune	6494	In 3,981 cases (61 per cent), SCNs are yet to be issued and in some cases action is pending for more than ten years. Duty foregone of ₹654.94 cr. is in respect of 44 sample cases wherein no action has been taken by RA though the EO period had expired and due date for filing of redemption has also expired.
2	Chennai, Kochi & Coimbatore	78	No action was taken in 78 AAs involving duty foregone of ₹56.58 cr. even after the lapse of more than 30 months from the date of issue of AAs and the AH not having submitted any documents for proof of exports nor seeking any extension of EOP. RA Chennai and Coimbatore did not issue deficiency letters nor were any SCNs issued against these AHs.

S/ No.	Name of RA	Pending cases	Remarks
3	Bengaluru	5032	RA has either not taken any action, or has initiated action with substantial delays. RA had not enforced the conditions of AAs in 21 cases. As per MIS-4 report, 1990 cases are marked as "EO fulfilled/document under scrutiny" out of which, 341 cases are more than 10 years old.
4	Hyderabad & Cuttack	1126	Cases were pending for submission of redemption application since 2006. Scrutiny of sample cases revealed that in 48 cases, AH had not submitted application even after the expiry of the prescribed period.
5	Delhi & Indore	28	No action was taken against AHs for non-filing of EODC application within the prescribed period. In another 14 cases, CLA Delhi issued cautionary letters to AHs after delays ranging from 149 to 688 days
6	Kanpur	3	No action was taken by RA for not effecting any exports till 23 months of expiry of EOP. RA issued (October 2018) letter seeking for details of exports and after eight months placed (June 2019) the firm under DEL. Duty involved is ₹1.67cr.
7	Ahmedabad	5	Quantity of inputs procured indigenously against invalidation letters were not monitored scrupulously by the RA as evident from the fact that the balance inputs were not shown as zero despite procuring all the inputs requested under invalidation.
8	Kolkata,	45	RAs neither enforced the conditions of Authorisation undertaking nor initiated penal action as per provisions including refusal of further authorisation to the defaulting exporters despite failure to complete EO or to submit relevant information/documents by the AHs on expiry of EO period. RA Jaipur, in four cases, issued only cautionary letters.
9	Chandigarh	3	
10	Jaipur	9	
11	Vadodara	5	
12	Panipat	3	
13	Ahmedabad	2	
Total		12833	

DGFT stated (February 2021) that necessary steps are being taken to resolve the issue and strengthen the institutional mechanism. Action by way of issuing SCNs/cautionary letters, putting under DEL has been initiated in many cases. RAs depend on AHs to claim for redemption as no mechanism exists with the RAs in the extant system to ascertain the cases where the EO period has expired.

***Recommendation No. 10: DGFT needs to have an effective mechanism to continuously and regularly monitor EO. Till recently, there was no system to track cases where EOP had lapsed, and RAs depended on AHs to ascertain the EODC status. To minimize possible misuse of AAs, there is a need to have validation checks in the DGFT's EDI system to address possible diversion of imported inputs through substitution of indigenous inputs.***

DGFT stated (February 2021) that in the newly launched (1 December 2020) IT module, cases where EOP has lapsed can be traced and RAs need not depend on AH to ascertain EODC status. With regard to invalidation, it is stated that all amendments including invalidations are shared with Customs server. DGFT has set-up a near real-time data exchange system with DG (Systems) wherein utilization of imports and corresponding exports may be monitored in near real-time.

Audit appreciates DGFT's endeavor in having an online module for monitoring the EOP; however, since the period covered during the audit was 2015-16 to 2018-19, therefore the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### 3.2.1.2 Non-monitoring of excess import under AA Scheme

Non-monitoring of excess imports was observed in 22 of the 1,737 cases reviewed in eight RAs:

**Table 3.7: Non-monitoring of excess imports**

S/ No.	Name of RA	Number of cases	Duty Foregone (₹ in lakh)	Remarks
1	Mumbai & Pune	10	55.96	Excess imports of goods with CIF valuing ₹3.16 cr. when compared to quantities required for exports.
2	Coimbatore	1	15.36	No DL/SCN was issued by RA for recovery of Customs duty on excess imports valuing ₹52.18 lakh even though the EO period expired in May 2019.
3	Kochi	3	409.51	Excess imports of 77.28 MTs of BP light berries and 98.86 MTs of turmeric, valuing ₹57.05 cr.
4	Delhi	1	28.31	Excess imports of 17550.14 kg of imported goods lying unutilized
5	Hyderabad	1	21.34	AH incorrectly claimed the exports against SB not reflected in the EDI data but claimed in the redemption application submitted to RA. Further, the same SB is shown to be exported by a different IEC holder.
6	Ahmedabad & Vadodara	6	86.75	Excess imports in excess of norms fixed by NC
<b>Total</b>		<b>22</b>	<b>617.23</b>	

RA Ahmedabad, Pune and Vadodara reported recovery of ₹28.56 lakh. RA Coimbatore and Hyderabad stated that necessary action has been initiated.

### 3.2.1.3 Non-monitoring of pre-import condition under AA Scheme

Appendix 4J of HBP 2015-20 prescribes EO period for specified inputs with pre-import condition. Pre-import condition contemplates that raw material imported under advance authorisation is physically incorporated in the final products manufactured in India, which is then exported. AAs were issued by RAs without imposing the pre-import condition in respect of the following items:

Table 3.8 : Non-monitoring of pre-import conditions by RA

S/ No	Inputs	Name of the RA	No. of cases	Duty Foregone (in ₹cr)	Remarks
1	Stainless Steel	Ahmedabad	2	0.54	AA was issued without pre-import condition and regular EOP of 18 months in contravention to PN 30/2017 wherein pre-import condition with EOP of six month was imposed.  Further, cross-verification of import documents submitted to RA by the AH with import ledger available in Customs EDI system revealed that the firm had not declared two import consignments to the RA and one consignment, though declared to RA in the EODC file, did not feature in the import ledger of Customs EDI system.
2	Natural Rubber	Kolkata	35	7.65	AH failed to comply with the pre-import conditions in contravention to PN 35/2015 r.w. 39/2018 in respect of 37 consignments and therefore the Customs duty foregone on the proportionate import quantity is recoverable. The benefit of one-time relaxation would not accrue to AAs as pre-import condition is specifically endorsed in the condition sheet attached to the licence.
3		Mumbai	2	0.43	
4		Hyderabad	4	0.95	
5	Spices	Kochi	3	1.23	The AH made partial exports after the expiry of EOP which is not to be considered for EO fulfillment in two AAs. In the third AA, pre-import condition was not fulfilled.
6		Mumbai	1	0.09	AA was issued with EO period of 12 months instead of required EOP of 90 days.
7	Precious Metals	Mumbai	2	10.76	RA removed (June 2018) the conditions based on the request of AH. The amended provisions are not retrospective in nature and removing EOP/pre-import condition for AAs issued prior to May 2018 was not in order.
8	Pharmaceutical products	Hyderabad	1	0.12	Pre-import condition was not met, resulting in excess duty-free imports
<b>Total</b>			<b>50</b>	<b>21.77</b>	

DGFT, in respect of stainless steel, stated (February 2021) that the matter is under examination and Customs authorities have to verify while releasing the Bond executed by them. For natural rubber commented in respect of RA Kolkata, it was stated that the AA was issued for Aluminium and not for Natural rubber; for RA Mumbai, the pre-import condition was not specifically endorsed and for RA Hyderabad, response is still awaited. In case of spices commented in respect of RA Kochi, demand notices have been issued against the firms and for RA Mumbai, it was stated that EO was fulfilled within 90 days from clearance of import and therefore EODC was correctly granted. For pharmaceuticals products

commented in respect of RA Hyderabad, it was stated that the matter is under examination.

The reply of DGFT is not factually correct. The AAs for natural rubber in RA Kolkata were issued for importing natural rubber and in RA Mumbai, the pre-import condition was subsequently endorsed in the AA vide Amendment Sheet No.1 (21 August 2015). Similarly, reply of DGFT in respect of spices in RA Mumbai that EO was fulfilled within 90 days is not factually correct as imports were done in February/March 2018 and exports effected in August 2018.

#### 3.2.1.4 Undue extension of EOP

Para 4.42 (e) read with Para 4.4.2 (f) of HBP states that RA may consider a request of AH for one extension of EO period up to six months from the date of expiry of EOP subject to payment of composition fee of 0.5 per cent of the shortfall in EO. AH will have to submit a self-declaration to RA stating that unutilised imported/domestically procured inputs are available with the applicant. Para 4.42 (c) of HBP stipulates second extension by RA, provided AH has fulfilled minimum 50 per cent export obligation in quantity as well as in value, on pro-rata basis.

Irregularities on extension of EOP were observed in the following four RAs:

- (i) RA Ahmedabad granted 2<sup>nd</sup> extension to M/s. AG Ltd. even though the firm had fulfilled only 17 per cent of its EO, resulting in irregular grant of extension with consequential short levy of duty of ₹1.07 crore.
- (ii) RA Bengaluru issued (June 2017) AA to M/s. AH Ltd. for which EO period expired in December 2018. The firm applied for extension in May 2019 (after five months from the date of expiry of EOP), which was accorded (May 2019) without imposing the composition fee on the ground that they had utilized all the imported materials and fulfilled EO to the extent of import made. However, no self-declaration as required under HBP ibid was submitted by AH.
- (iii) RA Kolkata issued AA to M/s. AI Ltd. wherein import quantity was not restricted in proportion to actual exports, as required under the rules, while granting second revalidation.
- (iv) RA Varanasi allowed revalidation of AAs in seven cases even though AH applied after expiry of the validity period (**Annexure 4**).

There is no time limit prescribed in FTP/HBP for seeking revalidation of licences and such requests are sought even after expiry of the validity period of Licence. As validity of the licence is specified (12 months from issue date) in Para 2.16 of the HBP and authorisations must also be valid on the date of imports/exports (Para 2.18 of HBP), in audit's opinion any request for revalidation should be entertained within the validity of licence only.

DGFT stated (February 2021) that letters had been issued to firms for compliance and no time limit is prescribed for seeking revalidation either in FTP/HBP.

The reply of DGFT is not tenable as the validity of the licence is specified in the FTP/HBP and any request for revalidation should be entertained within the validity of licence only.

**Recommendation No. 11: DGFT should review the procedure for granting revalidation and requests for revalidation should be accepted only within the validity period of the authorisation so that any duty free imports or exports reckoned for export obligation is well within the currency of the authorisation.**

### 3.2.2 Irregularities in clubbing of Authorisations

Paragraph 4.38 (xii) of HBP states that after clubbing, the AAs shall, for all purposes, be deemed to be one authorisation. The MVA (15 per cent) would be calculated on the basis of total CIF/FOB arrived after clubbing the AAs and any shortfall in value or quantity shall be regularized in terms of Para 4.49 of HBP 2015-20.

#### 3.2.2.1 Non-detection of excess import consequent to clubbing of Authorisations

Para 4.20 of HBP stipulates that if the AH has consumed lesser quantity of inputs than imported, AH shall be liable to pay Customs duty on unutilized imported material, along with interest thereon or effect additional export within the EO period to account for the export of the material remaining unutilized.

RA Ahmedabad allowed clubbing of five AAs issued to M/s. AJ Ltd. The exporter could not effect any export in respect of an AA; however, imports were made resulting in non-fulfillment of EO. It was noticed that excess import of one of the inputs though declared by the exporter in the EODC application was not detected by RA while granting EODC resulting in non-levy of duty of ₹43.05 lakh.

Similarly, RA Chennai issued two AAs to M/s. AK Industries Limited for duty free import of Fluorspar (Acid grade) involving CIF value of ₹9.78 crore with an obligation to export Hydrofluoric Acid and the licences were redeemed (December 2019) based on clubbing of Authorisations. Review of consolidated ANF 4F, revealed excess import of 567.94 MT, which was admitted by the AH. However, the Department did not take action to regularize the excess imports and recover the duty amount of ₹10.38 lakh along with interest.

DGFT, in respect of RA Ahmedabad, stated (February 2021) that the matter is under examination. RA Chennai reported partial recovery of ₹2.12 lakh.

#### 3.2.2.2 Short/Non collection of Composition fee on clubbing of AAs

As per Para 4.38 (viii) of HBP, upon clubbing wherever exports are accounted beyond the EOP of the earlier Authorisation, a composition fee of 0.5 per cent of the shortfall in EO shall be levied.

M/s. AL Industries Ltd. applied (March 2019) for clubbing of three AAs issued by RA Vadodara. It was observed that the RA granted (May 2019) EODC on VA achieved in only one Authorisation instead of the aggregated value of all the

three clubbed Authorisations, which resulted in shortfall of VA to the tune of ₹41.25 crore. This incorrect calculation in clubbing of Authorisation resulted in non-levy of composition fee of ₹41.25 lakh.

Similarly, in RA Hyderabad, composition fee of ₹13.90 lakh was not levied for shortfall in EO on clubbed Authorisations allowed to M/s. AM Ltd. In three other cases, composition fee of ₹20.37 lakh was not levied for shortfall in EO on extension sought by the AH.

DGFT, in respect of RA Hyderabad, stated (February 2021) that action is being taken against the firm. RA Vadodara reported recovery of ₹11.69 lakh in one case.

### **3.2.3 Irregularities related to Value Addition (VA)**

As per Para 4.09 (i) of FTP 2015-2020, MVA to be achieved under AA is 15 per cent. As per para 4.49(b) of HBP 2015-2020, if VA falls below minimum prescribed, then the AH shall be required to deposit an amount equal to 1 per cent of the shortfall in FOB value in Indian Rupee. As per Appendix 4H, which is the register for accounting the consumption and stocks of duty free imported or domestically procured raw materials, components, etc, allowed under AA/DFIA. Application for redemption of AAs (ANF-4F) specifies that FOB value of exports for the purpose of VA shall be arrived after excluding foreign agency commission, if any.

#### **3.2.3.1 Incorrect consideration of GST/Commission/IGST amount towards FOB value**

Two AH under RA Mumbai achieved EO in terms of quantity as well as value in respect of three AAs, by supplying to 100 per cent EOUs. It was however seen that invoice values counted towards FOB included ineligible amounts like IGST and commission. Excluding the ineligible amounts resulted in shortfall of FOB by ₹13.59 crore and 1 per cent penalty recoverable works out to ₹13.59 lakh.

DGFT stated (February 2021) that RA Mumbai has been instructed to keep the firms in DEL till recovery is effected.

#### **3.2.3.2 Non-declaration of actual imports by AH**

Cross verification of EODC application submitted to RAs (Ahmedabad and Vadodara) with that of Licence utilization data of Customs EDI System revealed that all imports against 11 AAs were not declared in the EODC application. AHs declared 123 import consignments in their EODC applications against actual imports of 147 consignments, thereby showing less value of CIF utilized which resulted in understatement of imports of ₹10.71 crore. RAs may ascertain the actual use of these non-declared goods and take appropriate action for disallowing incorrectly availed exemption.

Similar observations were made in RAs (Chennai and Coimbatore) wherein 13 AAs were redeemed and EODC issued even though AH imported lesser quantity

of inputs compared (as per SION) to the quantum actually required for effecting the exports. Besides, there was no declaration of usage of duty paid or indigenously sourced material (other than imports) and the actual consumption (including wastage) shown in the redemption file was less. Non-indication of complete details of consumption in Appendix 4H does not reflect correct position of consumption (**Annexure 5**).

DGFT, in respect of RA Ahmedabad, stated (February 2021) that Customs formations have to verify while releasing the bonds executed with them. Response in respect of other RAs is awaited.

The response of DGFT is not tenable as the aspect of lesser quantities of imports needs to be verified by jurisdictional RAs while reviewing the EODC applications and how they achieve the export obligation. Whether any non-declared goods was used, details of invalidations, etc., should be verified before issuing EODC by RAs. Action may be initiated for understatement of imports by AH.

### **3.2.3.3 Incorrect estimation of VA on import of components on net to net basis**

As per Sl. No. 6 of General Notes for all exports products groups read with Sl. No.4 of General Notes for engineering products and Policy Circular 10/2018-19 (July 2018), an applicant seeking to import components as an input may be allowed to import on net to net basis without any wastage, by RAs with accountability clause and the type, technical specifications etc. of the components sought for import should conform to those utilized in the manufacturing of resultant product, which should be reflected in the export documents. A condition to this effect shall be endorsed on the licence. Further, if the procurement of components falls under no norms category, the applicant has to furnish Appendix 4E detailing exact components (of both import and indigenous inputs) required in manufacture of one unit of export product duly certified by the Chartered/Cost Accountant or Jurisdictional Central Excise Authority.

RA Mumbai and Pune in respect of two licences estimated VA considering only the components imported and not on all the components required on net to net basis to supply an unit of the export product. The quantities imported were less than the quantities applied in the AAs which was not possible as at least one component each is required for making one export set (net to net basis accountability clause). The licence was redeemed without enquiring as to how the balance quantity was procured and used in export set. The 4H consumption sheet and accountability statement also show the consumption of only imported items which were less than the actual requirement. In all the SBs, the total quantity which was applied in the application was mentioned and not the actual quantity consumed in export quantity. Hence the SBs were not prepared as per the General Note and Policy Circular *ibid*. The quantities of inputs utilized in accountability statement do not tally with exports-wise imports details furnished by the firm. Further, refund of IGST paid of ₹6.05 crore on exports has been claimed which is equivalent to drawback of input tax credit. Hence CIF/FOR value

of all components (both imported and indigenous) should have been taken to estimate the VA instead of only imported components. If CIF/Freight on Road (FOR) value of all the components physically present in export was considered, the VA actually worked out to be much lesser than the prescribed 15 per cent.

DGFT stated (February 2021) that there is no mandate that firm has to import all the components required in the manufacturing of the product. However, details of consumption with reference to items imported are to be submitted for accountability and there is no need to consider duty paid inputs for VA on which no drawback was availed.

The reply is not acceptable as the Accountability Statement only reckons imported inputs and does not provide for factoring indigenous procurements. RAs do not insist for declaration of all the inputs actually consumed in the manufacture of exported items as required under Appendix 4H/4E.

Audit is of the opinion that the practice of considering CIF value of only imported inputs does not reflect the complete picture of value addition. Non-inclusion of value of indigenous supplies, incorrect consideration of GST/Commission/IGST amount and non-declaration of actual imports by AHs were observed in audit which is fraught with the risk of diversion of duty free imports as well as misuse of the scheme. RAs may ascertain the actual usage of non-declared goods and take appropriate action for disallowing the incorrectly availed exemption.

***Recommendation No. 12: DGFT may insist for complete disclosure in Appendix 4H requiring AHs to declare the “details of all the inputs consumed in the manufacture of exported goods including the indigenously procured inputs and the source of such procurements”, for facilitating better monitoring of actual consumption by RAs thereby preventing diversion of duty free imports and misuse of the scheme.***

#### **3.2.3.4 Negative VA on supplies to sister concern**

In three licences issued to M/s. AN Ltd. by RA Mumbai, it was noticed that the AH achieved negative VA by exporting finished goods to its sister unit, an Export Oriented unit (EOU), at a price lower than the purchase value. Since the EOU unit is the sister concern of the exporter, the value of the supplies cannot be considered at arms-length when it is lower than the purchase value. This shortfall needs to be regularized by paying 1 per cent penalty amounting to ₹9.51 lakh on value falling short against prescribed minimum VA.

Besides, the practice of diverting inputs to a sister concern at a price lower than the purchase value was a deliberate exhibition of negative VA and not a bonafide default that can be regularised by merely paying 1 per cent penalty. In Audit's opinion, the exporters should be made liable to repay the duty saving benefits under the Scheme and penalty under FTDR Act for deliberate misuse of the Scheme.

DGFT stated (February 2021) that EO of DTA and EOU are to be seen separately as both are independent units and have separate schemes of EO and both cannot be linked. Negative value addition was regularized by RA Mumbai by recovering 1 per cent of shortfall in FOB value from the firm.

### 3.2.4 Non realisation of export proceeds in freely convertible foreign currency

In terms of Para 4.21(iii) of FTP 2015-20, exports to Special economic Zone (SEZ) units shall be taken into account for discharge of EO provided the payment is realized in Foreign Currency Account (FCA) of the SEZ unit.

Non-realisation of exports proceeds in FCA was observed in 84 instances involving duty foregone amounting to ₹3.38 crore in five RAs as detailed below:

**Table 3.9 : Non-realisation of export proceeds in FCA**

S/ No.	Name of RA	Number of cases	Duty Foregone (₹ in lakh)	Remarks
1	Chennai, Mumbai & Visakhapatnam	9	259.26	Exports made to SEZ units was reckoned for value addition against export obligation even though the exports proceeds were realized in INR and not in FCA
2	Ahmedabad	13	79.15	In 6 AAs, exports made to SEZ and BRC was in INR. In 3 SBs, export proceeds not realized and in 4 SBs, no e-BRC were available in file or in e-BRC module of DGFT website.
3	Pune	62	-	SBs reckoned for VA even though export proceeds in INR
<b>Total</b>		<b>84</b>	<b>338.41</b>	

DGFT stated (February 2021) that payment received in INR cannot be taken for EO fulfillment and assured to recover the shortfall. RA Mumbai has been instructed to keep the firm in DEL till the recoveries are effected. The matter is under examination in respect of RA Ahmedabad, Chennai and Pune.

### 3.2.5 Filing of application by AH for redemption certificate/EODC

#### 3.2.5.1 Lack of online filing and closure of EODC

Para 4.46 of HBP states that AH shall file online application in ANF-4F to RA and upload prescribed documents in support of fulfillment of EO for redemption certificate/EODC. DGFT introduced the online system for EODC/redemption for AAs effective from 1 June 2014 vide PN 55 (March 2014).

It was however observed that AHs were still manually filing the application for redemption/EODC till 1 December 2020, when the online application link was activated. Thus, non-activation of online facility for application for redemption/EODC resulted in delay in issue of EODC and increase in transaction cost and time. The effectiveness of the online application functionality will be reviewed in future audits.

### 3.2.5.2 Delay in submission of EODC application by the AH

Para 4.44 of the HBP stipulates that the AH is required to submit the documents for exports within two months from the date of the expiry of obligation period.

In 11 RAs (Bengaluru, Chandigarh, Chennai, Cuttack, Hyderabad, Indore, Jaipur, Kochi, Ludhiana, Panipat, and Visakhapatnam) delay beyond two months from expiry of EOP was observed in 193 AAs with delays ranging from 5 to 792 days and no action was taken by RAs (**Annexure 6**).

A case is illustrated wherein M/s. AO was issued (May 2015) AA by RA Bengaluru and the due date of submission for EODC/redemption was up to January 2017. It was however seen that the AH submitted application for redemption only in August 2019 with a delay of 32 months.

RA Chennai, Hyderabad and Indore stated (November 2020) that action is being taken to issue caution letters. Reply from other RAs is awaited.

DGFT stated (February 2021) that the scheme has become paperless with new IT system effective from 1 December 2020. All the required documents would be uploaded online, deficiencies and their responses be handled online and data would be seamlessly transferred to Customs which would help in monitoring of EODC finalization.

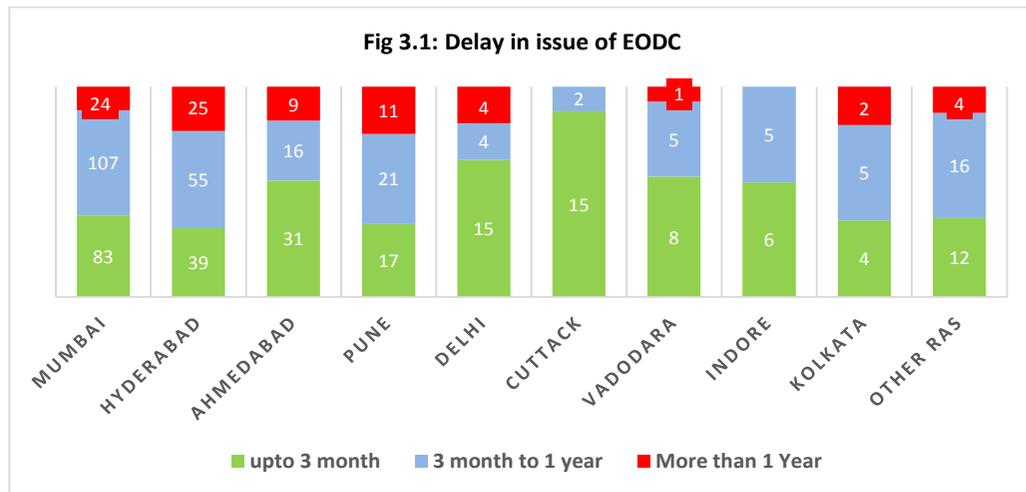
Progress in this regard would be watched in subsequent audits.

### 3.2.6 Irregularities during issue of EODC/Redemption letter by RAs

#### 3.2.6.1 Delay in issue of EODC by RAs

Para 9.10 of HBP 2015-20 stipulates that AA is to be redeemed within 15 days from the date of receipt of application. MOCI Trade Notice No.20 (June 2019) reiterated that all RAs must convey Deficiency letter (DL) in time bound manner and in one go only.

In 17 RAs (Ahmedabad, Bengaluru, Chandigarh, Coimbatore, Cuttack, Delhi, Guwahati, Hyderabad, Indore, Jaipur, Kolkata, Ludhiana, Mumbai, Panipat, Pune, Vadodara, and Visakhapatnam) out of the 2,242 cases reviewed delay in issue of EODC was observed in 546 cases (24 per cent) with delays ranging from 18 to 1,001 days. In 16 cases in Ahmedabad and Vadodara, delay of more than 15 days was observed even though AH complied with all the deficiencies marked by RA. The analysis of major nine RAs is given below in the graph:



A case is illustrated wherein RA Bengaluru issued (January 2018) AA to M/s. AO Ltd. and the EODC applied (April 2019) by AH got delayed by more than five months due to non-issue of all DLs in one go. EODC was finally issued in October 2019. If all the deficiencies would have been pointed out during the initial pre-scrutiny (April 2019) and prescribed timelines of AA would have been adhered to both by the firm and RA, the undue delay in issue of EODC by more than five months would have been avoided.

Non-activation of the online facility for redemption/EODC application resulted in delay in issue of EODC and increase in transaction cost and time. Even though the redemption application were filed online, however, all documents like BEs, SBs, e-BRCs, input and export consumptions and certificates were required to be filed manually during the period of audit 2015-16 to 2018-19. The complete digitization of redemption process and its integration with licence data would help in reducing the delay and to achieve the benchmark of 15 days set for disposal of redemption applications.

DGFT stated (February 2021) that steps are being taken to resolve the issue and strengthen the institutional mechanism. The new IT system effective from 1 December 2020 is expected to resolve the issue of delay in issue of EODC; till then files were processed only after receiving the hard copies of EODC applications.

***Recommendation No. 13: DGFT should review the procedure for issuance of EODC to meet its prescribed timeline of 15 days by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents.***

DGFT stated (February 2021) that eodc.online is functional with the new IT system effective from 1 December 2020.

The period covered during the audit was 2015-16 to 2018-19; therefore, the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### 3.2.6.2 Irregular redemptions by RAs

RA Mumbai redeemed three AAs issued to two firms (M/s. AN Ltd. and M/s. H Ltd) even though EO was achieved entirely by deemed exports. Benefit of IGST exemption is meant only for physical exports and AHs, to avoid levying of IGST by Customs, declared that only physical exports would be made. RA, however, accepted the deemed exports towards EO while redeeming the cases without ascertaining the fact of irregular availment of IGST amounting to ₹32.80 lakh, based on wrong declaration, which needs to be recovered along with interest.

DGFT stated (February 2021) that RAs have been instructed to keep the firms in DEL till recovery is made.

### 3.2.6.3 Exports made beyond EOP

Paragraph 2.18 (b) of HBP stipulates that export obligation period of an Authorisation must be valid on the date of export. Exporter should have applied for extension in EOP before effecting exports. Hence, exports effected without any extension needed to be dis-allowed and regularized as per Paragraph 4.49 by collecting duty/interest on proportionate excess imports.

Review of EODCs revealed that exports were effected beyond the EO period allowed under AA scheme in 11 AAs in six RAs with proportionate duty foregone amounting to ₹8.42 crore as detailed below:

**Table 3.10: Exports made beyond EOP**

S/ No.	Name of RA	Number of AAs	Proportionate Duty foregone (₹ in cr)	Remarks
1	Vadodara	3	6.19	Exports in five out of 137 SBs and two other AAs were effected after the prescribed EO period and no extension was applied for by AH, resulting in short fulfillment of export (quantity wise & value wise). Further, 1 per cent fee for shortfall in VA is also applicable.
2	Ahmedabad	2	1.29	AH effected exports beyond the validity of EOP and later applied for post facto extension which was granted by RA. Thus, without seeking any extension in EO period during the intermediate period, the exporters continued their export.
3	Kolkata	2	0.50	Imports effected after the EOP were not eligible for exemption
4	Jaipur	1	0.41	RA granted <i>post facto</i> extension in EO period, instead of rejecting the invalid exports effected beyond EOP
5	Pune	1	0.03	Excess imports were used for ineligible export. Further, the deemed exports documents did not reflect the proportionate input consumption for each consignment and the fact of exports through a supporting manufacturer was not endorsed in the AA, as required under the provisions.
6	Bengaluru	2	-	Exports valuing ₹2.49 crore made beyond the prescribed EO period.
<b>Total</b>		<b>11</b>	<b>8.42</b>	

DGFT stated that RA Bengaluru recovered ₹0.70 lakh and issued demand for recovering composition fee for ₹0.55 lakh. Demand-cum-SCN was also issued against the firm by RA Pune. In RA Jaipur, EOP has already been extended up to April 2019 and the firm has also effected exports within the above mentioned prescribed time limit. For RA Ahmedabad, it was stated that Para 4.27 of HBP allows Exports/Deemed Export supplies in anticipation or subsequent to issue of an Authorisation.

Reply is not tenable as there is no provision in the FTP/HBP to grant post facto extension in EO period after completion of exports by the exporters and as per Paragraph 2.18 of HBP, an Authorisation must be valid on the date of export. Further, the exporter should have applied for extension of EOP before effecting exports.

#### 3.2.6.4 Non endorsement of inputs in shipping invoices

As per para 4.12 (ii) to (iv) of FTP, the proportion of inputs actually used/consumed in production of export product shall be clearly indicated in the SBs including invoices against deemed exports and the RA shall allow only those inputs which have been specifically indicated in the SBs at the time of discharge of export obligation.

In the following cases, RAs issued EODC without endorsements in SBs:

**Table 3.11 : Non-endorsement of inputs in the SBs**

S/No	Name of the RAs	Number of AAs	Remarks
1	Kochi	1	EODC issued to M/s. L Ltd. even though the AH had not indicated the inputs actually used/consumed in production of export product involving FOB value of ₹11.83 Crore.
2	Ahmedabad	2	EODC issued in one AA and denied extension for other AA to M/s. AP Ltd. even though incomplete information about imported inputs as required under the SION/Authorisation was observed in 26 BEs. However, no action was taken by RA to verify this mismatch which involves duty forgone of ₹20.69 crore.
3	Chennai	3	EODC issued in five AAs issued to M/s. AQ Ltd. and M/s. AR Ltd. even though AH imported different input than endorsed in AAs resulting in incorrect import involving Customs duty of ₹3.62 crore.
4	Coimbatore	2	
	<b>Total</b>	<b>8</b>	

DGFT stated (February 2021) in respect of RA Chennai, Coimbatore and Kochi that action is being initiated. RA Ahmedabad stated that BEs cleared under the scheme carries the specific authorisation numbers and Customs check the authorisations regarding description quantity value allowed etc., at the time of import. Appendix 4H issued by CA also confirms the exports made and the inputs utilized.

Reply is not tenable as endorsement of inputs in the SBs are required to be checked by the RAs during issuing of EODC/redemption which is the final stage

of the process and also ensures that the duty free imports allowed under the scheme has been used for the intended purpose.

#### **3.2.6.5 Issue of EODC/Redemption Letter without proper endorsement/amendment**

As per Para 4.39 of HBP, RA may consider a request in form ANF-4D for enhancement/ reduction in CIF value, quantity of inputs, FOB value and quantity of exports of AA. However, value addition after such enhancement should not fall below MVA stipulated (for the export product) and there is no change in input-output norms.

In RA Hyderabad, 43 AAs were redeemed with reduced CIF/FOB Values when compared with the CIF and FOB values fixed at the time of grant of Authorisation. In all these cases, redemption was allowed without any request for amendment for reduction in CIF or FOB value by the AH. The AAs were redeemed stating that imports made were in the same proportion (as that of CIF and FOB) to exports made and that the required value addition as per AA was achieved.

DGFT stated (February 2021) that Licence were redeemed as per utilization and 15 per cent VA.

The response of DGFT is not tenable as redemption was allowed without any request for amendment for reduction in CIF or FOB value by the AH.

#### **3.2.6.6 Delay in issue of EODC due to non-receipt of SAR by Spices Board**

As per Policy Circular 5 (August 2014), AA issued for spices as inputs, shall be furnished to the Spices Board, Kochi without referring the case to the NC and the RA concerned may redeem the AA based on SAR of Spices Board, Kochi. This Policy Circular was made applicable from August 2013 in respect of all the pending cases as well as future AAs.

In RA Kochi, 100 AAs involving CIF value of ₹1596.60 crore pertained to spices, out of the total pending 271 AAs involving CIF value of ₹2145.74 crore issued during the period 2015-16 to 2018-19. Scrutiny of selected 22 AAs relating to spices revealed delay in issue of EODC in all cases due to non-receipt of SAR from Spices Board.

DGFT stated (November 2020) that as per Para 2 of the Policy Circular, RA concerned may redeem AA based on SARs furnished by Spices Board.

Reply is not tenable as SAR was required by RAs to confirm whether the yield declared as per EODC claim is more than the yield as per SAR. It was seen that in 18 of 22 cases, the yield as per EODC applications was more than yield as per the SAR, which was evident from Appendix 4H filed by AH duly certified by CA. Thus, there was no reason for the RA to delay issue of EODC when in the majority of the cases, the yield declared as per ANF 4F application was found to be higher. Thus, delay in redemption of 22 AAs with CIF value of ₹453.01 Cr due to delay in

receipt of SAR was avoidable in view of the Policy Circular *ibid* and defeated the very purpose of issue of the said circular, i.e., reduction of delay in redemption of Authorisations issued for spices.

### 3.2.7 Other irregularities

#### 3.2.7.1 Export of items without proper endorsement in authorisation and delay in issue of DL

Para 4.35 of HBP states that imported material may be used in any unit of AH subject to condition of paragraph 4.10 of HBP or jobber/supporting manufacturer, with due endorsement in the Authorisation by the RAs.

M/s. AS Ltd. while applying for AA stated that some of the export products would be manufactured by their supporting manufacturer situated in SEZ, Cochin. RA Bengaluru issued two DLs regarding supporting manufacturer, to which AH requested to delete the name of the supporting manufacturer. Accordingly, RA issued the AA, without endorsing any supporting manufacturer.

The firm applied (December 2018) for EODC to which RA issued DL (March 2019) stating that the exported item appeared to fall under SCOMET category and asked for clarification whether required permission for export of SCOMET item was taken from DGFT. DGFT also informed that the item under reference may fall under SCOMET category 8A602, and export shall be made through authorisation from DGFT. Further, it was seen that AH made exports amounting to ₹19.64 crore through its Special Economic Zone (SEZ) unit (supporting manufacturer) without any endorsement as required under the rules *ibid*. The case is yet to be redeemed.

DGFT stated (February 2021) that the firm has approached DC, CSEZ for permission to sub-contract under Rule 43 of SEZ Rules 2006.

The reply is silent on whether authorisation from DGFT was accorded for effecting SCOMET category exports. RA took 14 months to ascertain whether the export item falls under the restricted category which should have been ensured while issuing (February 2018) the AA. Besides, the permission to sub-contract under SEZ provisions was taken post-facto after being rejected by RA and therefore the exports already made without the required endorsement should have been disallowed and the firm should have been asked to pay the duty foregone on the input used in the export product.

Other instances where RAs allowed exports without proper endorsements in the AAs are detailed hereunder:

Table 3.12 : Non-endorsement in authorisations

S/ No.	Name of the RA	Number of cases	Remarks
1	Kolkata	7	Products exported by the AH were different from what was allowed in the authorisation. RA did not verify the mismatch in export products and issued BWC <sup>12</sup> for the entire quantities of export consignments. In three cases, AH declared that facility of cenvat credit was taken and invalidation letters were also issued by RA after issue of BWC allowing domestic procurement of inputs.
2	Ahmedabad	10	Products exported by the AH in 2 AAs were different from what was allowed in the authorisation resulting in incorrect consideration of exports by RA with duty foregone of ₹83.93 lakh which needs to be recovered. In another eight AAs, the CA certificate did not mention whether cenvat credit was availed or not. It was also certified that the goods imported after exports, will be utilized for the manufacture of dutiable goods. In one case, CA certified both availing as well as non-availing of cenvat credit. RA issued EODC in all eight AAs without duly verifying the CA certificates and the possibility of diversion of goods because of its importation after completion of exports or availing of double benefits cannot be ruled out.
	<b>Total</b>	<b>17</b>	

DGFT stated (February 2021) that the matter is under examination. The product name and description of exported item tallied with AAs in respect of two firms in RA Ahmedabad.

The reply is not factually correct as the product exported (Chlorpyriphos Technical 48 per cent Min and 'Non-Woven Fabric under ITC 63051200') was not tallying with the product (Chlorpyriphos Technical 94 per cent and 'Non-woven fabrics made of manmade fiber (Polypropylene)' under ITC HS Code 56031200) endorsed in the AAs.

#### 3.2.7.2 Non-linking of Export Shipping Bill/invoice with e-BRC

Para 4.44 (e) of HBP 2015-2020 stipulates that e-BRC shall be linked with SBs within six months from the date of expiry of EO/realization or the time period prescribed for realization of foreign exchange by RBI.

In RA Kochi, it was observed in the AA issued (November 2015) to M/s. AT Ltd. that e-BRC for SBs were uploaded in the DGFT System only after EODC was issued. No action was taken by RA for non-submission of e-BRC and EODC was issued without verifying and ensuring that the export proceeds were actually realized.

<sup>12</sup>BWC is Bond Waiver Certificate. When any AH has made the exports first, then bond-waiver is issued as he has already complied with the conditions. Bond is taken to safeguard duty foregone and in the event of non-meeting of export obligation BG is revoked. When AH has already exported, Bond becomes redundant and therefore bond-waiver is issued.

In RAs (Kanpur & Patna), it was noticed that in all the 42 redeemed cases, no e-BRC was linked with the SBs. The SBs were submitted physically by the AH (**Annexure 7**).

DGFT, in respect of RA Kochi, stated (February 2021) that demand notice has been issued to the firm and response from other RAs is awaited.

### **3.2.7.3 Delay in issue of Invalidation/revalidation letters**

Para 4.20 of FTP read with Para 9.10 (xi) of HBP allows AH to procure inputs from indigenous suppliers in lieu of direct imports against Advance Release Order (ARO) or Invalidation letter to be issued by RAs within a period of three days of receipt of application from the AH. As per Para 9.10 (vi) of HBP, RA shall issue revalidation of Authorisation or extension of EOP, within a period of three days of receipt of application from the AH.

In RA Hyderabad, delay in issuance of invalidation letter was observed in 12 cases with delay ranging from three days to 221 days. Similarly, delay in issue of letters for revalidation or extension of EOP was observed in 29 cases in RA Hyderabad and Visakhapatnam with delay ranging from three to 72 days.

DGFT, in respect of RA Hyderabad, ascribed (February 2021) the reason for delay to shortage of manpower.

### **3.2.7.4 Short/Non collection of Composition fee for extension of EOP**

Extension of EOP may be granted subject to payment of composition fee of 0.5 *per cent* of the shortfall in EO.

Short/non collection of composition fees amounting to ₹26.07 lakh was noticed in seven cases in CLA Delhi and RA Jaipur, Kanpur and Kolkata.

CLA Delhi and RA Jaipur reported recovery of ₹3.60 lakh.

### **3.2.7.5 Claim of inadmissible drawback**

Para 4.15 of FTP 2015-20 stipulates that drawback shall be available for duty paid imported or indigenous inputs (not specified in the norms) used in the export product, provided that the applicant shall clearly indicate details of duty paid input in the application for AA.

Review of EODC application of M/s. AU Ltd. in RA Coimbatore revealed that AH claimed both drawback and Advance licence in all the 95 SBs submitted towards proof of exports. This is in contravention to the provisions of para 4.29 of HBP and hence these SBs were to be considered as ineligible for the purpose of EO. CIF value of AA was ₹8.10 crore with duty foregone amounting to ₹1.34 crore.

DGFT stated (February 2021) that AH is eligible for All Industry rate of drawback for non-fabric items.

The reply is not acceptable since the AH claimed drawback for fabric items as per SBs, and hence these SBs are to be considered as ineligible for value addition.

### 3.3 Interdepartmental Coordination in administration of the Scheme

#### 3.3.1 Non-implementation of online MEM

As per Paragraph 4.47 (b) of HBP 2015-20, after the issue of EODC/Redemption Certificate, RAs shall forward the copy of EODC to Customs authorities at the Port of Registration of Authorisation indicating the details of proof of fulfilment of EO. The copy of the EODC will also be endorsed by RAs to Customs by post till the system of transmitting these through EDI under MEM between DGFT and CBIC is introduced.

It was seen in audit that the MEM was not implemented in RA Jaipur, Kolkata Port and ACC Hyderabad. RA Kolkata, Ahmedabad and Vadodara did not provide any response on the module being in use for exchange of information. The sharing of information between DGFT and Customs was not adequate in the absence of the online MEM and the following was observed:

**Table 3.13 : Non-implementation of online MEM**

Sl/ No	Port Name	Total	Status
1	Kolkata Sea Customs	273	273 AAs were pending for closure for more than two years due to non-receipt of EODC from DGFT
2	ICD Bengaluru	783	1070 instances of non-communication of EODC from DGFT.
3	NCH Mangaluru	287	
4	ICD Hyderabad	20	Invalidation not communicated to Customs by RA in 12 AAs. This may result in utilization of double benefit by the AH while procurement of inputs in domestic market as well as importing the same inputs duty-free from the port of registration. No EODC received in another 8 AAs.
5	ACC Hyderabad	1	Imports of ₹42.01 lakh not disclosed to RA
6	Delhi	2620	As per Monthly Progress Register (MPR) of Customs ports under Delhi jurisdiction (January 2020), EOP was over in 2620 cases. Money value of these cases were sought from Customs, which is awaited.
	<b>Total</b>	<b>3984</b>	

In the absence of an effective online Message Exchange Module (MEM), CBIC often had to depend on the AH to ascertain EODC status granted by DGFT. Similarly, DGFT was not aware about the duty payment status for cases where EO period is over but documents have not been submitted. Non-communication

of EODC data by DGFT /non-usage of EODC data by Customs authorities results in delay in closure of bonds and increase in pendency. The cases illustrated involved government revenue; hence AHs may be asked to obtain the redemption letter from RAs and submit them to Customs Department to minimize the pendency and action may be initiated to recover the government revenue involved.

DGFT stated (February 2021) that AA software does not allow such access to RAs. EO monitoring has already been initiated by RAs and the new IT system is expected to resolve the issue of delay in EODCs.

DoR stated (February 2021) that a special drive was undertaken in February-March, 2020 for maximum realization of Customs revenue in respect of pending authorisations. On implementation of MEM, quicker action would be possible by Customs, where the EO has expired.

Progress in this regard would be watched in subsequent audits.

### 3.3.2 Mis-match between DGFT and Customs in action taken against defaulters

An institutional mechanism was set up between Customs and DGFT for periodical meetings on quarterly basis with RAs to exchange intelligence, check misuse and pursue issues such as EO fulfillment status so that concerted action can be taken against the defaulters vide DoR instructions (January 2011).

Cross-verification of data of Customs with DGFT on action taken against the defaulters revealed inconsistencies in 101 instances in the following two ports as detailed below:

**Table 3.14: Mis-match between DGFT and Customs in action taken against defaulters**

S/No.	Name of the Port	Name of the RA	Number of cases	Mismatch
1	ACC Mumbai	Mumbai	15	ACC Mumbai adjudicated 10 AA pertaining to the period from FY 2005 to FY 2013. However, as per RA Mumbai, AAs are still pending at SCN level, or PH level, and are not yet adjudicated and no penalty determined as per FTDR Act. In another five AAs, ACC Mumbai adjudicated five cases demanding duty of ₹1.90 crore from the exporters. However, on the DGFT side, these were already redeemed 1.5 year to 7.5 years prior to the date of such adjudication orders
2	JNCH Mumbai		86	SCNs issued by JNCH in respect of 86 AAs are pending for adjudication, while these licences were already redeemed at DGFT side.
	<b>Total</b>		<b>101</b>	

A case of unsustainable ex-parte adjudication order was passed against M/s. AV Ltd., by Commissioner of Customs, Mumbai demanding duty of ₹1.63 crore even though the AH had not utilized the AA and Customs Department itself issued a non-utilization certificate in September 2015, based on which DGFT office issued (November 2015) surrender letter.

This indicates weak institutional mechanism between two Departments in exchange of information and coordinated action against the defaulters. Either SCNs were not issued or SCNs already issued were kept pending or adjudicated at Customs side without ascertaining its corresponding position on the RA side. Moreover, EODC orders sent by the DGFT were not effectively reaching the Customs side.

It is seen that DGFT has launched (April 2018) 'eodc.online' website wherein Customs can monitor the status as DGFT updates the progress of action on redemption applications filed by the exporters. This could be used effectively to bring uniformity of action between two Departments.

DoR stated (December 2020) that in many cases the DGFT eodc.online website was not updated. The licencees neither respond to the demand notice nor appear for the personal hearings. Even after giving enough opportunity and time to be heard, there was no response from AHs on the issue of fulfillment of EO. Therefore, the Department is unable to know the present status of the Advance Authorisations at the time of adjudication.

***Recommendation No. 14: DGFT should implement the Message Exchange Module (MEM) across all its RAs for effective and timely exchange of information between DGFT and Customs as well as update the EODC status in its eodc.online website on a regular basis. Periodical meetings may be held in an ongoing manner between DGFT and Customs field formations for timely sharing of information, reconciling the EODC status and recovering the government revenue involved in the shape of duty forgone. Appropriate action may be initiated by DGFT/DoR against defaulters for not complying with the Scheme provisions.***

DGFT stated (February 2021) that instructions for periodical meetings between DGFT and Customs field formations have been issued (December 2020) wherein RAs have been instructed for reconciling the EODC status and to take action as prescribed in HBP/FTP and FTDR Act 1992 to protect government revenues.

DoR stated (February 2021) that it is liaising with DGFT for receiving online EODC. DoR requested (May 2019) DGFT to provide details of pending authorisations where the EO period is over and EODC/Redemption letter has not been issued and field formations have been asked to strictly follow instructions issued for periodic interactions.

As per the information collated from field audit offices, no records of any such meeting was available. Mumbai office stated that meetings were held after

being commented in audit, which is also corroborated with huge pendency of pan-India cases commented upon. Inter-departmental coordination between DGFT and DoR is required even at headquarters level and instructions to field formations for holding periodic interactions needs to be reiterated/monitored by DGFT/DoR.

### 3.3.3 Weakness in institutional mechanism to ascertain export performance and to take action on defaulting AH

Customs Circular No.16 (May 2017) stipulates issuing of simple notice by Customs to AHs for submission of proof of discharge of export obligation. The matter may be kept in abeyance in case the AH submits proof of their application having been submitted to DGFT and the process to issue EODC is under progress. Field formations should interact with DGFT through institutional mechanism to pursue such cases. In case of fraud or evasion, field formations shall take necessary action in terms of relevant provisions.

Review of records pertaining to AAs in Customs Ports revealed the following:

**Table 3.15: Non-monitoring of export performance due to weak institutional mechanism**

S/ No.	Name of the Commissionerate	No. of AAs	Remarks
1	Chennai Sea Port & Tuticorin	19	AH did not submit proof of exports in 19 AAs, although EOP expired and no extension were sought. Imports of ₹50.26 crores with duty foregone of ₹9.00 crores were effected against these AAs. Department issued initial demand letter but no SCN was issued so far to protect revenue.
2	Hyderabad Customs	93	Duty free imports amounting to ₹3674.85 crores with duty foregone of ₹309.67 crores were made in 93 AAs out of 1,343 unredeemed AAs even though EOP had lapsed and no exports were effected.
3	JNCH & ACC Mumbai	19	No SCN was issued in 16 AA files even though AH did not submit any application for redemption to DGFT after the EOP has expired. Besides, there was no communication with DGFT with regard to 15 AA files to ascertain whether AH furnished any documents at DGFT for redemption. In another three instances, although SCNs were issued, adjudication was pending for six to 10 years.
4	ACC Bengaluru	328	SCNs in respect of 328 AAs with duty effect of ₹80.15 crore are yet to be adjudicated with delay ranging from 2 to 10 years resulting in revenue blockage.
5	ACC Mumbai	42	42 files adjudicated within 60 to 1145 days from the date of issue of SCNs.
6	JNCH Mumbai	25	Details of adjudication were requested, which is still awaited; however, as per data available, the SCNs were adjudicated in 25 cases within a period of 72 to 511 days.
	<b>Total</b>	<b>526</b>	

DoR stated (December 2020) that the adjudication are being done ex-parte to protect revenue as AHs are not attending personal hearings in maximum cases. With regard to ACC Bengaluru, 13 cases involving revenue of ₹1.28 crores have

already been adjudicated and remaining pending SCNs are being taken up for adjudication on priority for early disposal.

Non-issuance of SCNs by Customs Department against defaulters and delays in adjudication process indicates weakness in coordination between the two Department and ineffective utilization of the EDI system or 'eodc.online' of DGFT to ascertain export performance and take concerted action. DGFT should notify DoR about extensions granted to AAs, SCNs/demand notices issued and update its portal regularly thereby facilitating action by Customs in a timely manner.

### Conclusion

Allowing duty free imports beyond the validity period of Authorisations or excess imports against licences indicates weakness in the monitoring mechanism in the Customs Licence Utilisation module. Further, the primary purpose of execution of bond is to secure due compliance with rules and procedures as laid in the AA Scheme; it also serves as a collateral security to ensure payment of appropriate duty and interest in cases of non-compliance. Non-cancellation of the bonds in a timely manner, as prescribed in CBIC instructions, not only results in locking up of funds of the genuine AHs but also sends a wrong signal to the trade at large.

RAs depend on AH to make a claim for redemption, as no mechanism existed till recently with the RAs to ascertain the cases where the EO period has expired. Instances of non-monitoring of excess imports, non-compliance with the pre-import conditions and undue extension of Export Obligation Period (EOP) were observed.

There is no time limit prescribed in FTP/HBP for seeking revalidation of licences and such requests are sought even after expiry of the validity period of Licence. As validity of the licence is specified (12 months from issue date) in Para 2.16 of the HBP and authorisations must also be valid on the date of imports/exports (Para 2.18 of HBP), in audit's opinion any request for revalidation should be entertained within the validity of the licence only.

RAs do not insist for declaration of all the inputs actually consumed in the manufacture of exported items as required under Appendix 4H/4E. Audit is of the opinion that the practice of considering CIF value of only imported inputs does not reflect the complete picture of value addition. Non-inclusion of value of indigenous supplies, incorrect consideration of GST/Commission/IGST amount and non-declaration of actual imports by AHs were observed in audit which is fraught with the risk of diversion of duty free imports as well as misuse of the scheme. RAs may ascertain the actual usage of non-declared goods and take appropriate action for disallowing the incorrectly availed exemption.

Non-activation of the online facility for redemption/EODC application resulted in delay in issue of EODC and increase in transaction cost and time. Even though the redemption application were filed online, however, all documents like BEs,

SBs, e-BRCs, input and export consumptions and certificates were required to be filed manually during the period of audit 2015-16 to 2018-19. The complete digitization of the redemption process and its integration with licence data would help in reducing the delay and to achieve the benchmark of 15 days set for disposal of redemption applications.

In the absence of an effective online Message Exchange Module (MEM), CBIC often had to depend on the AH to ascertain EODC status granted by DGFT. Similarly, DGFT was not aware about the duty payment status for cases where EO period is over but documents have not been submitted. Non-communication of EODC data by DGFT/non-usage of EODC data by Customs authorities results in delay in closure of bonds and increase in pendency.

Non-issuance of SCNs by Customs Department against defaulters and delays in adjudication process indicates weakness in coordination between the two Department and ineffective utilization of the EDI system or 'eodc.online' of DGFT to ascertain export performance and take concerted action. DGFT should notify DoR about extensions granted to AAs, SCNs/demand notices issued and update its portal regularly thereby facilitating action by Customs in a timely manner.

#### Recommendations

**9. CBIC may consider having an automated alert system for expiry of EO period to ensure appropriate bond renewal/cancellation and obviate the need for depending on AHs for ascertaining EODC status.**

**10. DGFT needs to have an effective mechanism to continuously and regularly monitor EO. Till recently, there was no system to track cases where EOP had lapsed, and RAs depended on AHs to ascertain the EODC status. To minimize possible misuse of AAs, there is a need to have validation checks in the DGFT's EDI system to address possible diversion of imported inputs through substitution of indigenous inputs.**

**11. DGFT should review the procedure for granting revalidation and requests for revalidation should be accepted only within the validity period of the authorisation so that any duty free imports or exports reckoned for export obligation is well within the currency of the authorisation.**

**12. DGFT may insist for complete disclosure in Appendix 4H requiring AHs to declare the "details of all the inputs consumed in the manufacture of exported goods including the indigenously procured inputs and the source of such procurements", for facilitating better monitoring of actual consumption by RAs thereby preventing diversion of duty free imports and misuse of the scheme.**

**13. DGFT should review the procedure for issuance of EODC to meet its prescribed timeline of 15 days by ensuring that the online module is realigned**

*to accept only full and completed applications along with all the required documents.*

**14. DGFT should implement the Message Exchange Module (MEM) across all its RAs for effective and timely exchange of information between DGFT and Customs as well as update the EODC status in its eodc.online website on a regular basis. Periodical meetings may be held in an ongoing manner between DGFT and Customs field formations for timely sharing of information, reconciling the EODC status and recovering the government revenue involved in the shape of duty forgone. Appropriate action may be initiated by DGFT/DoR against defaulters for not complying with the Scheme provisions.**



## CHAPTER IV Internal Control Management

Internal control is broadly defined as a process effected by an entity's management, designed to provide reasonable assurance regarding the achievement of objectives of effectiveness and efficiency of operations, reliability of financial reporting and compliance with applicable laws and regulations. A strong internal control mechanism not only acts as deterrence but also mitigates the chances of fraudulent activities and aids the management in achieving its intended objectives. Audit verified criteria such as adherence to the prescribed procedures, Internal/Special audits, system of data management, accounting and internal reporting to assess the effectiveness of internal controls and found the following deficiencies:

- Inadequate monitoring of Internal/Special Audit (Para 4.1);
- Absence of time limit for Issuance/adjudication of SCNs (Para 4.2);
- Mismatch in MIS reports and data as per Customs EDI system (Para 4.3);
- Other Irregularities (Para 4.4).

### **4.1 Inadequate monitoring of Internal/Special Audit**

As per Paragraph 7.10 of FTP 2015-20, a Risk Management System (RMS) shall be in operation, wherein every month, the computer system in the DGFT headquarters, on random basis, will select 10 *per cent* of cases, for each RA, where benefit(s) have already been granted. Such cases shall be scrutinized by an Internal Audit team, headed by a Joint DGFT, in the office of respective Zonal Additional DGFT. The team will be responsible to audit claims, not only for its own office but also the claims of all RAs falling under the jurisdiction of the Zone. The respective RAs may also, either on the basis of the report from Internal/External Audit Agency or *suo-moto*, reassess any case, where any erroneous/ineligible payment has been made/claimed. RAs will take necessary action for recovery of payment along with interest at the rate of 15 *per cent* per annum on the recoverable amount.

Para 4.07 (ix) of FTP further specifies that DGFT or any person authorised by him may conduct audit of the manufacturer pertaining to AAs issued under Self-Ratification Scheme. Such audit may be conducted based on RMS within three years from the date of issue of authorisation. Sub-para (x) further states that DGFT or any person authorised by him may initiate a special audit, considering the nature and complexity of the case and revenue of government, if he is of the opinion at any stage of scrutiny/enquiry/investigation that the norms have not been claimed correctly or excess benefits have been availed.

It was seen in nine RAs (Ahmedabad, Bengaluru, Chandigarh, Jaipur, Hyderabad, Ludhiana, Panipat, Vadodara and Visakhapatnam) that no internal audit or special audit was conducted, despite having cases under Self-Ratification Scheme.

It was seen in Mumbai and Pune RA that Internal audit is being conducted by PAO from MoF which is not under the administrative control of DGFT and whose scope is different from that of the 'RMS' based internal audit. No information regarding special audit was furnished by RA Mumbai and Pune.

RA Bengaluru, Hyderabad and Visakhapatnam were not aware that such mechanism exists with RAs for conducting internal audit of AA cases. No information on conducting of Internal/special audit was given by CLA Delhi despite request/reminders issued in this regard.

Availability of manpower for conducting internal/special audit was reviewed and it was seen that no separate posts exist or manpower allotted for internal/special audit in RA Bengaluru, Mumbai and Kochi and shortage of staff was observed from RA Mumbai, Pune, Chennai and Kochi.

DGFT stated (February 2021) that all RAs have been instructed to conduct Internal/Special Audit and Internal audit is in progress or schedules prepared at the field level. DGFT further stated (July 2021) that no separate Internal Audit Wing has been formed at DGFT Headquarters and no separate strength specified for conduct of internal audit at RAs/CLAs, however, some RAs have formed their Audit Wing. Internal audit of DGFT Headquarters is conducted by PAO team formed by CCA, DoC.

Absence of an effective policy on internal/special audit had contributed to non-monitoring of the implementation of the Schemes wherein licences are issued for export of various goods by allowing duty free import of inputs among other functions. Many RAs at field level are unaware of any such mechanism.

***Recommendation No. 15: Internal Audit is an important mechanism for identifying potential areas to improve and hence an effective tool of Internal Control. DGFT should ensure that Internal Audit is appropriately staffed and is being conducted regularly and effectively in its field offices. Further, Special Audit was envisaged specifically for cases wherein AAs are issued under Self-ratification/declaration and therefore should have been carried out in at least a few test cases to act as a deterrent for applicants making wrong declarations.***

DGFT stated (February 2021) that all RAs have been directed to conduct Internal audit and also Special Audit wherein AAs are issued under self-ratification/declaration by carrying few test checks.

Progress in this regard would be monitored in subsequent Audits.

#### 4.2 Non-monitoring of conditions of authorisations and EO fulfillment by RAs

FTDR Act 1992 was introduced with effect from 7 August 1992 to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from India. Section 13 read with section 11 of the FTDR Act, 1992, empowers the adjudicating authority to impose penalty for violation of any of the conditions of the licence or failure to fulfill EO after issuing SCN under Section 14 of Act *ibid*.

Audit reviewed the mechanism instituted for RAs to see whether the conditions of licences and fulfilment of EO by AHs were complied with by checking whether the list of SCN/Adjudication orders are duly maintained, time taken for issuing SCN/Adjudication and also whether any recovery mechanism is put in place.

It was observed in audit that no time limit had been prescribed in the Act for issuance of SCN and subsequent adjudication. In the absence of a specific timeline for issuance of SCN/Adjudication order, RAs are not bound to take penal action in case of any violation of the conditions of licence or failure to fulfill EO, thereby resulting in inordinate delay in issuance/adjudication of SCNs as illustrated hereunder:

(i) In RA Mumbai, time taken to issue SCNs in 1,074 Authorisations during the period from 2015-16 to 2018-19 ranged from two to 17 years. In 396 cases, PHs were held, factsheet prepared but no adjudication orders were issued despite lapse of two to three years. In other cases, even after issue of SCNs, the proceedings of hearing and conclusion of proceedings did not happen periodically. Audit test checked 25 sample cases in RA Mumbai and Pune and found no significant reasons for delay in issue of SCNs and their adjudication. As per EDI data, RA Mumbai had adjudicated 374 SCNs during 2015-16 to 2018-19 and imposed a penalty of ₹432.26 crore. Two sample adjudication files checked in audit involved ₹46 crore penalty imposed in January/February 2018 and the cases are pending before Appellate Authority.

(ii) In RA Bengaluru, 949 SCNs were issued during the period from 2015-16 to 2018-19, out of which only 51 cases could be adjudicated (5.37 per cent) involving penalty of ₹824.17 lakh. However, no recovery could be made till date.

(iii) In RA Hyderabad, 229 SCNs were issued in respect of 229 AAs; however, none was adjudicated. Further scrutiny revealed that 228 SCNs (out of total 229 SCNs) were issued in 2018-19 for defaults pertaining to 2001-02 to 2017-18. RA took upto 17 years for issuing SCNs.

(iv) In RA Jaipur, eight SCNs were issued during the period covered in review with delay ranging from 67 to 981 days. Only six SCNs were adjudicated with delays ranging from seven months to six years. However, no recovery (out of ₹29.00 lakh penalty) could be made, till date, in any of the cases.

(v) SCN/Adjudication register was not properly maintained in RA Cuttack, Jaipur and Kolkata.

(vi) Details of SCNs issued or Adjudications made were not furnished by three RAs (Ahmedabad, Delhi and Vadodara).

DGFT stated (February 2021) that steps are being taken to resolve the issue and strengthen the institutional mechanism and ascribed reasons like shortage of manpower for the delay.

Specific timeline should be prescribed in the FTDR Act for issuing of SCN and adjudication order so that all cases liable for action should be dealt in the same manner without any prejudice and which would also help to minimize the blockage of government revenue.

***Recommendation No. 16: DGFT may consider fixing of time limit for issue and adjudication of SCNs in order to enforce better regulation of the adjudication process in a timely and effective manner.***

DGFT stated (February 2021) that ECA Division has issued (January 2021) Model Guidelines and timelines to all RAs for Adjudication Proceedings under FTDR Act, and also referred to the new IT system being put in place for comprehensive monitoring of adjudication proceedings.

Progress in this regard, would be watched in subsequent Audits.

#### **4.3 Mis-match in MIS reports and data as per Customs EDI system**

The MIS report of DGFT provides valuable inputs for assessing the operational aspects/performance/workload of RAs. RAs are required to collate various information viz., details of various applications processed, cases referred to NCs, EO monitoring, SCNs/Adjudications, Court cases, Sanctioned strength and PIP which are compiled by the Statistics Division on the basis of inputs received from various sections of the RA. Monitoring by DGFT is on the basis of MIS reports submitted by RAs.

Review of MIS reports submitted to DGFT when compared with Customs EDI data revealed inconsistencies in three RAs as detailed below:

In RA Mumbai, cross-verification for the period from FY 01 to FY 17 revealed mismatch in 956 cases of un-redeemed licences, 331 cases of SCNs issued and 1,287 cases of SCN not issued. Besides, there is a shortcoming in the MIS-4 report as it does not exhibit age-wise analysis of pendency of SCNs/Demand notices issued and reasons for their pendency.

Similarly, in RA Pune, the mismatch in un-redeemed cases was 85 for the period from FY 09 to FY 19. Details of pendency of SCNs are not reported in MIS reports submitted to DGFT. When ascertained, it was stated that 59 SCNs are pending for periods ranging from 1 to 2.5 years.

In RA Jaipur, numbers of AAs and CIF value thereon for the period from 2015-16 to 2018-19, maintained at RA were not tallying with the MIS report sent to DGFT, with variance of 43 AAs involving CIF value of ₹540.86 crore.

RA Jaipur, accepting the observation, corrected the current MIS-4 report in January 2020. However, reasons for mismatch of data in earlier MIS reports were not adduced.

MIS reports submitted by RAs are not being adequately monitored/reconciled by the DGFT and non-reporting of vital information is not being pursued with RAs. The delay in initiation of action as well as delay in disposal of demand notices/SCNs resulted in huge accumulated pendency. No timelines were specified in the FTP and no administrative orders were issued containing instructions to initiate action and escalate legal proceedings against defaulters.

DGFT stated (February 2021) that the facility of eodc.online provides the database interface and that steps are being taken to resolve the issue and strengthen the institutional mechanism.

***Recommendation No. 17: DGFT needs to monitor the MIS reports submitted by RAs and instances of wrong/non reporting may be pursued with RAs. Action may be initiated by DGFT on the basis of information collated from MIS reports.***

DGFT stated (February 2021) with the new IT system being introduced (1 December 2020), the scheme is now paperless wherein online reports would be generated with 100 per cent accuracy and there is no question of mismatch or non-maintenance of master register.

Progress in this regard would be watched in subsequent Audits. Details of action taken on the basis of information collated from MIS reports may be intimated to Audit.

#### **4.4 Other irregularities**

##### **4.4.1 Non-maintenance/updation of Master Register**

Rule 4.44 (a) of HBP 2015-20 stipulates that RAs shall maintain a proper record in a Master Register indicating starting and closing dates of EOP and other particulars for effectively monitoring the EO so that timely action could be initiated against the defaulter AH.

Audit observed during the period of audit that the Master Register was not maintained in five RAs (Cuttack, Delhi, Panipat, Patna and Varanasi) and not properly updated in other five RAs (Hyderabad, Indore, Jaipur, Kanpur and Visakhapatnam).

A case is highlighted in RA Hyderabad where fulfillment of EO was not being monitored effectively even though Master Register was maintained both in physical as well as in the Computer systems (LEMIS). In 93 out of 1,343 unredeemed AAs, where EOP had lapsed, no exports were made even though

the AHs imported duty free goods with duty forgone of ₹309.67 crore in these cases. In four instances, no communication was made with the AHs in this regard. In one case, the excess imports were noticed only at the time of redemption of AA. Besides, the amendment orders for revalidation/ extension /enhancement/invalidations were not updated in the Master Register.

DGFT stated (February 2021) that the online module eodc.online monitors the EO status whereby details of pending cases can be checked. Now all the EODCs are system generated which can itself serve as Master Register.

In the absence of a Master Register during the period 2015-16 to 2018-19, RAs neither had any mechanism to determine fulfillment of EO till documents were submitted by AHs nor RAs could ask for details for fulfillment of EO from AHs. Further, RAs were not in position to take action such as refusing further licences, enforcing conditions of licence or initiating penal action with recovery of duty/interest in the absence of such requisite records. The online functionalities were stated to be implemented only from 1 December 2020 and this will be reviewed in subsequent audits.

#### **4.4.2 Non-monitoring for import of precious metals by nominated agencies**

Para 4.94 of HBP stipulates that four/five star export houses may apply online to RAs, for issue of Nominated agency certificate. Sub-para (b)(iii) stipulates that RAs which issues Nominated agency certificate shall monitor the performance of such certificate holders based on half yearly returns as per Appendix-4M of HBP to be filled by such agencies. RAs will also inform DGFT about non-filers and also take appropriate action within 30 days for the suspension/cancellation of the nominated agency certificate. DGFT headquarters can also review the performance of Nominated Agencies, whenever necessary.

RA Bengaluru issued nominated agency certificate to M/s. X Exports (a star house exporter) involved in imports/exports of gold bars/medallions. However, RA failed to report DGFT about non-filing of half-yearly returns or initiate appropriate action for suspension/cancelling of the nominated agency certificate.

#### **4.4.3 Inadequate monitoring of cases referred to NC**

Monitoring of cases referred to NC is being done by RAs and MIS-3 report in this regard is required to be forwarded to DGFT Headquarters on monthly basis. MIS-3 report is a product group-wise list of pending cases related to no-norms category which are referred to the NCs by RAs for finalization of norms. It is compiled by the Statistics Division on the basis of inputs received from various sections. It is not generated automatically from the EDI system of DGFT.

In RA Kochi, the statistical information relating to AAs referred to NCs were not available and MIS-3 report submitted to Headquarters was shown as Nil on the

ground that the AHs have directly sent the application for fixation of norms to NCs, indicating ineffective monitoring of AA cases referred to NCs.

DGFT stated (February 2021) with the new IT system (1 December 2020), delay in issue of EODC by RAs would be resolved. Policy Circular 23 (May 2019) stipulates forwarding of required documents directly to NCs by the applicants for AAs issued under self-declaration when SION does not exist and therefore cases referred to NCs were shown as Nil.

The intent of the Policy Circular *ibid* was to bridge the time lag between online application and receipt of documents by NCs and therefore applicants were allowed to forward the required documents directly to NCs. As AAs are issued by jurisdictional RAs, Audit is of the view that RAs should reflect AAs referred to NCs in their MIS-3 report and the same needs to be monitored by DGFT.

### Conclusion

Absence of an effective policy on internal/special audit had contributed to non-monitoring of implementation of the Scheme wherein licences are issued for export of various goods by allowing duty free import of inputs among other functions. Many RAs at field level were unaware of any such mechanism.

Specific timelines should be prescribed in the FTDR Act for issuing of SCNs and adjudication orders so that all cases liable for action should be dealt in the same manner without any prejudice. This would also help to minimize the blockage of government revenue.

MIS reports submitted by RAs are not being adequately monitored/reconciled by the DGFT and non-reporting of vital information is not being pursued with RAs. The delay in initiation of action as well as delay in disposal of demand notices/SCNs resulted in huge accumulated pendency. No timelines were specified in the FTP and no administrative orders were issued containing instructions to initiate action and escalate legal proceedings against defaulters.

### Recommendations

**15. Internal Audit is an important mechanism for identifying potential areas to improve and hence an effective tool of Internal Control. DGFT should ensure that Internal Audit is appropriately staffed and is being conducted regularly and effectively in its field offices. Further, Special Audit was envisaged specifically for cases wherein AAs are issued under Self-ratification/declaration and therefore should have been carried out in at least a few test cases to act as a deterrent for applicants making wrong declarations.**

**16. DGFT may consider fixing of time limit for issue and adjudication of SCNs in order to enforce better regulation of the adjudication process in a timely and effective manner.**

**17. DGFT needs to monitor the MIS reports submitted by RAs and instances of wrong/non reporting may be pursued with RAs. Action may be initiated by DGFT on the basis of information collated from MIS reports.**

New Delhi  
Dated: 28 OCT 2021

  
(Kartikaye Mathur)  
Principal Director (Customs)

Countersigned

New Delhi  
Dated: 29 OCT 2021

  
(Girish Chandra Murmu)  
Comptroller and Auditor General of India

# **Appendix and Annexures**



Appendix 1 : Sample selection (Para 1.7/Chapter I)							
Sl.No	Name of RAs Selected	Total AA issued	CIF in Crores	Sample selected	MV in Crore	Non Production of Records (NPR) cases	MV of NPR cases in Crore
1	Delhi	13193	113776.92	504	13187.37	35	372.42
2	Mumbai	28362	232686.8	873	30163.22	268	7450.54
3	Chennai	4431	26797.35	369	1239.89	0	
4	Kolkata	2772	17024.48	158	6826.79	16	572.52
5	Ahmedabad	8673	32644.31	398	8924.28	63	1331.5
6	Bengaluru	6168	115357.56	424	91487.2	0	
7	Hyderabad	4628	42789.49	316	12770.54	0	
8	Pune	1558	11449.8	128	1660.6	16	80.59
9	Vadodara	3798	70600.27	179	31499.05	0	
10	Jaipur	1219	6133.41	98	1938.61	0	
11	Coimbatore	1209	2450.94	118	576.44	0	
12	Kochi	878	5247.3	106	1255.76	0	
13	Visakhapatnam	152	575.68	24	31.99	0	
14	Guwahati	3	58.65	3	58.65	0	
15	Kanpur	993	2835.65	71	826.99	0	
16	Varanasi	112	204.11	40	113.98	0	
17	Ludhiana	936	3632.8	69	1233.33	0	
18	Chandigarh	855	7799.11	60	1777.25	0	
19	Panipat	239	1901.25	15	764.93	0	
20	Cuttack	98	929.26	42	703.35	6	95.52
21	Patna	5	20.93	5	20.95	1	3.62
22	Bhopal	396	3343.89	6	414.57	0	
23	Indore	996	5748.17	42	649.82	0	
	<b>Total</b>	<b>81674</b>	<b>704008.13</b>	<b>4048</b>	<b>208125.56</b>	<b>405</b>	<b>9906.73</b>
24	Other 15 RAs	6483	54132.87				
<b>Total of 38 RAs</b>		<b>88157</b>	<b>758141</b>				

Annexure 1A (Para 2.2/Chapter II)														
SI	RA Name	RA Code	Year	No. of days taken to issue authorisation from the filing date										Total
				No. issued	upto days	3	4	1month	1-3 month	3-6 month	6-12 month	1-2 years	more than 2yrs	
1	Kolkata	2	2015-16	578	115		389		35	13	12	14	0	578
			2016-17	692	138	428	78	16	18	11	3	692		
			2017-18	725	187	487	37	8	6	0	0	725		
			2018-19	691	117	511	48	13	2	0	0	691		
2	Mumbai	3	2015-16	6881	988	4551	886	246	141	61	8	6881		
			2016-17	7370	1297	4961	790	181	99	36	6	7370		
			2017-18	6982	1075	4896	701	189	69	16	36	6982		
			2018-19	7127	1047	4961	869	145	68	29	8	7127		
3	Chennai	4	2015-16	1065	262	640	134	20	3	5	1	1065		
			2016-17	1081	149	779	132	11	4	5	1	1081		
			2017-18	1135	140	873	108	9	1	4	0	1135		
			2018-19	1150	70	954	101	14	6	5	0	1150		
4	Delhi	5	2015-16	2861	795	1782	217	49	14	1	3	2861		
			2016-17	3175	1035	1861	229	30	9	6	5	3175		
			2017-18	3361	1260	1872	133	21	28	29	18	3361		
			2018-19	3763	1490	2119	131	21	1	1	0	3763		
5	Kanpur	6	2015-16	206	125	75	4	1	1	0	0	206		
			2016-17	241	145	94	1	1	0	0	0	241		
			2017-18	250	144	100	5	1	0	0	0	250		
			2018-19	282	184	97	1	0	0	0	0	282		
6	Bangaluru	7	2015-16	1410	282	910	161	40	16	1	0	1410		

Annexure 1A (Para 2.2/Chapter II)														
SI	RA Name	RA Code	Year	No. of days taken to issue authorisation from the filing date										Total
				No. issued	upto days	3 days-1month	4 days-1month	1-3 month	3-6 month	6-12 month	1-2 years	more than 2yrs		
7	Ahmedabad	8	2016-17	1594	239	1130	192	26	5	2	0	1594		
			2017-18	1574	516	930	92	14	11	11	0	1574		
			2018-19	1593	612	883	77	13	7	0	1	1593		
8	Hyderabad	9	2015-16	2121	630	1266	161	44	9	0	11	2121		
			2016-17	2168	562	1308	218	55	20	5	0	2168		
			2017-18	2061	308	1354	312	69	15	2	1	2061		
			2018-19	2322	365	1567	238	89	43	19	1	2322		
9	Cochin	10	2015-16	1211	81	954	144	27	5	0	0	1211		
			2016-17	1193	55	968	138	20	10	2	0	1193		
			2017-18	1091	37	887	139	17	6	4	1	1091		
			2018-19	1104	93	852	126	26	5	1	1	1104		
10	Bhopal	11	2015-16	228	27	180	17	1	2	1	0	228		
			2016-17	237	48	183	5	0	1	0	0	237		
			2017-18	172	34	124	14	0	0	0	0	172		
11	Jaipur	13	2018-19	239	30	184	21	4	0	0	0	239		
			2015-16	42	8	28	4	2	0	0	0	42		
			2016-17	62	11	40	7	3	1	0	0	62		
			2017-18	55	18	27	5	2	3	0	0	55		
11	Jaipur	13	2018-19	237	102	126	5	0	0	1	3	237		
			2015-16	265	23	233	9	0	0	0	0	265		
			2016-17	301	46	249	4	0	1	1	0	301		

Annexure 1A (Para 2.2/Chapter II)																	
Sl	RA Name	RA Code	Year	No. of days taken to issue authorisation from the filing date										Total			
				No. issued	upto days	3	4	days-1month	1-3 month	3-6 month	6-12 month	1-2 years	more than 2yrs				
			2017-18	310	57		241		9		3		0		0	310	
			2018-19	319	98		215		6		0		0		0	0	319
12	Guwahati	14	2015-16	0	0		0		0		0		0		0	0	
			2016-17	2	0		1		1		0		0		0	2	
			2017-18	1	0		1		0		0		0		0	1	
			2018-19	0	0		0		0		0		0		0	0	
13	Varanasi	15	2015-16	33	11		17		5		0		0		0	33	
			2016-17	28	5		21		2		0		0		0	28	
			2017-18	22	3		16		3		0		0		0	22	
			2018-19	29	8		21		0		0		0		0	29	
14	Patna	21	2015-16	1	0		1		0		0		0		0	1	
			2016-17	1	0		0		1		0		0		0	1	
			2017-18	0	0		0		0		0		0		0	0	
			2018-19	3	0		1		2		0		0		0	3	
15	Chandigarh	22	2015-16	218	63		120		25		5		2		3	218	
			2016-17	193	93		89		7		1		1		1	193	
			2017-18	178	68		91		14		3		1		0	1	178
			2018-19	240	58		154		18		9		0		1	0	240
16	Cuttack	23	2015-16	8	5		3		0		0		0		0	8	
			2016-17	11	8		1		1		1		0		0	11	
			2017-18	51	37		13		1		0		0		0	51	

Annexure 1A (Para 2.2/Chapter II)														
SI	RA Name	RA Code	Year	No. of days taken to issue authorisation from the filing date									Total	
				No. issued	upto days	3 days-1month	4 days-1month	1-3 month	3-6 month	6-12 month	1-2 years	more than 2yrs		
			2018-19	26	13		12	1			0	0	0	26
			2015-16	31	0		21	9			0	1	0	31
	Visakhapatnam	26	2016-17	37	5		28	4			0	0	0	37
			2017-18	38	0		21	12			3	1	1	38
			2018-19	42	1		29	5			1	6	0	42
			2015-16	220	120		84	6			8	2	0	220
	Ludhiana	30	2016-17	201	83		93	10			5	5	0	201
			2017-18	219	136		64	9			7	2	1	219
			2018-19	279	189		78	9			2	0	1	279
			2015-16	537	117		337	73			6	1	3	537
	Pune	31	2016-17	408	83		251	31			18	18	3	408
			2017-18	305	91		172	29			7	4	2	305
			2018-19	308	108		169	21			6	2	2	308
			2015-16	216	29		170	16			0	0	1	216
	Coimbatore	32	2016-17	252	42		188	17			5	0	0	252
			2017-18	288	95		186	7			0	0	0	288
			2018-19	448	241		200	7			0	0	0	448
			2015-16	51	10		33	6			1	1	0	51
	Panipat	33	2016-17	60	10		42	8			0	0	0	60
			2017-18	48	15		32	1			0	0	0	48
			2018-19	79	28		47	3			0	1	0	79

Annexure 1A (Para 2.2/Chapter II)													
Sl	RA Name	RA Code	Year	No. of days taken to issue authorisation from the filing date									
				No. issued	upto days	3 days-1month	1-3 month	3-6 month	6-12 month	1-2 years	more than 2yrs	Total	
22	Vadodara	34	2015-16	882	302	517	37	15	8	3	0	882	
			2016-17	1041	197	735	80	20	8	1	0	1041	
			2017-18	902	106	627	114	34	11	10	0	902	
			2018-19	973	193	559	148	54	16	3	0	973	
23	Indore	56	2015-16	280	135	106	30	7	2	0	0	280	
			2016-17	210	101	77	28	4	0	0	0	210	
			2017-18	264	125	106	13	5	6	1	8	264	
			2018-19	214	64	104	23	17	5	1	0	214	
Total			2015-16	19345	4128	12417	1979	485	220	93	23	19345	
			2016-17	20558	4352	13527	1984	397	200	78	20	20558	
			2017-18	20032	4452	13120	1758	392	164	81	65	20032	
			2018-19	21468	5111	13843	1860	414	162	64	14	21468	

Annexure 1B : Delay in issuance of AAs (Para 2.2/Chapter II)				
Sl.No.	Name of RA	RA Code	No. of cases where DL issued	No. of cases where DL not issued
1	Ahmedabad	8	6	16
2	Vadodara	34	0	5
3	Jaipur	13	1	14
4	Bengaluru	7	3	0
5	Chennai	4	0	6
6	Coimbatore	32	0	5
7	Kochi	10	13	6
8	Delhi	5	0	37
9	Indore	56	0	25
10	Bhopal	11	0	4
11	Hyderabad	9	0	290
12	Vishakhapatnam	26	18	6
13	Cuttack	23	0	10
14	Kolkata	2	25	48
15	Guwahati	14	2	0
16	Kanpur	6	3	4
17	Varanasi	15	3	9
18	Patna	21	2	0
19	Mumbai	3	111	270
20	Pune	31	33	37
<b>Total</b>			<b>220</b>	<b>792</b>

Annexure 2 : Non observance of financial powers while issuing AAs (Para 2.7.1/Chapter II)					
Sl No.	RA Name	RA Code	AA Date	FOB in ₹. Cr	CIF in ₹ Cr
1	Bengaluru	7	12.05.15	631.482	622.15
2	Bengaluru	7	12.05.15	1014.421	999.43
3	Bengaluru	7	16.09.15	961.615	947.404
4	Bengaluru	7	16.09.15	963.362	949.125
5	Bengaluru	7	16.09.15	965.811	951.538
6	Bengaluru	7	13.10.16	959.52	945.34
7	Bengaluru	7	13.10.16	956.033	941.905
8	Bengaluru	7	20.10.16	952.553	938.476
9	Bengaluru	7	20.10.16	949.078	935.052
10	Bengaluru	7	08.12.16	1013.985	999
11	Bengaluru	7	08.12.16	1014.926	999.927

<b>Annexure 3: Unauthorized import after expiry of validity period of authorisation (Para 3.1.1/Chapter III)</b>				
<b>Sl. No</b>	<b>Site ID</b>	<b>Duty (in ₹cr.)</b>	<b>CIF Value (in cr.)</b>	<b>No of cases</b>
1	INAPL6	0.09	0.53	1
2	INBOM4	0.70	6.27	126
3	INCCU1	0.02	3.64	13
4	INCCU4	0.25	2.24	51
5	INCOK1	0.07	0.88	1
6	INCPR6	0.00	1.22	5
7	INDEL4	3.82	32.37	304
8	INFBD6	0.10	0.91	4
9	INGHR6	0.11	1.99	5
10	INHVD4	0.07	0.41	16
11	INHZA1	0.00	3.16	16
12	INIXY1	0.15	42.74	20
13	INLON6	0.00	0.69	3
14	INMAA1	0.02	0.38	18
15	INMAA4	0.09	0.60	6
16	INMUN1	0.03	2.28	10
17	INNML1	0.00	0.66	3
18	INNSA1	19.48	43.25	129
19	INPPG6	0.06	0.71	2
20	INPTL6	0.01	0.15	1
21	INSGF6	0.00	0.07	1
22	INSNF6	0.15	1.78	2
23	INTKD6	0.22	4.47	49
	<b>Total</b>	<b>25.42</b>	<b>151.39</b>	<b>786</b>

Annexure 4: Undue extension of EOP (Para 3.2.1.4/Chapter III)							
Sl. No.	RA Name	Licence Date	CIF Value (in Cr.)	FOB value (in Cr.)	Date of import	Date of application received for revalidation	Revalidation issue date
1	Varanasi	26.04.2017	2.90	3.75	26.04.2018	22.05.2018	27.09.2018
2	Varanasi	15.06.2017	2.30	3.17	15.06.2018	25.06.2018	02.07.2018
3	Varanasi	01.03.2018	4.47	5.28	01.03.2019	26.03.2019	05.04.2019
4	Varanasi	31.08.2017	4.52	5.33	31.08.2018	05.10.2018	12.10.2018
5	Varanasi	30.01.2017	2.74	3.75	30.01.2018	15.02.2018	08.03.2018
6	Varanasi	01.10.2015	1.06	1.48	01.10.2016	04.01.2017	18.01.2017
7	Varanasi	07.10.2016	1.75	2.08	07.10.2017	21.11.2017	12.01.2018

Annexure 5: Non-declaration of actual imports by AH (Para 3.2.3.2/Chapter III)						
Sl.No	RA name	RA code	Licence DATE	Shortfall in FOB (in Cr.)	Composition Fee @ 1 per cent Payable	EODC Date
1	Chennai	4	20.06.16	0.23	22631	23.06.17
2	Chennai	4	08.02.17	0.18	18335	11.07.17
3	Chennai	4	08.08.17	0.15	14917	04.06.18
4	Chennai	4	14.09.17	0.69	68881	20.07.18
5	Chennai	4	21.06.17	0.18	17577	04.06.18
6	Chennai	4	14.08.17	0.73	73480	29.07.19
7	Chennai	4	08.12.16	0.91	90821	03.01.19
8	Chennai	4	19.07.17	0.78	78224	20.06.19
9	Chennai	4	18.07.17	0.40	39833	18.07.18
10	Chennai	4	12.05.17	0.53	53079	04.06.18
11	Coimbatore	32	26.09.16	-3.49	0	22.06.18
12	Coimbatore	32	07.04.16	-3.75	0	03.01.18
13	Coimbatore	32	10.02.16	0.02	0	09.11.17
					<b>477778</b>	

<b>Annexure 6: Delay in submission of EODC application by the AH (Para 3.2.5.2/Chapter III)</b>				
<b>Sl.No</b>	<b>Name of RA</b>	<b>RA Code</b>	<b>No of cases</b>	<b>Delay ranging from (in days)</b>
1	Chennai	4	19	6 to 546
2	Kochi	10	24	14 to 702
3	Indore	56	11	46 to 408
4	Hyderabad	9	100	5 to 749
5	Vishakhapatnam	26	4	203 to 792
6	Cuttack	23	3	36 to 69
7	Bengaluru	7	1	929
8	Jaipur	13	21	46 to 709
9	Ludhiana	30	3	203 to 432
10	Panipat	33	4	473 days delay in one case and in three cases EODC not applied
11	Chandigarh	22	3	EODC not applied
		<b>Total</b>	<b>193</b>	

<b>Annexure 7: Non-linking of Export Shipping Bill/invoice with e-BRC (Para 3.2.7.2/Chapter III)</b>				
<b>S No.</b>	<b>RA Name</b>	<b>Licence Date</b>	<b>CIF (in Cr.)</b>	<b>FOB (in Cr.)</b>
1	Kanpur	30.10.2015	31.00	56.91
2	Kanpur	13.04.2015	3.08	4.73
3	Kanpur	23.10.2017	3.05	4.49
4	Kanpur	08.05.2015	2.99	4.73
5	Kanpur	19.08.2015	2.88	4.55
6	Kanpur	26.12.2016	17.09	20.55
7	Kanpur	08.07.2016	14.22	32.94
8	Kanpur	22.09.2015	13.74	31.82
9	Kanpur	19.05.2015	12.96	30.01
10	Kanpur	17.03.2017	32.23	37.07
11	Kanpur	22.03.2016	26.92	30.95
12	Kanpur	05.05.2015	21.33	24.55
13	Kanpur	14.12.2016	19.89	22.90
14	Kanpur	26.04.2016	19.37	22.28
15	Kanpur	12.02.2016	17.43	20.05
16	Kanpur	12.02.2016	17.43	20.05

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S No.	RA Name	Licence Date	CIF (in Cr.)	FOB (in Cr.)
17	Kanpur	14.05.2015	15.20	17.63
18	Kanpur	22.07.2015	14.52	16.71
19	Kanpur	17.02.2016	14.30	16.45
20	Kanpur	07.01.2016	5.35	6.15
21	Kanpur	28.11.2017	4.20	4.83
22	Kanpur	13.01.2016	4.05	4.66
23	Kanpur	05.04.2016	3.07	3.53
24	Kanpur	05.04.2016	3.07	3.53
25	Kanpur	05.04.2016	3.07	3.53
26	Kanpur	09.11.2015	4.51	5.54
27	Kanpur	20.07.2016	4.50	5.40
28	Kanpur	09.02.2017	4.22	4.88
29	Kanpur	22.07.2016	3.89	4.70
30	Kanpur	20.02.2017	3.89	4.70
31	Kanpur	09.11.2015	3.87	4.62
32	Kanpur	18.11.2015	3.75	4.31
33	Kanpur	16.02.2017	3.50	4.03
34	Kanpur	18.08.2017	3.16	3.87
35	Kanpur	22.06.2016	3.04	4.08
36	Kanpur	20.04.2015	2.71	3.26
37	Kanpur	18.02.2016	2.54	3.40
38	Kanpur	05.04.2017	2.50	3.06
39	Kanpur	05.05.2017	2.50	3.06
40	Kanpur	01.01.2016	2.47	2.94
41	Kanpur	29.04.2016	2.47	2.94
42	Patna	13.10.2015	3.35	4.14

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