



SUPREME AUDIT INSTITUTION OF INDIA  
लोकहितार्थं सत्यनिष्ठा  
Dedicated to Truth in Public Interest

# Report of the Comptroller and Auditor General of India

## Performance Audit on Export Promotion Capital Goods (EPCG) Scheme

**Union Government**  
**(Department of Revenue – Indirect Taxes - Customs)**

**No. 17 of 2024**

**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 'Export Promotion Capital Goods (EPCG) Scheme'.

The instances mentioned in this Report are those which came to notice in the course of test audit conducted during the period 2022-23, and covering transactions of the period April 2018 to March 2021.

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

Audit acknowledges 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 Export Promotion Capital Goods (EPCG) scheme facilitates import of capital goods for producing quality goods and services to enhance India's manufacturing competitiveness. Performance Audit of this scheme was conducted to ascertain whether the issue, utilization, redemption and implementation of authorizations 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 24 RAs across India wherein a total of 34,777 authorizations with duty foregone amounting to ₹42,714 crore were issued during the period covered in the Performance Audit (2018-19 to 2020-21). The total FOB (Free on Board) value of exports under the scheme during this period was ₹2,49,137 crore. As per the data furnished by the DGFT, 1,08,798 authorizations whose Export Obligation Period (EOP) expired remained unredeemed till the end of March 2021.

This audit was carried out between April 2022 and January 2023. Audit selected 18 out of the 24 RAs and 22 Customs locations wherein the authorizations issued by the RAs were registered for allowing imports of capital goods and subsequent exports for discharging of the export obligation. For comprehensive coverage and ensuring end-to-end verification of authorizations across each phase of the life-cycle of the scheme, sample of 4,450 authorizations were drawn from four categories, viz., Category A (836 authorizations issued during the period 2018-2021), Category B (1,275 authorizations redeemed during the period 2018-2021), Category C (1,312 authorizations unredeemed whose Export Obligation Period (EOP) was over as on 31 March 2021) and Category D (813 authorizations issued during the period 2015-2018, whose first block period with obligation to fulfil 50 per cent EO was over as on 31 March 2021).

Out of the 4,450 selected cases, 214 authorizations files with DSV value of ₹2,225.22 crore pertaining to 12 RAs (mainly Bengaluru, Kolkata, Chennai, Ludhiana, Coimbatore and Delhi) were not produced for audit, despite repeated requests/reminders to RAs.



## Structure of the Report

This report contains 72 audit observations and 26 recommendations. The performance audit has revenue implication of ₹479.81 crore. However, response were received only for 31 paras from Central Board of Indirect Taxes and Customs (CBIC)/DGFT out of which 27 paras have been fully/partially accepted by CBIC/DGFT. Response for remaining 41 paras are awaited. Similarly, 20 out of 26 recommendations have been accepted by CBIC/DGFT; response awaited in respect of two recommendations and not accepted in respect of four recommendations.

## Chapter I: Overview of EPCG Scheme

The EPCG scheme facilitates import of capital goods for producing quality goods and services to enhance India's manufacturing competitiveness. Under the Foreign Trade Policy (FTP) 2009-2014, the EPCG scheme allowed import of capital goods (except those specified in the negative list in Appendix 5F) for pre-production, production and post production at zero Customs duty (or concessional rate (three *per cent*) which was discontinued in FTP 2015-2020). The EPCG authorization issued is subject to fulfilment of Export Obligation (EO) equivalent to six times the amount of duties, taxes and cess saved (eight times in respect of concessional rate) on the imported capital goods, to be fulfilled in six years (eight years in respect of concessional rate) from the date of issue of authorization.

**(Para 1.1)**

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

**(Para 1.2)**

### Summary of Audit Findings

## Chapter II: Issuance of EPCG Authorizations

Audit observed incorrect fixation of Specific Export Obligation (SEO), fixing same Average Export Obligation (AEO) for different financial years and different AEOs for same financial years and its non-updation due to change of status or actual utilization of Duty Saved Value (DSV) indicating non-monitoring of fulfilment of EO . The periodical returns are the only tools with RAs for due monitoring of EO fixation and its fulfilment, and inaction on part of RAs in insisting for regular returns on EO fulfilment or invoking penal measures against non-filers led to

Department being not aware of cases where SEO/AEO are wrongly fixed and not updated and remaining unredeemed or given Export Obligation Discharge Certificate (EODC), after the long gestation period allowed under the scheme.

**(Para 2.1 & 2.2)**

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of authorizations, to be ineffective with delay in placing the entities under DEL and issuing of multiple abeyance orders. As seen from the cases highlighted, abeyance orders were issued without recording any reasons and authorizations were issued to DEL status without issuing abeyance orders. There is no limit fixed for the number of abeyance orders that can be issued to an exporter. There are no Standard Operating Procedures (SOP)/mechanism prescribed for placing the entity in abeyance. Giving abeyance and that also multiple times in a number of cases defeats the purpose of placing the entity in DEL. Giving abeyance does not act as a deterrent for the entity for strictly following the conditions of FTP. The DGFT EDI system should give a complete history of an entity i.e. when placed under DEL, when abeyance given, violations of FTP by the entity etc. This history should be available with all the RAs. Monitoring that such entities are complying with the provisions of FTP should be scrupulously done.

**(Para 2.4.1)**

Audit found that facilitation measures of online system for processing of applications under the ease of doing business for simplifying the process of issuance of EPCG authorizations needs to be reviewed as the online system do not check the veracity of the documents submitted, but only prompts to upload the documents before submission. Audit observed that even if some of the mandatory documents are not uploaded, the system is accepting the application for issue of authorizations indicating lack of validation controls/soft alerts in the online system which is fraught with the risk of misuse viz., importing unrelated/ineligible/restricted capital goods, incorrect fixation of SEO, etc.

**(Para 2.6)**

Issuing authorizations without mandatory requirements like endorsement of supporting manufacturer, description of export product, Export Obligation in authorizations as well as in Advance Release Order (ARO) in cases of domestic procurements is fraught with the risk of misuse by diversion of duty free imports allowed under the scheme and consequent non-accounting/monitoring. The DGFT IT systems needs to be reviewed and adequate validation controls to be factored for restricting issue of authorizations without mandatory requirements/information.

**(Para 2.7)**

DGFT had migrated (November 2020) to a new online and centralized DGFT System for application receipt and processing of authorizations. The new IT system adopted should flag these issues, however, even after digitization of the licensing processes, authorizations beyond the delegated financial powers are being issued.

**(Para 2.8)**

Audit observed that the timelines stipulated in the HBP/FTP for issue of EPCG authorizations are not strictly complied by the Regional Authorities.

**(Para 2.9)**

DGFT must have a data driven monitoring mechanism for ensuring compliance to the provisions of FTP. Issuance of subsequent authorizations without ensuring fulfilment of progress of obligations of earlier authorizations remaining unredeemed must be considered a risk factor.

**(Para 2.10)**

### **Chapter III: Utilization of EPCG Authorizations**

Audit observed that DGFT IT system captures the data in respect of issuance, SEOs, etc. however, the data on utilization of authorizations viz., details of the Capital Goods (CG) imported/Duty Saved are not captured in the new system introduced by DGFT and were not available with the RAs as seen from the verification of physical authorization files.

**(Para 3.1)**

RAs were not monitoring the import of Capital Goods and timely submission of Installation Certificates (ICs). Although the details of the import as captured by the Customs authorities are accessible to the RAs through the Message Exchange System (MES), Audit noticed that many RAs were not analyzing the data so received to identify the capital goods imported against the authorizations issued beyond the due date and the status of actual utilization of authorizations is not known to RA till the Authorization Holders submits Installation Certificate (IC)/EODC application.

**(Para 3.2)**

The non-compliance with the prescribed procedures in case of domestic procurement of capital goods has a risk of availing dual benefit (of availing exemption from payment of IGST and also importing items duty free). The controls to ensure compliance needs to be strengthened by the DGFT. The MES between the RA and the Customs authorities was not fully functional in all the RA offices and the old practice of manual communication was still continued in such

RAs and whether the communication reached to the port of registration was not monitored either by RAs or Customs.

**(Para 3.4)**

Import of Capital Goods from ports other than the registered port without adhering to the prescribed procedure in the FTP/HBP involves risk of importing Capital Goods from multiple ports using the same authorization which have revenue implications and also has the risk of misuse of the bonds. The Customs/RAs should monitor such cases scrupulously and invoke penal action for non-compliance. In the cases commented in audit, no action was taken either by Customs Department or by the RA.

**(Para 3.6)**

The Customs Authorization Utilization Module in Indian Customs EDI System (ICES) is supposed to monitor the Duty Saved Value (DSV) of authorizations and should restrict clearance of excess import which needs to be regularized either with payment of duty or enhancement of Export Obligation. Non-monitoring of excess imports by both Customs and DGFT indicates weak institutional mechanism between two Departments in exchange of information and coordinated action against the non-compliant firms.

**(Para 3.7)**

Audit observed that the extensions were granted in a routine manner without any reasonable assurance in the form of export orders, purchase contracts, block-wise obligation met, filing of annual returns etc., to ascertain the feasibility of fulfilment of EO within the extended period.

**(Para 3.8)**

#### **Chapter IV: Unredeemed EPCG Authorizations**

The scheme not only allows duty free imports of Capital Goods but also grants a long gestation period for meeting the Export Obligation (EO) and therefore needs to be duly monitored by the Regional Authorities for successful implementation of the scheme. Timely submission of the periodical returns and data exchanged with Customs was required to be analysed for identifying the defaulting AHs and penal provisions prescribed in the FTDR could have been invoked. The central server data is to be regularly updated and reconciled with the MIS reports.

**(Para 4.2)**

DGFT is required to have an effective mechanism to continuously and regularly monitor EO both block-wise as well as initiate action for inordinate delay in filing of redemption application by the Authorization Holders.

**(Para 4.3)**

## Chapter V: Redemption of EPCG Authorizations

Mandatory requirement of endorsing authorization details in the Shipping Bills (SBs) is an inbuilt check envisaged by DGFT to obviate multiple use of same exports for multiple authorizations/other schemes, however, the same was not insisted by RAs and relying on affidavit/Chartered Accountant (CA) certificate, the SBs are reckoned for discharging of EO without resorting to any verification even on test check basis to act as a deterrent for applicants/CAs making wrong declarations/certifications.

**(Para 5.1)**

Audit observed that the control environment for monitoring of Export Obligation and process of issuing EODC to be deficient and requires review by DGFT as cases of issuing EODC without verifying actual user condition, on export of ineligible items (not available in authorization), ineligible SBs, non-fulfillment of AEO/SEO, incorrect waiver of AEO allowed to SSI unit, etc. were found. Besides, delay in issuance of EODC, same SBs were found to be utilized for both AEO and SEO. Non-compliance in respect of third party exports, supporting manufacturers and non-endorsement of SBs with authorization details was also observed.

**(Para 5.2 to 5.9)**

The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short remittances of export proceeds and its non-monitoring by DGFT needs to be reviewed.

**(Para 5.11)**

## Chapter VI: Inter-Departmental Coordination and Systemic Issues

Timely and regular conduct of meetings with proper documentation (minutes) thereon along with follow-up of actionable items, fixing of accountability for inaction on part of the RAs would have strengthened the internal control environment.

**(Para 6.1)**

EPCG scheme related trade issues needs to be finalized expeditiously to achieve the intended objectives and a robust monitoring mechanism may be institutionalized for effective and efficient implementation of the scheme.

**(Para 6.1.3)**

The mismatch of redeemed/unredeemed authorizations between various IT systems of DGFT indicates that IT systems and its integration and data

management had shortcomings and has concerns regarding transparency and also monitoring which needs to be reconciled and adequately addressed.

**(Para 6.7)**

Inaction on part of RAs was observed in insisting for regular returns or invoking penal measures against non-filers indicating weak monitoring mechanism and consequently Department being not aware of cases remaining unredeemed after the long gestation period allowed for fulfilling Export Obligation. These periodic returns were intended for updating the Regional Authorities on a continual basis for effective monitoring and therefore should have been insisted upon by the Regional Authorities. The fact of non-filers should have been factored in the MIS reports to DGFT by Regional Authorities so that the same could be monitored.

**(Para 6.9)**

There were significant staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies.

**(Para 6.10.1)**

Audit observed that timely realisation of export proceeds were not monitored by DGFT. The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short/non realisation of export proceeds needs to be monitored more effectively by DGFT rather than waiting for AH to apply for EODC for verifying this aspect. DGFT may request for EDPMS access akin to Customs for real-time access to data of bank realisation for effective and timely monitoring.

**(Para 6.10.2)**

## Recommendations

1. DGFT may put in place an effective mechanism for ensuring correctness in fixation of Specific Export Obligation (SEO) and Average Export Obligation (AEO).
2. The DGFT may establish a robust mechanism to ensure that correct tariff rates are adopted for arriving at the accurate Specific Export Obligation (SEO).
3. DGFT must have a uniform policy for implementing Denied Entity List (DEL) and SOP/mechanism for issuing abeyance orders. Responsibility may be fixed on part of the Regional Authorities (RAs) for issuing authorizations to DEL status without issuing abeyance orders or issuing abeyance orders without recording any reasons.
4. Necessary validations be put in place in the IT system for verifying if there are any ineligible/restricted items imported, applicants with invalid PAN etc., DGFT to institutionalize effective monitoring mechanism & better supervision for proactively preventing issuing of such authorization.
5. Effective mechanism may be put in place for verification of declarations made by applicants and Authorization Holders (AHs) and stringent deterrents be implemented to deal with applicants/AHs making wrong declarations. Regional Authorities (RAs) to scrupulously adhere to the extant provisions or responsibility may be fixed for inaction in issuing authorizations without essential details and for not ensuring the veracity of the declarations/documents filed by the applicants and AHs.
6. Necessary validations be put in place in the IT system for ensuring compliance with the delegation of financial powers in issue of authorizations.
7. DGFT may ensure that timelines stipulated for issue of EPCG authorizations are strictly complied by establishing a robust monitoring mechanism. Steps may be taken to issue Deficiency Letter covering all the shortfalls/lapses in one go in time rather than issuing multiple deficiency letters.
8. The DGFT may factor a risk weighted assessment model while issuing multiple authorizations to a single entity so that the entities which have defaulted in earlier authorizations are evaluated more cautiously. Regional Authorities (RAs) to ensure whether the earlier pending authorizations are bona-fide cases or regularize such cases or responsibility may be fixed for inaction on part of the RAs.
9. DGFT may ensure effective monitoring to ensure compliance with rules like submission of imports, details of manufacturers, place of installation of the

goods imported, declaring the nexus certificates and timely submission of installation certificates etc. Responsibility may be fixed for non-monitoring and non-initiation of action by RAs when imports not completed within the prescribed period and for delayed/non submission of Installation certificates.

10. Effective mechanism be put in place to ensure all domestic procurements by AH are promptly communicated to ports to avoid misuse of the authorizations by the AH.

11. DGFT must ensure that clubbing of authorizations are done as per rules. Responsibility may be fixed for inaction on part of the RAs for allowing clubbing of redeemed authorizations or non-similar export products and irregular fixation of export obligation and applicable recoveries to be made.

12. The DGFT may establish a mechanism to continuously monitor the actual imports/utilisation of EPCG authorizations. Responsibility may be fixed for inaction on part of the RAs for allowing imports exceeding the limits specified in the license and applicable recoveries to be made.

13. The DGFT may monitor fulfilment of the Export Obligation within the stipulated period. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against the errant Authorization Holders and applicable recoveries to be made.

14. DGFT must take necessary action for the disposal of the unredeemed cases. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.

15. DGFT must have a mechanism in which red flags are issued to Regional Authorities (RAs) for monitoring cases where export obligation for first block is not fulfilled. RAs to ensure that the EO commitments are discharged or recoveries made for non-compliance.

16. Ministry may consider dispensing with the procedure issued in July 2002 of accepting Affidavits as the same is prone to risk of misuse, particularly in the era of end-to-end computerization and automated processes. Responsibility of Chartered Accountants should be clearly defined and failure on their part be reported to appropriate authority. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.

17. DGFT must put in mechanism where ineligible SBs are not used for fulfilment of EO like same SBs being used for fulfilment of AEO and SEO, ineligible SBs being used, free/third party SB being used, mentioning name of supporting manufacturer, same SB being used for different authorizations etc.



Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.

18. Effective mechanism through Act/Rule be put in place to grant EODC within the stipulated timeframe. Responsibility may be fixed for inaction on part of the RAs for not granting EODCs within the prescribed period.

19. CBIC must have a mechanism whereby if the EO of any of the blocks is not fulfilled within stipulated time, the bonds may be invoked and necessary action taken against the Authorization Holder. Responsibility may be fixed for inaction on part of the Customs Department for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.

20. DGFT must also watch the actual forex realisation within the stipulated time period. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.

21. The IT systems of DGFT and CBIC must be linked in such a manner that the full process from the issue of EPCG licence to redemption is tracked by the respective authorities. Issue of licence communicated to Customs, import and export communicated to DGFT, BEs/SBs submitted to DGFT cross verified from Customs and EODC communicated to Custom.

22. It may be ensured that meetings between DGFT and CBIC are conducted periodically so that there is timely exchange of information regarding the intelligence, pursuance of issues relating to EO fulfilment and check any defaults made by the Authorization Holders.

23. DGFT may put in place an effective mechanism for factoring IGST in fixation of Specific Export Obligation. Responsibility may be fixed for inaction on part of the RAs for not ensuring correct fixation of SEO.

24. 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.

25. The process of annual reporting of fulfilment of Export Obligation (EO) may be made online for easy monitoring and existing practice of physical reporting be dispensed with.

26. DGFT should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that DGFT is well equipped to ensure implementation and monitoring of EPCG Scheme.

## Glossary of Terms and Abbreviations

Abbreviation	Expanded Form
AC	Assistant Commissioner
ACC	Air Cargo Complex
AEO	Average Export Obligation
AEP	Average Export Period
AH	Authorisation Holder
ANF	Aayat Niryat Forms
ARO	Advance Release Order
ATF	Aviation Turbine Fuel
BCD	Basic Customs Duty
BE	Bill of Entry
BG	Bank Guarantee
BRC	Bank Realisation Certificate
CA	Chartered Accountant
CAPEXIL	Chemicals and Allied Products Export Promotion Council
CBIC	Central Board of Indirect Taxes
CE	Chartered Engineer
CENVAT	Central Value Added Tax
CESTAT	Customs Excise & Service Tax Appellate Tribunal
CG	Capital Goods
CGST	Central Goods and Services Tax
CH	Customs House
CIF	Cost, Insurance and Freight
CLA	Central Licensing Area
CSP	Common Service Provider
CTH	Customs Tariff Heading
DEL	Denied Entry List
DEPB	Duty Entitlement Pass Book
DGFT	Directorate General of Foreign Trade
DL	Deficiency Letter
DSV/A	Duty Saved Value/Amount
DTA	Domestic Tariff Areas
e-BRC	Electronic Bank Realization Certificate
EDI	Electronic data Interchange
EDPMS	Export Data Processing and Monitoring System
EO	Export Obligation
EHTP	Electronics Hardware Technology Park
EODC	Export Obligation Discharge Certificate
EOP	Export Obligation Period
EOU	Export Oriented Units
EFC	Export Facilitation Committee

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<b>Abbreviation</b>	<b>Expanded Form</b>
EPCG	Export Promotion Capital Goods
EPZ	Export Processing Zones
EPC	Export Promotion Councils
FG	Foregone
FIRC	Foreign Inward Remittance Certificate
FOB	Free on Board
FTDR	Foreign Trade Development and Regulation
FTDO	Foreign Trade Development Officer
FTP	Foreign Trade Policy
GST	Goods and Services Tax
GSTR	Goods and Services Tax Returns
HBP	Hand Book of Procedure
HSD	High speed Diesel
IC	Installation Certificate
ICD	Inland Container Depots
ICES	Indian Customs EDI System (ICES)
ICEGATE	Indian Customs Electronic Data Interchange Gateway
ICAI	Institute of Chartered Accountants of India
IEC	Importer Exporter Code
ITC (HS)	Indian Trade Classification
ITC	Input Tax Credit
IGST	Integrated Goods and Services Tax
LUT	Letter of Undertaking
LEO	Let Export Order
MES/M	Message Exchange System/Module
MIS	Management Information System
MS	Motor Spirit
MOCI	Ministry of Commerce and Industry
MSME	Micro, Small and Medium Enterprises
NFE	Net Foreign Exchange
NFRA	National Financial Reporting Authority
PTA	Pure Terephthalic Acid
PET	Polyester Chips
PN	Public Notice
PRC	Policy Relaxation Committee
RA	Regional Authority
RCMC	Registration-cum-Membership Certificate
SB	Shipping Bill
SCN	Show Cause Notices
SOP	Standard Operating Procedure
SEZ	Special Economic Zone
SEO	Specific Export Obligation

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<b>Abbreviation</b>	<b>Expanded Form</b>
SEPC	Services Export Promotion Council
STPI	Software Technology Parks of India
SEIS	Service Exports from India Scheme
SSI	Small Scale Industries
TRA	Telegraphic Release Advice



## CHAPTER I

### Overview of EPCG Scheme

#### 1.1 Introduction

The Export Promotion Capital Goods (EPCG) scheme, introduced in 1992, is one of the earliest export promotion schemes presently in operation. The EPCG scheme facilitates import of capital goods for producing quality goods and services to enhance India's manufacturing<sup>1</sup> competitiveness. Under the Foreign Trade Policy (FTP) 2009-2014, the EPCG scheme allowed import of capital goods (except those specified in the negative list in Appendix 5F) for pre-production, production and post-production at zero Customs duty (or concessional rate of three *per cent* which was discontinued in FTP 2015-2020). Under the scheme, EPCG authorisation were issued to a manufacturer exporter with or without supporting manufacturer(s), merchant exporters tied to supporting manufacturer(s) and designated/certified Common Service Providers (CSPs) by the Directorate General of Foreign Trade (DGFT), Department of Commerce (DoC) or the State Industrial Infrastructural Corporation in a Town of Export Excellence.

The EPCG authorisation issued is subject to fulfilment of Export Obligation (EO) equivalent to six times the amount of duty, taxes and cess saved (eight times in respect of concessional rate) on the imported capital goods, to be fulfilled in six years (eight years in respect of concessional rate) from the date of issue of the authorization.

Alternatively, post export EPCG Duty Credit Scrip(s) is also available with exporters who intend to import capital goods on full payment of applicable duties and choose to opt for this scheme. Basic Customs Duty (BCD) paid on capital goods is remitted in the form of freely transferable Duty Credit Scrip(s), and the Specific Export Obligation (SEO) is 85 *per cent* of the applicable SEO under the EPCG scheme.

Since inception of the scheme, a total of 339,400 authorizations were issued till 31 March 2021, with a duty foregone value of ₹4,75,745 crore. The EO fixed was ₹ 19,58,208 crores, against which the actual fulfilled was ₹ 10,59,653 crore as detailed below:

**Table 1.1 Details of EPCG Authorizations issued till 2020-21**

Year	Issued	Duty FG (in ₹ crore)	EO fixed (in ₹crore)	EO fulfilled (in ₹crore)
Prior to 2018-19	3,04,623	4,33,030	17,09,070	10,50,082
2018-19	13,175	15,901	96,257	8,204

<sup>1</sup> "Export competitiveness" amended to "Manufacturing competitiveness" in FTP 2015-20

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Year	Issued	Duty FG (in ₹ crore)	EO fixed (in ₹crore)	EO fulfilled (in ₹crore)
2019-20	11,535	14,329	84,357	1,350
2020-21	10,067	12,484	68,523	17
<b>Total</b>	<b>3,39,400</b>	<b>4,75,744</b>	<b>19,58,207</b>	<b>10,59,653</b>

(Source: MIS Reports of DGFT)

During the period covered in the Performance Audit (2018-19 to 2020-21), a total of 34,777 authorizations were issued under this scheme. The Duty Saved Value (DSV) on the imported capital goods during this period was ₹42,714 crore, and the total FOB (Free on Board) value of exports under the EPCG scheme during this period was ₹2,49,137 crore. As per the data furnished by the DGFT, 1,08,798 authorizations whose Export Obligation Period (EOP) expired remained unredeemed till the end of March 2021.

### 1.2 Authorities involved in implementation of the scheme

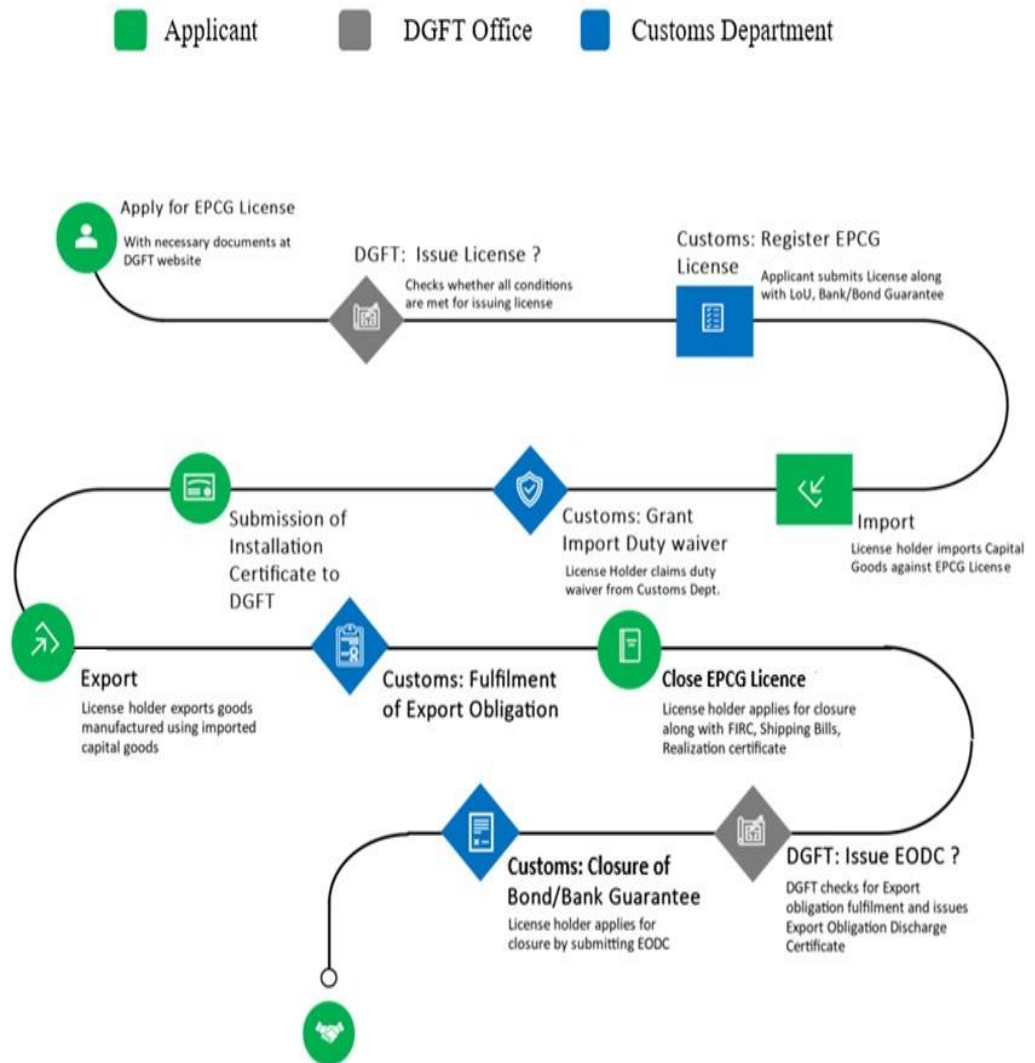
The Scheme is administered by the DGFT (Department of Commerce), while the exemption from levy of Customs duty on imported inputs and exports made against the authorizations is allowed by the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue (DoR) under Ministry of Finance (MoF).

DGFT issues scrips/authorizations to exporters and monitors their obligations through a network of 24 Regional offices whereas the imports of capital goods through the port of registration of the authorizations and exports made against the authorizations are overseen by CBIC through 70 Customs Commissionerates across the country.

### 1.3 Process chart of EPCG Authorisation

The EPCG Scheme has three facets: (a) Issue of Authorizations, (b) registration of Authorizations at Customs Ports, and (c) EPCG Redemption. All EPCG Authorizations have to be compulsorily redeemed or closed; even if no duty-free imports are made after obtaining the authorisation, which are required to be surrendered. If full EO had been achieved, then Authorizations would have to be redeemed. If partial Export obligation had been achieved, then applicable duty along with interest would have to be paid before redeeming/closing the EPCG Authorisation. The process flow chart of the scheme is as detailed below:

Figure 1: Process Chart of EPCG Scheme



The applicant/Importer Exporter Code (IEC) Holder has to submit an application for licence online (since November 2020) to the jurisdictional Regional Authority (RA), as specified under the Handbook of Procedures (HBP). The applicant also has to upload documents as prescribed in ANF 5A, along with the prescribed application fee. The RA verifies the information provided. Before issue of licence, if any deficiency is observed in the application, a Deficiency Letter (DL) is issued and after fulfilling the deficiencies pointed out, licence is mandated to be issued within three days.

The issued authorisation includes information related to item to be imported, notional DSV, port of import, validity period, EO and other details. The exporter has to register the EPCG authorisation at the specified Customs port (as mentioned in the EPCG licence). Bond/Bank Guarantee (BG), wherever required,



is to be executed with the Customs port. Duty free imports of capital goods are then effected by the exporter based on the authorisation and details of each import along with actual duty saved are recorded by the Customs authority on the authorisation.

The Authorisation Holder (AH) has to complete the installation of the imported capital goods within six months and submit an installation certificate to the Customs Department and to the RA, who in turn re-fixes the SEO as per actual DSV. The AH has to fulfil the SEO, duly maintaining the Average Export Obligation (AEO) during the currency of the licence period.

The Authorisation Holder is mandated to report online annually on the extent of fulfilment of EO against the licence.

After the completion of the Export Obligation Period (EOP), the AH has to submit online application for Export Obligation Discharge Certificate (EODC) in Form (ANF 5B) to RA concerned, duly uploading prescribed documents in support of fulfilment of EO. As per para 5.7.2 of FTP 2009-14 and Customs Notification No 103/2009 as amended vide notification no 16/2015-Customs dated 01.04.2015, only such Shipping Bills (SBs) which mention the EPCG authorisation number and date shall be reckoned for discharge of EO.

The Redemption Application can also be made before the end of the EO period. The outcome of the Redemption application at RA shall be Export Obligation Discharge Certificate (EODC). If any deficiencies are noticed, the same have to be addressed to the Authorization Holder for rectification.

On receipt of EODC from the RA, the AH shall apply to Customs with requisite documents. If satisfactory, Customs would issue a letter regarding Bond Cancellation or Cancellation of Bank Guarantee (as applicable).

In case, the AH fails to fulfil the prescribed EO, he has to pay the Customs duty foregone plus interest. The RA may initiate penal proceedings against the AH for failure to fulfil the conditions prescribed.

DGFT has set up a secured EDI (Electronic Data Interchange) Message Exchange System (MES) on which thirteen types of messages are exchanged between the Customs Department and the DGFT. These messages include licence information and related Shipping Bill (SB) data having details like port of import, Bill of Entry (BE) number, licence number, quantity, Cost, Insurance & Freight (CIF) value and actual duty forgone.

#### **1.4 Earlier reports of CAG on EPCG scheme**

A Performance Audit (PA) on the EPCG scheme was earlier conducted by the C&AG, (Audit Report No. 22 of 2011) which commented that after issuing the authorizations, the Regional Authorities (RAs) were not exercising any of the key

controls like post verification of declarations, verification of addresses, monitoring of installation, monitoring of progress of achieving the Export Obligation (EO) and monitoring of receipt of redemption applications at the conclusion of the EO period.

We recommended implementing an automated monitoring system (with interface with Customs) by the DGFT in a time bound manner for better monitoring and exercising of controls. Further, Electronic Data Interchange (EDI) system for access to import and export data that would be required to exercise some of the key controls be optimized.

Subsequently, a long paragraph on review of EPCG authorizations due for redemption during the year 2017-18 featured in Chapter 5 of C&AG's Audit Report No.17 of 2019. The main findings were as follows:

- Inaction by the Department to recover duty benefits availed despite non-fulfilment of EOs by licence holders.
- Redemption of authorization by considering ineligible foreign exchange earnings.
- Redemption of authorizations on the basis of incorrect consideration of average exports.
- Incorrect fixation of EOs.

### **1.5 Audit Objective**

The Performance Audit aims to seek an assurance on

- the adequacy and effectiveness of the monitoring mechanism and enforcement of rules relating to issue, utilisation and redemption of EPCG Authorizations at the regional offices of DGFT.
- the adequacy and effectiveness of the co-ordination mechanism between DGFT and Customs Department in identifying non-compliance and taking timely action.

### **1.6 Audit Scope**

During this PA, Audit scrutinised the records and transactions pertaining to issuance of authorizations, utilisation and redemption of authorizations during a period of three years from 2018-19 to 2020-21.

During this period, a total of 34,777 authorizations were issued with a DSV of ₹42,714 crore. As the period allowed for fulfilment of EO was six years (eight years in respect of concessional rate) which spread across FTP 2004-09, 2009-14 and 2015-20, Audit checked authorizations issued/redeemed under these FTPs.

## 1.7 Sampling Methodology

Data received from DGFT included approximately 1.25 lakh authorizations which were either issued, redeemed and unredeemed, during the period covered in the Performance Audit. We selected 18 out of 24 RAs and 22 Customs locations wherein the authorizations were registered for test check. The Authorizations were further segregated into four sub-categories from each phase of the life-cycle of the scheme for comprehensive coverage and end-to-end verification, as detailed below:

**Table 1.2 Category of Sample Selected**

CATEGORY A	CATEGORY B	CATEGORY C	CATEGORY D
Authorizations issued during the period 2018-2021	Authorizations redeemed during the period 2018-2021	Authorizations unredeemed whose EOP was over as on 31 March 2021	Authorizations issued during the period 2015-2018, whose First Block period with obligation to fulfil 50 per cent EO was over as on 31 March 2021

## 1.8 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. We scrutinized 4,450 authorizations under four specified categories (A, B, C & D) as detailed in the table hereunder:

**Table 1.3 Details of Sample selected and audited in the PA**

S. No	RA Name	Category A	Category B	Category C	Category D	Records not produced	Total
1	Ahmedabad	40	60	60	40	-	200
2	Bengaluru	69	103	90	71	67	400
3	Chennai	46	56	53	33	26	214
4	Coimbatore	41	54	64	40	18	217
5	Delhi	77	119	124	84	15	419
6	Hyderabad	40	58	60	40	2	200
7	Indore	80	133	115	72	-	400
8	Jaipur	40	59	59	37	5	200
9	Kanpur	36	74	54	36	-	200
10	Kochi	40	60	60	40	-	200
11	Kolkata	80	114	98	77	31	400
12	Ludhiana	38	50	48	37	27	200
13	Mumbai	38	63	59	38	2	200
14	Panipat	40	60	56	40	4	200
15	Pune	41	57	59	36	7	200

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S. No	RA Name	Category A	Category B	Category C	Category D	Records not produced	Total
16	Surat	39	54	57	40	10	200
17	Varanasi	12	86	89	13	-	200
18	Visakhapatnam	39	15	107	39	-	200
	<b>Total</b>	<b>836</b>	<b>1,275</b>	<b>1,312</b>	<b>813</b>	<b>214</b>	<b>4,450</b>

Audit examination included analysis of DGFT data and test check of authorizations issued and fulfillment of EO by the AHs in the selected RA offices of the DGFT and test check of utilization of authorizations in the selected Customs Ports. Coordination between DGFT and Customs Department in the administration of the Scheme was also analyzed.

The objectives, scope and audit methodology for the PA were discussed in the Entry Conference held on 13 May 2022 between Audit, Officials of Department of Revenue and DGFT. The draft findings were discussed during the Exit Conference held on 22 September 2023 and revised response received from DOR & DGFT on 16 October 2023 have been incorporated along with suitable rebuttals, wherever applicable.

### 1.9 Audit Criteria

Audit findings are benchmarked against criteria comprising of the existing legislations, prescribed manuals and rules, government notifications, public notices and circulars. The primary sources for criteria are as follows:

- Foreign Trade Policy as amended from time to time
- Handbook of Procedures and its Appendices
- Public Notice/ Circulars issued by the DGFT
- Foreign Trade (Development and Regulation) Act, 1992
- The Customs Act, 1962
- Customs Tariff Act, 1975
- Customs Tariff Rules, 2003 as amended
- Central Excise Act, 1944
- CGST Act/ Rules, 2017
- Customs/ GST Notifications and Circulars on EPCG Authorisation Scheme

### 1.10 Acknowledgement

Audit acknowledges the cooperation extended by the Ministry of Commerce & Industries (MOCI) and Ministry of Finance (MOF) and their field formations in providing information and records during the conduct of this audit.



## CHAPTER II

### Issuance of EPCG Authorizations

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 authorizations with minimum interface between RAs and exporters. Audit examined the implementation of facilitation measures introduced for simplifying the process of issuance of EPCG authorizations by analysing the data for the period from 2018-19 to 2020-21.

During the period covered in the review from 2018-19 to 2020-21, a total of 34,777 authorizations were issued under the scheme with a duty foregone value of ₹ 42,714 crore. The SEO fixed was ₹ 2,49,137 crore and the SEO fulfilled was only ₹ 9,571 crore. Audit selected 836 authorizations with DSV of ₹ 3,219.06 crore to check whether the RAs were complying with the conditions stipulated for the issue of authorizations and findings thereon are summarized below:

- Incorrect computation of Specific/Average Export Obligation (SEO/AEO) (Para 2.1 & 2.2);
- Adoption of incorrect tariff rate (Para 2.3),
- EPCG authorizations issued to ineligible applicants (Para 2.4);
- Import of ineligible, restricted items and without essential details (Para 2.5 to 2.7);
- Issue of authorizations beyond delegated financial powers (Para 2.8);
- Delay in issuance of EPCG authorizations (Para 2.9); and
- Multiple EPCG authorizations issued to a single importer (Para 2.10)

#### 2.1 Incorrect computation of Specific Export Obligation (SEO)

Para 5.01 of FTP 2015-20 stipulates Specific Export Obligation (SEO) shall be six times of DSV on capital goods for zero duty authorizations to be fulfilled in six years from the date of issue of authorisation. Similarly, for three per cent EPCG Scheme, the SEO shall be eight times of DSV on capital goods to be fulfilled in eight years from the date of issue of authorisation.

Analysis of DGFT dump data revealed that SEO was not fixed correctly in respect of 61 cases<sup>2</sup> in nine RAs with excess fixation of SEO amounting to ₹ 248.23 crore in two cases and short fixation of SEO amounting to ₹ 402.90 crore in 59 cases (Annexure 1.1).

Reply of the DGFT is awaited (June 2024).

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<sup>2</sup> RA Bengaluru (3 cases), CLA Delhi (9 cases), RA Indore (3 cases), RA Kanpur (10 cases), RA Kolkata (12 cases), RA Ludhiana (2 cases), RA Panipat (5 cases), RA Pune (15 cases), RA Visakhapatnam (2 cases)

An illustration is highlighted hereunder.

### RA Kolkata

RA Kolkata redeemed 12 authorizations (under 0 per cent, three per cent and SSI unit) despite short/non fulfilment of SEO.

In one instance, three percent authorisation was issued (5 September 2007) to M/s. A1 Ltd. with DSV of ₹ 27.57 crore and SEO of ₹ 220.56 crore to be fulfilled in eight years. The actual duty utilized was ₹ 22.09 crore and proportionate EO was to be fixed at ₹ 176.76 crore.

As per Column 14 of ANF 5 B, the firm made exports of ₹ 132.56 crore (75 *per cent* of SEO) within four years in three SBs, but no authorization numbers were mentioned in the SBs which is fraught with the risk of being utilized for more than one authorizations. The firm had submitted only affidavit, as per policy circular no. 07/2002, declaring that the SBs shown for export fulfilment of this authorization, had not been used in export fulfilment of any other authorization.

Further, during the scrutiny of the Manual BEs submitted by the firm, discrepancies between DSV in Form ANF 5B and manual BEs were observed. The firm had wrongly submitted Form ANF 5B statement in which total DSV was shown as ₹ 220.94 crore while the actual DSV as per BEs comes to ₹ 268.07 crore.

On the basis of actual DSV, actual EO should have been fulfilled in USD of \$5.10 crore but the firm fulfilled \$3.15 crore (61.81 *per cent*) only. So, there was shortfall in EO of \$ 1.95 crore (38.19 *per cent*). In spite of shortfall in EO, the Department had discharged (June 2019) the case on the basis of firm's application of EODC. Therefore, the AH was required to pay the Customs duty for unfulfilled portion of EO which comes to ₹ 10.23 crore (38.19 *per cent* of ₹ 268.07 crore) and applicable interest as per Para 5.14 of HBP, Vol-I, 2004-09.

Reply of the DGFT is awaited (June 2024).

## 2.2 Incorrect computation of Average Export Obligation (AEO)

Para 5.04 (b) of FTP stipulates that SEO shall be over and above the AEO achieved by the AH in the preceding three licencing years (five years in case of premier trading houses) for the same and similar products except for the tiny sector, fisheries etc.

Non/short fulfilment of AEO amounting to ₹35,703.25 crore and excess fixation amounting to ₹1,973.60 crore was observed in 129 cases<sup>3</sup> in 13 RAs out of 836

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<sup>3</sup> RA Ahmedabad (10 cases), RA Bengaluru (49 cases), RA Coimbatore (2 cases), RA Chennai (4 cases), CLA Delhi (7 cases), RA Hyderabad (8 cases), RA Kolkata (7 cases), RA Kanpur (4 cases), RA Mumbai (13 cases), RA Pune (11 cases), RA Panipat (5 cases), RA Surat (8 cases), RA Ludhiana (1 case).

selected cases (15.43 *per cent*) due to incorrect computation of AEO for non-reckoning of EO of similar products exported during previous years (**Annexure 1.2**). Few illustrations are highlighted hereunder:

**RA Mumbai & Pune**

Analysis of DGFT data revealed that 571 authorizations in RA Mumbai and 39 authorizations in RA Pune were issued by adopting the same AEO, although authorizations were issued in different financial years. During the verification of 391 (RA Mumbai-198 and RA Pune-193) selected authorizations, it was noticed that in respect of seven cases the same AEO was fixed for different financial years and in 17 cases different AEO was fixed for the same financial year as detailed below:

**a) Same AEO in Different financial year**

In RA Mumbai, five authorizations were issued to M/s. A2 Pvt Ltd. (three in 2016-17 and two in 2017-18). While issuing these authorizations, RA incorrectly worked out the same AEO (of ₹ 1,536.17 crore) due to consideration of the same preceding three years export performance viz 2013-14 to 2015-16 even for the authorizations issued in two different financial years (i.e., 2016-17 and 2017-18).

While accepting the audit observation, RA Mumbai stated (May 2023) that AEO was fixed on the higher side and AH has fulfilled the same and the authorizations have been redeemed.

**b) Different AEO in same financial year**

RA Mumbai issued two authorizations to M/s. A3 Ltd during 2010-11, however different AEO was fixed as in one authorisation only two preceding years exports were reckoned instead of three. AEO was to be fixed amounting to ₹ 10,450.83 crore, however, the Department considered different amount of past export for the last three years and AEO worked out and fixed to the extent of ₹ 6,222.17 crore. Thus, although these two authorizations were issued to same firm in the same financial year 2010-11, RA fixed different AEO for both authorizations of same financial year.

It was further noticed that before issuance of authorizations, AH informed the RA (15 December 2010) that they have been accorded the status of Premier Trading House in October 2009, therefore, AEO was to be worked out based on past five years export (for the year 2005-06 to 2009-10) and submitted CA certified Appendix 26. However, the Department had not amended the authorizations for fixing the AEO as per the latest submission of the firm before issuance of authorizations.

RA Mumbai stated (May 2023) that the firm being a Premier Trading House, AEO was to be calculated by reckoning previous five years exports.



The fact remains that different AEO was fixed for two authorizations of the same firm for the same financial year instead of the required 5 years exports figures even though the premier trading status was known to the RA before issuing the authorizations.

**RA Hyderabad**

RA Hyderabad issued five authorizations to M/s. A4 Ltd. in 2015-16 however RA fixed AEO of ₹ 6,973.63 crore for two authorizations and ₹ 6,710.62 crore for other three authorizations under Product Group Bulk drugs & formulations. As all the authorizations pertain to the same financial year and same product group, fixation of different AEO for different authorizations is not in order, resulting in short fixation of AEO of ₹ 263.01 crore for the three authorizations.

DGFT stated (October 2023) that letters have been issued to the firm in three cases calling for revised CA certificate so that the AEO is re-fixed.

**RA Bengaluru**

RA Bengaluru fixed Nil (Zero) AEO in authorisation issued to M/s. A5 Pvt. Ltd. without considering the details of exports given in the CA certificate. The CA Certificate indicated export of same/similar products made during the preceding three years, the total of which worked out to ₹ 1,034.57 Crore. The correct annual AEO worked out to ₹ 344.85 crore.

DGFT stated (October 2023) that the firm has surrendered the un-utilized authorization and the firm has been issued surrender letter on 16.06.2022.

**CLA Delhi**

CLA Delhi issued an authorisation to M/s. A6 Pvt. Ltd. on 9 April 2018 and AEO was fixed by reckoning four years performance instead of required three years. This resulted in short fixing AEO at ₹ 96.28 crore instead of ₹ 128.38 crore.

DGFT in r/o CLA Delhi stated (October 2023) that the authorisation was corrected during redemption to reflect the correct AEO.

The reply of DGFT is not tenable as fixation of AEO is to be done while issuing the authorisation and is required to be monitored periodically during the currency of the Authorisation and rectifying the AEO during redemption do not serve any purpose.

No reply was given by DGFT (June 2024) other than the above illustrative cases.

Audit observed incorrect fixation of AEO, fixing same AEO for different financial years and different AEO for same financial years and its non-updation due to change of status or actual utilization of DSV indicating non-monitoring of fulfilment of EO. The periodical returns are the only tools with RAs for due monitoring of AEO fixation and its fulfilment and inaction on part of RAs in insisting

for regular returns on EO fulfilment or invoking penal measures against non-filers led to Department being not aware of cases where SEO/AEO are wrongly fixed and not updated and remaining unredeemed or given EODC, after the long gestation period allowed under the scheme.

**Recommendation No. 1**

***DGFT may put in place an effective mechanism for ensuring correctness in fixation of Specific Export Obligation (SEO) and Average Export Obligation (AEO).***

DGFT stated (October 2023) that the fixation of SEO and AEO has been codified based on exporter submitted online data which is cross-verified to the extent possible through supporting documentation which requires minimum manual intervention.

The cases commented in audit indicated that the extant provisions are either ineffective or not implemented scrupulously by the RAs and in either case needs to be reviewed by DGFT.

### **2.3 Adoption of incorrect tariff rate**

The Customs Tariff Act, 1975 determines the rate of duty to be levied on any goods and the amount of duty, tax, cess or any other sum so payable.

It was that the tariff rate of Customs duty was incorrectly adopted in 15 cases<sup>4</sup> in three RAs (**Annexure 1.3**) resulting in excess fixation of SEO by ₹ 5.96 crore and lower fixation of SEO by ₹ 23.05 crore as illustrated hereunder:

#### **RA Kochi**

In one instance (M/s. A7 Pvt. Ltd.) with port of registration as INCOK1, IGST was assessed at five *per cent* under Schedule I S.No.234 (applicable to Renewable Energy goods) instead of Schedule III S.No. 327B with IGST of 18 *per cent*. In another case (M/s. A8) with port of registration as INCOK4, item No.5 of BE – Cenvo Digital Mammography system with accessories were misclassified as Automatic Data Processing machines under CTH 84714900 – Others presented in the form of system and claimed BCD exemption under S.No.8 of notification no.24/2005. This misclassification resulted in non-debiting of DSV of ₹ 0.11 crore.

DGFT stated (October 2023) that in one case the DSV value has been enhanced and EO re-fixed and in other case even if EO is re-fixed as per audit observation, the EO has been fulfilled by the AH.

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<sup>4</sup> CLA Delhi (2 cases), Kolkata (11 cases), RA Kochi (2 cases).

The fact remains that Customs Duty was incorrectly debited due to wrong adoption of tariff rates which requires subsequent manual intervention for calculating revised DSV and SEO.

### **CLA Delhi**

CLA Delhi issued authorisation to M/s. A9 Pvt. Ltd. with an export obligation of six times of DSV on import under the scheme. AH imported Snacks Cooking System with assessable value of ₹ 10.47 crore and availed benefit of Customs Notification 12/2012-Customs, Sl. No. 404.

It was observed that the imported items are “machinery for preparing and cooking snacks” and hence correctly classifiable under CTH 8419 and leviable to BCD @ 10 *per cent* instead of five *per cent*. Thus, misclassification of imported goods resulted in short levy of duty by ₹ 0.63 crore. As the importer has to make export six times of DSV on import under EPCG Scheme, the short debit of duty subsequently resulted in short export obligation liability on importer amounting to ₹ 3.78 crore (₹ 0.63 crore x six times as per EPCG authorizations requirement).

CLA, Delhi neither checked the classification at the time of issuance of authorizations to the Importer nor issued notice to Importer for amendment in existing authorizations/issuance of fresh authorizations to fulfil enhanced export obligation after the misclassification pointed out by Customs, in terms of DGFT Public Notice 56/2015-20 dated 06 February 2017 which resulted in short export obligation liability on importer.

DGFT stated (August 2023) that the firm has preferred appeal with CESTAT, New Delhi against the O-I-O passed by Commissioner ICD Patparganj, Delhi.

No reply was given by DGFT (June 2024) except for CLA Delhi. CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

### **Recommendation No. 2**

***The DGFT may establish a robust mechanism to ensure that correct tariff rates are adopted for arriving at the accurate Specific Export Obligation (SEO).***

DGFT stated (October 2023) that tariff rates are notified by the Department of Revenue and being declared by Exporters in their applications for issue of authorizations. The same are checked by Customs while debiting the EPCG authorisation for import. Further, Para 5.15 of HBP 2023 provides for Automatic Reduction/enhancement upto 10 percent of DSV with pro-rata change in EO. DGFT will engage with Customs for an API message exchange system for BCD at the 8 digit HSN code based on which SEO is determined.

Specific Export Obligations are fixed by RAs while issuing the authorizations based on the tariff rates declared by the applicants. Subsequently, the actual Tariff rates

prevailing at the time of imports are adopted by the Customs and the value of the EPCG authorizations and SEO thereon are required to be revised accordingly based on IT enabled coordination between the Customs and DGFT/RAs.

## 2.4 EPCG Authorizations issued to ineligible applicants

HBP 2015-20 prescribes conditions for issuing authorizations viz., declaration to the effect that none of the applicant's Proprietor/Partners/Directors were attached to any firms which had been defaulters with DGFT and were to give the details of unrealised foreign exchange pending beyond six months. Further, the capital goods being imported should have proper nexus with the items proposed to be exported. The firms without valid Registration cum Membership Certificate (RCMC), firms in Denied Entity List (DEL), applications without valid certificates etc., are ineligible for issue of EPCG authorizations.

As per Rule 7 of Foreign Trade (Developments & Regulations) Rules, 1992 (FTDR) DGFT has the powers to place an entity under Denied Entity List (DEL) if such entity contravenes with any of the stipulated conditions in an authorisation or any provisions of FTDR Act, 1992 and consequently refuse to grant a new authorisation or certificates bestowed with financial benefits.

Further, as per section 2.15 (d) of FTP 2015-20, DEL orders may be placed in abeyance, for reasons to be recorded in writing by the concerned RA for a period not more than 60 days at a time.

### 2.4.1 EPCG authorizations issued to applicants placed under Denied Entity List (DEL)

Analysis of the DGFT EPCG data revealed that 2,857 authorizations were issued to the entities which were placed in the DEL. Further, cross-verification with the selected sample of 836 authorizations revealed that in 73 cases<sup>5</sup> in five RAs with DSV of ₹ 141.01 crore, authorizations were issued to the entities in the DEL **(Annexure 1.4 (a))** while in 35 cases<sup>6</sup> in three RAs with DSV of ₹ 85.77 crore, authorizations were issued by placing the DEL order in abeyance multiple times. **(Annexure 1.4 (b)).**

It was observed that the Department was only maintaining the current status of DEL of the entity and did not have the historical data of placing the entities in the DEL during different intervals of time, placing them under abeyance, reasons recorded by the competent authority for moving the entity from DEL to abeyance etc. In the absence of such essential details, Audit could not vouchsafe the

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<sup>5</sup> RA Bengaluru (42 cases), RA Ludhiana (20 cases) RA Panipat (1 case) RA Pune (9 case), RA Visakhapatnam (1 case).

<sup>6</sup> RA Bengaluru (14 cases), RA Mumbai (12 cases), RA Pune (9 cases).

veracity of DEL in the portal and had to limit the verification to the noting in the file maintained in the RA offices.

It was also seen that the fact of entity being placed on DEL as per the orders of the competent authority was not immediately updated in the DEL portal and therefore due verification of DEL status could not be ensured while issuing the authorizations. The validation checks in the DGFT System for blocking printing/issue of Authorizations in DEL were either absent, not mapped properly or allowed bypassing for issuing authorizations.

Although extant provisions permits issue of authorizations during the abeyance period, this procedure of keeping the entities in the DEL in abeyance for a short period and granting further authorizations during that period requires due monitoring as it is fraught with the risk of further default particularly when large number of authorizations remained unredeemed after the due date. It also introduces significant arbitrariness in the process.

The DGFT EDI system does not have mapping of business rules for barring entities in DEL from submitting applications or for issuance of authorizations/ duty credit scrips to such entities. DEL status is being checked separately on a case-to-case basis. Although this was pointed out in para 8.7.3 of CAG Report No.8 of 2015, no effective corrective action was taken.

A few instances of issuing authorizations to entities in DEL are illustrated below.

#### **RA Pune**

RA Pune issued nine authorizations with DSV of ₹ 4.33 crore to four firms which were placed under DEL. Three out of the nine authorizations were issued with the condition of 100 *per cent* BG (on request of the firms) and the remaining six authorizations were issued to two firms under DEL, without keeping them under abeyance by using their discretionary power.

DGFT stated (October 2023) that nine authorizations were issued by the "Competent Authority" in terms of para 2.15 (d) of FTP, considering the factors that EO was seen to have been fulfilled and the cases were pending for redemption, on account of some other technical objections, there was no loss of revenue for the government, as authorizations were issued with "100 *per cent* BG condition". However, the issue of issuing authorizations without abeyance is being taken up with the RA.

The reply that no loss of revenue is not tenable as 100 percent BG condition was not insisted for the other six authorizations and issuing of authorizations to firms placed in DEL without abeyance is not in order and necessary restrictions/validation controls is required to be factored in the system.

**RA Visakhapatnam**

RA Visakhapatnam issued an authorisation to M/s. A10 Ltd., with a DSV of ₹ 0.10 crore to an entity placed under DEL for not complying or violating the conditions of FTP.

DGFT stated (October 2023) that the DEL order was issued on 28 May 2019 and was subsequently removed from DEL status on 14 June 2019.

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of authorizations, to be ineffective with delay in placing the entities under DEL and issuing of multiple abeyance orders. As seen from the above instances, abeyance orders were issued without recording any reasons and authorizations were issued to DEL status without issuing abeyance orders. There is no limit fixed for the number of abeyance orders that can be issued to an exporter. There are no SOP/mechanism prescribed for placing the entity in abeyance. Giving abeyance and that also multiple times in a number of cases defeats the purpose of placing the entity in DEL. Giving abeyance does not act as a deterrent for the entity for strictly following the conditions of FTP.

The DGFT EDI system should give a complete history of an entity i.e. when placed under DEL, when abeyance given, violations of FTP by the entity etc. This history should be available with all the RAs. Monitoring that such entities are complying with the provisions of FTP should be scrupulously done.

No reply received from DGFT (June 2024) except for RA Pune & Visakhapatnam.

**Recommendation No. 3**

***DGFT must have a uniform policy for implementing Denied Entity List (DEL) and SOP/mechanism for issuing abeyance orders. Responsibility may be fixed on part of the Regional Authorities for issuing authorizations to DEL status without issuing abeyance orders or issuing abeyance orders without recording any reasons.***

DGFT stated (October 2023) that Para 2.14 of FTP 2023, has provision of penal action and placing of an entity in Denied Entity List (DEL). The new IT system has entire IEC history including abeyance period along with reasons, earlier such arrangements was handled manually which had issues of timely accessibility.

The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## 2.4.2 EPCG Authorizations issued to entity registered without valid PAN

Permanent Account Number (PAN) is a mandatory document required to obtain IEC (Import Export Code) which is the unique 10-digit code for import and export. Consequent upon introduction of Goods and Services Tax (GST) in 2017, the IEC number is the same as the PAN of the firm which is however separately issued by DGFT based on the application for issuing of EPCG authorizations.

Analysis of DGFT Dump data revealed that invalid PAN were captured in the database in respect of two cases relating to RA Ludhiana with DSV of ₹ 0.36 Crore. When cross-verified with the 836 selected sample, it was seen that in two cases relating to RA Surat with DSV of ₹ 0.93 crore where invalid PAN were issued indicating not only weakness in the extant procedure of issuing authorizations based on the verification of documents submitted by the applicant but also insufficient validation controls in the DGFT online application process system.

DGFT stated (August 2023) that FTP currently mandates that every IEC holder is required to update its KYC details between April to June every financial year without which their IEC get deactivated, and the status is transmitted to Customs.

It was seen that the KYC updation as mandated in the FTP is not being complied in stated cases.

## 2.4.3 EPCG authorizations issued to other ineligible exporters

Review of selected cases revealed two instances<sup>7</sup> where authorizations being issued to other ineligible exporters in two RAs with DSV of ₹ 1.47 crore.

The cases are illustrated hereunder:

### RA Kochi

RA Kochi issued EPCG authorisation to M/s. A11 for import of capital goods for installation at the shopping mall at Thiruvananthapuram with export product endorsed as 'retailing service' and that the sales proceeds at the sales counter of the hypermarket would be used for discharge of EO.

As per Service Accounting Code 996211 – Service in retailing includes services provided for a fee/commission or contract basis on retail trade. As per explanation in GST tariff, this service does not include sale or purchase of goods. Hence, sales proceeds of goods cannot be used for discharge of EO for retailing services. Further, the certificate issued by Services Export Promotion Council (SEPC) shows that the applicant was not registered for retailing service but for

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<sup>7</sup> CLA Delhi (1 case), RA Kochi (1 case).

'hotel and tourism related services. The applicant therefore was not eligible for issuance of EPCG authorisation for retailing services.

DGFT stated (August 2023) that the AH has been asked to regularise the EO shortfall by paying the entire duty forgone amount along with applicable interest to the Customs authorities.

### **CLA Delhi**

Para 5.1A of HBP 2009-14 stipulates that Zero duty EPCG Scheme under para 5.1 of FTP shall not be available for import of capital goods relating to export of Scheme products covered under certain specified chapters/headings of ITC(HS) classification.

CLA Delhi issued authorisation to M/s. A12 for importing Printing related machinery involving DSV of ₹ 0.21 crore and exporting master cartoons, mono cartoons, printed labels, printed sheets, blister cards and other printed packing materials under Chapter 48 (which was in prohibited list). RA redeemed the authorisation as AH fulfilled the SEO of ₹ 1.25 crore (\$ 264,278.56) even though the exported items were featuring in the prohibited list.

DGFT stated (August 2023) that Adjudication proceedings under FT (D&R) Act, 1992 have been initiated against the firm.

CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

## **2.5 Import of ineligible and restricted items**

**2.5.1** Para 5.01 of FTP read with Appendix 5(f) prescribes that import of items which are restricted for import shall be permitted under EPCG Scheme only after approval from Export Facilitation Committee (EFC) at DGFT Headquarters.

It was observed that restricted items were permitted to be imported without obtaining the required approvals from EFC in one case in CLA Delhi with DSV of ₹ 16.24 crore.

Reply of DGFT is awaited (June 2024).

**2.5.2** Appendix-5F of the FTP (2015-20) read with Public Notice No. 47/2015-20 dated 06 December 2017 specifies certain capital goods which are not permitted for import under the EPCG scheme viz., all purpose vehicles are not permitted and Trucks/tippers/dumpers and spares thereof including tyres are permitted only for the mining sector.



Analysis of DGFT data revealed that items specified in the ineligible list were imported in 5,105 authorizations. Audit selected 35 authorizations<sup>8</sup> in seven RAs with DSV of ₹ 171.03 crore from the selected 836 authorizations (**Annexure 1.5**).

Ineligible items imported were railway wagons, computers and printers, cement and sheds, power transformers, indicating weakness in the scrutiny of the applications before issue of the authorizations.

A few instances are illustrated hereunder:

**RA Chennai**

**A.** M/s. A13 Pvt. Ltd., on conversion from STPI to DTA Unit, was issued (March 2017) a zero duty authorisation by RA Chennai with DSV of ₹ 3.84 crore for importing 57 items with export obligation of worth ₹ 23.01 crore under “Finance Accounting Services”

Para 5.07 of FTP allows only an EOU/relocated SEZ unit to avail the benefits under EPCG scheme on conversion, whereas RA issued authorisation to the STPI unit. This irregularity involved DSV of ₹ 3.84 crore. Further, items allowed to be imported included chairs, switch, plugs, IP phone, headset, speakers, stereo, telephone sets, wire, furniture that were ineligible to qualify as “Capital Goods” under the scheme. Consequently, Customs duty of ₹ 2.31 crore was recoverable along with interest.

DGFT stated (October 2023) that Para 6.18 (d) of FTP allows STP units to exit under prevailing EPCG scheme for DTA units subject to positive NFE criteria and other eligibility criteria under EPCG scheme. Further, definition of Capital Goods includes accessories. The nexus is also reconfirmed from the Chartered Engineer’s certificate. Moreover, these items were allowed to be imported under EPCG scheme prior to 01 April 2015 FTP.

**B.** M/s. A14 Limited, Chennai was issued (May 2010) EPCG authorizations by RA Chennai for import of capital goods (total 31 items) for DSV of ₹ 3.44 crore for earning of foreign exchange through entertainment services including Audio visual services, Broad casting services, Satellite Television Broadcasting. The authorisation was amended (May 2010) to include additional 156 items for import viz., shirts, carpets, reflective glass, float glass, modular false ceiling, roller shutter, polycarbonate sheets, tiles, bamboo ring, electrical light fittings, furniture etc. Finally, the total DSV was amended to ₹ 10.05 crore and the AH was required to fulfil the SEO of ₹ 80.40 crore within the EO period of eight years, over and above the AEO of ₹ 40.50 crore fixed. The redemption application along

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<sup>8</sup> RA Ahmedabad (1 case), RA Bengaluru (19 cases), RA Chennai (3 cases), RA Kanpur (1 cases), RA Ludhiana (3 cases), RA Mumbai (4 cases), RA Varanasi (4 cases),

with the supporting documents was submitted (July 2018) but the authorizations is yet to be redeemed.

It was observed that the additional items allowed do not fall within the ambit of “Capital Goods” as defined in the HBP and hence duty concession of ₹ 4.52 crore granted on ineligible items was irregular. Further, there was no nexus between the items imported and the services rendered by the AH. Nexus certificate is an assurance received from Chartered Engineer stating that the imported capital goods are necessary for manufacture of the proposed items to be exported and utilised in the manufacture of the goods to be exported.

DGFT stated (October 2023) that the case was processed and the order for redemption was granted on file. However, before issuing EODC, it was noticed that few audit observation were pending with the firm on ineligible items under EPCG Scheme, SEIS scheme wherein guidance was to be sought from Headquarters and therefore the case was put on hold. In the instant case, the firm has fulfilled EO in excess w.r.t DSV utilized. This was verified with the FIRC copies furnished relating to the entertainment services provided to customers abroad. Annual average had also been maintained by the firm.

The reply in respect of illustrative cases (A) & (B) of RA Chennai is not tenable in view of clarifications issued under Policy Circular 4/2004-09 dated 11 October 2004 read with Public Notice 4/2015-20 dated 6 December 2017 wherein import of furniture under EPCG Scheme is permitted only to hotel industry. Further, the audit contention was on allowing ineligible items under EPCG Scheme and not on fulfilment of EO.

No reply was given by DGFT (June 2024) except for RA Chennai.

CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

**Recommendation No. 4**

***Necessary validations be put in place in the IT system for verifying if there are any ineligible/restricted items imported, applicants with invalid PAN etc., DGFT to institutionalize effective monitoring mechanism & better supervision for proactively preventing issuing of such authorization.***

DGFT stated (October 2023) that new IT system has been implemented in a phased manner from July 2020 wherein PAN based IEC validation has been implemented and manual verification has been discontinued. The new EPCG module rolled in December 2020 has mapping of ineligible items needs to be done which is description based and may involve more than one ITC(HS) Code for single item. DGFT undertakes to codify the ineligible/restricted items after mapping the HS codes of such items.

The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## 2.6 Verification of documents

As per the HBP, RAs are required to ensure the veracity of the documents furnished by the applicant before issuing the authorizations. DGFT migrated (November 2020) to a new Online and Centralized System for receipt and processing of application.

It was however observed that the online system does not check the veracity of the documents viz., RCMC, CA Certificate, Invoice, etc submitted, but only prompts to upload the documents before submission.

Review of 836 selected authorizations revealed that in 19 cases<sup>9</sup> in four RAs with DSV of ₹ 159.89 crore, the applications were accepted without uploading complete/mandatory documents (**Annexure 1.6 (a)**), and in 11 cases<sup>10</sup> in four RAs with DSV of ₹ 240.56 crore, incorrect documents were accepted (**Annexure 1.6 (b)**), indicating lack of validation controls/soft alerts in the online system which is fraught with the risk of importing unrelated/ineligible/restricted capital goods, incorrect fixation of SEO, etc.

Further, in three cases<sup>11</sup> in two RAs with DSV of ₹ 108.02 crore, the applicants faced problems in filing online application due to technical glitches, triggering physical submission of applications to RA. A few illustrations are given hereunder:

### RA Indore

RA Indore issued authorisation to M/s. A15 Ltd. on the basis of incomplete/incorrect nexus certificate.

### RA Mumbai

M/s. A16 Ltd. applied for EPCG authorizations during financial year 2018-19 for importing capital goods related to catalyst<sup>12</sup> for subsequent charge. As per Appendix-5A, Chartered Engineer (CE) issued (September 2018) certificate stating that catalyst was imported 'for initial charge' under EPCG scheme, whereas in Annexure-1 attached with same Appendix-5A, CE stated that imported catalyst was to be used 'for subsequent charge'. Thus, DGFT directed (November 2018) to seek technical details from the firm as they had applied for import of catalyst after a lapse of 13 years of initial authorizations issued for procuring the original

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<sup>9</sup> RA Bengaluru (12 cases), RA Kanpur (3 cases), RA Kochi (1 case), RA Kolkata (3 cases).

<sup>10</sup> RA Indore (1 case), RA Kolkata (1 case), RA Mumbai (3 cases), RA Pune (6 cases).

<sup>11</sup> RA Bengaluru (2 cases), RA Kolkata (1 case).

<sup>12</sup>An equipment or spares meant to refurbish the existing machinery to enhance its performance

machinery. Audit however noticed that neither Department issued any DL in this regard nor AH submitted any technical details.

The Department stated (May 2023) that AH has obtained authorisation for catalyst, only for subsequent charge as per FTP and description of catalyst as initial charge was erroneously mentioned.

The fact remains that RA Mumbai issued the authorization on the same day without getting technical details and proper verification of the usage of the catalyst as directed by DGFT and despite noticing inconsistency in the CE certificate.

### **RA Pune**

In six cases, firms engaged in textile industry wrongly applied for authorizations under the engineering products as importing machinery. Authorizations were issued under 'engineering products' instead of "textile general".

Response from DGFT is awaited (June 2024).

Audit found that facilitation measures of online system for processing of applications under the Ease of doing business for simplifying the process of issuance of EPCG authorizations needs to be reviewed as the online system do not check the veracity of the documents submitted, but only prompts to upload the documents before submission. Audit observed that even if some of the mandatory documents are not uploaded, the system is accepting the application for issue of authorizations indicating lack of validation controls/soft alerts in the online system which is fraught with the risk of misuse viz., importing unrelated/ineligible/restricted capital goods, incorrect fixation of SEO, etc.

## **2.7 Authorizations issued without essential details**

### **2.7.1 Non-mentioning of details of plant/machinery for which spares are required**

As per Para 5.06 of HBP, in case of import of spares, EPCG authorisation shall indicate details of plant/machinery for which spares are required, value of DSV allowed under the authorisation, description of goods imported, value of EO, etc.

It was seen that in six cases in RA Bengaluru with DSV of ₹ 1.68 crore, neither the details of plant and machinery nor the description of export products and EO were mentioned in the authorizations.

Reply of DGFT is awaited (June 2024).

### **2.7.2 Advance Release Order (ARO) not containing requisite details**

As per provisions of HBP, in case of domestic procurement, the Advance Release Order (ARO) should contain the requisite details.

It was seen that the AROs did not contain name, description, and value of item to be procured in one case relating to RA Varanasi with DSV of ₹ 0.14 crore.

With Advance Release Order, an exporter who is a valid AH can obtain the inputs through indigenous sources, i.e., EOU, SEZ, STP, EHTP, EPZ units instead of direct imports. The transactions can take place in foreign exchange or in Indian currency. For supply under Advance Release Order, the owner can obtain a refund of duties, paid if any. In the absence of description of the item, the correct value cannot be ascertained, and is prone to misuse at a later date.

Issuing authorizations without mandatory requirements like endorsement of supporting manufacturer, description of export product, Export Obligations in Authorizations as well as in Advance Release Order (ARO) in cases of domestic procurements is fraught with the risk of misuse by diversion of duty free imports allowed under the scheme and consequent non-accounting/monitoring. The DGFT IT systems needs to be reviewed and adequate validation controls to be factored for restricting issue of authorizations without mandatory requirements/information.

Reply of DGFT is awaited (June 2024).

**Recommendation No. 5**

***Effective mechanism may be put in place for verification of declarations made by applicants and Authorization Holders (AHs) and stringent deterrents be implemented to deal with applicants/AHs making wrong declarations. Regional Authorities (RAs) to scrupulously adhere to the extant provisions or responsibility may be fixed for inaction on part of the RAs in issuing authorizations without essential details and for not ensuring the veracity of the declarations/documents filed by the applicants and AHs.***

DGFT stated (October 2023) that a trust based approach is being pursued with the endeavour of implementing the scheme on self-declaration basis. Wherever feasible, message exchange is being done with Partner Government Agencies (PGAs) and stringent provisions are available in FTDR Act, 1992 to deal with misrepresentation, fraud, etc.

The cases commented in audit indicates that the stated provisions of FTP have not been adequately mapped in the online system and no verification of credentials or documents submitted by the applicants are carried out by RAs and authorizations being issued even without submission of mandatory documents.

## **2.8 Issue of authorizations beyond delegated financial powers**

As per Delegations of Financial Powers to the Licensing Authorities of DGFT, the Foreign Trade Development Officer (FTDO)/Assistant DGFT has power to issue EPCG Authorizations upto DSV of ₹ 2 crore, Deputy DGFT upto DSV of ₹ 25 crore

and Joint DGFT upto DSV of ₹ 50 crore. However, the applications for EPCG authorizations of DSV above ₹ 50 crore and upto ₹ 100 crore require approval of Chairperson of EPCG Committee and EPCG authorizations above ₹ 100 crore require approval of EPCG Committee at Headquarters with the approval of Minister of Commerce and Industry Minister/Finance Minister.

Review of 836 selected authorizations revealed non-observance of financial powers in issuing four cases<sup>13</sup> in two RAs with DSV of ₹ 209.10 crore.

A few instances are illustrated hereunder:

#### **CLA Delhi**

CLA Delhi issued authorisation to M/s. A17 Ltd. with DSV of ₹ 37.89 crore after taking approval of Deputy DGFT instead of Joint DGFT.

Similarly, two authorizations were issued to M/s. A18 Ltd. with DSV of ₹ 116.34 crore and ₹ 53.61 crore respectively with the approval of Joint DGFT without sending the file to EPCG Committee.

DGFT stated (August 2023) that EPCG authorizations were issued due to oversight which was examined subsequently and approved by Competent Authority on ex-post facto basis.

Even though DGFT had migrated (November 2020) to a new Online and Centralized DGFT System for application receipt and processing of Authorizations, which is expected to flag such issues, however, even after digitization of licencing processes, authorizations beyond the delegated financial powers are being issued requiring manual intervention for approving such cases on ex-post facto basis.

#### **Recommendation No. 6**

***Necessary validations be put in place in the IT system for ensuring compliance with the delegation of financial powers in issue of authorizations.***

DGFT stated (October 2023) that the new EPCG module rolled in December 2020 has inbuilt mapping for issuing authority as per delegated financial powers and mapping of ineligible items needs to be done which is description based and may involve more than one ITC(HS) Code for single item.

The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

### **2.9 Delay in issuance of EPCG Authorizations**

Para 9.10 of HBP 2015-20 stipulates that EPCG authorisation is to be issued within three days from the date of receipt of application. The same timeline is also promulgated in the DGFT Citizen's Charter document. Further, DGFT vide TN

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<sup>13</sup> CLA Delhi (3 cases), RA Mumbai (1 case).

20/2019-20 reiterated that one consolidated Deficiency Letter (DL) to be issued instead of issuing multiple DLs in a piecemeal manner for redeeming any particular AA/EPCG Authorizations.

Review of 836 selected EPCG Authorizations revealed delays in 379<sup>14</sup> cases (45.33 per cent) in 17 RAs as detailed hereunder **(Annexure 1.7 (a))**

**Table 2.1: Delay in issuance of Authorizations**

Delay in days	No. of cases
1 - 30 days	364
31 to 90 days	9
above 90 days	6
<b>Total</b>	<b>379</b>

Before issuing the authorizations, RAs must verify the completeness/ correctness of the documents submitted and issue a DL to the applicant to communicate any deficiencies noticed (within three days) and may issue authorizations after satisfactory response from the applicant.

In 51 cases, the application was incomplete, for which the DL was to be issued within three days. It was observed that there was delay in issue of DLs in 51<sup>15</sup> cases in five RAs **(Annexure 1.7 (b))**. The stipulated time of three days for issue of authorizations was reckoned from the date of submission of satisfactory response to the DL issued. In the remaining 328 delayed cases, no DL was issued and there were no ostensible reasons for delay in issuance of Authorizations, which should have been issued in three working days.

Further, it was seen in seven<sup>16</sup> cases (in two RA) out of 51 cases, multiple DLs were issued to the applicants. Issuance of multiple DLs, violates DGFT circular which says that one consolidated DL to be issued instead of issuing multiple DLs in a piecemeal manner.

Audit observed that the timelines stipulated in the HBP/FTP for issue of EPCG authorizations are not strictly complied by the Regional Authorities. Although, there has been a significant improvement in the timeline in issue of Authorizations after migrating to online mode of issuing Authorizations since November 2020.

<sup>14</sup> RA Ahmedabad (72 cases), RA Bengaluru (42 cases), RA Chennai (5 cases), RA Coimbatore (8 cases), CLA Delhi (3 cases), RA Indore (10 cases), RA Hyderabad (16 cases), RA Jaipur (51 cases), RA Kanpur (1 case), RA Kolkata (2 cases), RA Ludhiana (5 cases), RA Mumbai (25 cases), RA Panipat (5 cases), RA Pune (8 cases), RA Surat (115 cases), RA Varanasi (2 cases), RA Visakhapatnam (9 cases).

<sup>15</sup> RA Bengaluru (17 cases), RA Indore (17 cases), RA Mumbai (13 cases), RA Pune (2 cases), RA Visakhapatnam (2 cases).

<sup>16</sup> RA Mumbai (5 cases), RA Pune (2 cases)

Reply of DGFT is awaited (June 2024).

**Recommendation No. 7**

***DGFT may ensure that timelines stipulated for issue of EPCG authorizations are strictly complied by establishing a robust monitoring mechanism. Steps may be taken to issue Deficiency Letter covering all the shortfalls/lapses in one go in time rather than issuing multiple deficiency letters.***

DGFT stated (October 2023) that rules required for issue of EPCG authorizations are clearly laid down in the FTP/HBP and is normally followed and disposed off provided the applications are complete in all respect and accompanied by prescribed documents. The facility for issue of authorizations through a server driven automatic rule based system is also under development wherein delay in issuance of deficiency letters is being codified and streamlined. The proposed changes in the new system would meet the recommendation of CAG.

The delayed cases commented in audit indicates that the prescribed timelines are not scrupulously adhered in issuing of authorizations and deficiency letters during the period from 2018-19 to 2020-21, therefore, the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

**2.10 Multiple EPCG authorizations issued to a single importer**

Although there is no restrictions in the extant provisions on issue of multiple authorizations to the same IEC holders, issue of subsequent authorizations without ensuring reporting on fulfilment progress of obligations of earlier authorizations remaining unredeemed is a risk factor in the absence of an effective, data-driven monitoring mechanism. The system does not show any alert related to multiple authorizations remaining unredeemed after completion of EO Period. This assumes greater importance in the backdrop of over one lakh authorizations remaining unredeemed to the end of March 2021 after expiry period of those authorizations.

Data analysis of the DGFT data showed that multiple authorizations issued as follows:

**Table 2.2: Issue of Multiple Authorizations**

Sl. No.	No. of authorizations issued to same entity	No. of such entities
1.	100-200	235
2.	201-300	76
3.	301-1,000	38
4.	Above 1,000	6



Audit analysis on redemption of authorizations discussed subsequently indicate that there is a need to factor in this information as a part of the overall monitoring framework.

A few illustrations highlighting the risk involved in terms of loss of revenue to Government are given hereunder:

**RA Bengaluru**

RA Bengaluru issued 23 authorizations with DSV of ₹ 9.04 crore to M/s. A19 Pvt. Ltd. during the period from 2007 to 2016 subject to fulfilment of EO of ₹ 58.69 crore within a period of six or eight years. The AH had neither submitted any annual export performance report nor any block-wise completion report to the RA in respect of any of the authorizations and no action to recover the DSV of ₹ 9.04 crore was initiated by the RA.

Reply of DGFT is awaited (June 2024).

**RA Chennai**

RA Chennai issued 164 authorizations (February 2000 to April 2017) to M/s. A20 Ltd. for a DSV of ₹ 35.27 crore with an obligation to earn free foreign exchange equivalent to ₹ 206.57 crore to be fulfilled within six or eight years by export of services through the Hotel. The EO was to be achieved over the above the annual average fixed. Of these authorizations, only 27 authorizations were redeemed. Six authorizations of the balance 137 were selected for detailed scrutiny and all these six cases with a DSV of ₹ 1.09 crore with an EO of ₹ 8.04 crore remained unredeemed after expiry of the EO period. But, Show Cause Notice (SCN) was issued only in two cases and parallel action was initiated in Customs Department in respect of only one case.

RA Chennai stated that caution letters/Show Cause Notices (SCNs) have been issued in all cases out of which four cases have been adjudicated and in 137 cases, AH has approached EPCG Committee at DGFT, New Delhi for waiver from maintenance of AEO.

Reply of DGFT is awaited (June 2024).

**CLA Delhi**

CLA Delhi issued 32 authorizations to M/s. A21 during the period from 2008 to 2012, for DSV of ₹237.51 crore subject to fulfilment of export obligation of ₹ 1,900.11 crore within a period of eight years. It was observed that the AH had neither submitted any annual export performance report nor any block-wise completion report to CLA Delhi in respect of any of the authorizations issued resulting in a loss of ₹604.14 crore.

In another instance, it was observed that CLA Delhi issued an authorisation to M/s. A22 with DSV of ₹ 81.04 crore even though 611 authorizations which were pending on the date of issue of authorizations by CLA.

On this being pointed out, CLA Delhi stated (July 2022) that there is no limit set in HBP/policy regarding number of EPCG authorizations to be issued to an IEC holder. An IEC holder can take EPCG authorizations as per their need.

Audit opines that issue of authorizations to an entity which has already defaulted enhanced the risk of further default and the monitoring mechanism for such entities is highly inadequate.

Reply of DGFT is awaited (June 2024).

#### **RA Kolkata**

Audit identified ten instances where multiple authorizations ranging from 6 to 29 were issued to four AHs even though non-fulfilment of previous issued authorizations persists. One such case is illustrated below:

RA Kolkata issued (20 May 2014) authorisation to M/s. A23 for import of capital goods against DSV of ₹10.71 crore subject to fulfilment of EO equivalent to six times of the DSV of ₹64.26 crore over and above the average level of exports achieved in the preceding three licensing years amounting to ₹1,306.54 crore to be fulfilled over a period of six years from the date of issuance of authorisation.

Scrutiny revealed that the AH had procured the goods indigenously with notional DSV of ₹10.71 crore without producing any documents towards fulfilment of EO either for the 1<sup>st</sup> block or the 2<sup>nd</sup> block even after the expiry of the obligation period. This was also confirmed from the DGFT EODC website, that no EODC was issued to the firm. Although EOP of the authorisation expired in May 2020, RA did not issue SCN.

DGFT stated (August 2023) that the firm has submitted (November 2021) application for redemption with wrong file number. The redemption application was traced out subsequently and deficiency letter issued on 22 June 2023.

#### **RA Mumbai**

Audit identified four AHs wherein multiple authorizations ranging from 160 to 980 were issued without duly monitoring the non-fulfilment of previous issued authorizations.

It was observed that AH had not submitted ANF 5B for the redemption of the earlier issued authorizations even after the expiry of prescribed EO periods. This entailed risk of ₹390.16 crore (to the extent of DSV) being non-fulfilment of EOs even after expiry of the prescribed period.

DGFT stated (October 2023) that there is no restriction/limit on the number of EPCG authorizations to be issued to firms under the EPCG Scheme. The number of applications filed by IEC holder is guided by business needs of the applicants and are not restricted under FTP.

Issue of subsequent authorizations without ensuring reporting on fulfilment progress of obligations of earlier authorizations remaining unredeemed is fraught with the risk of being misused in the absence of an effective, data-driven monitoring mechanism.

DGFT needs to adopt a data driven monitoring mechanism for ensuring compliance to the provisions of FTP. Issuance of subsequent authorizations without ensuring fulfilment of progress of obligations of earlier authorizations remaining unredeemed must be considered a risk factor.

***Recommendation No. 8***

**The DGFT may factor a risk weighted assessment model while issuing multiple authorizations to a single entity so that the entities which have defaulted in earlier authorizations are evaluated more cautiously. Regional Authorities (RAs) to ensure whether the earlier pending authorizations are bona-fide cases or regularize such cases or responsibility may be fixed for inaction on part of the RAs.**

DGFT stated (October 2023) that multiple authorizations by status holders are taken mainly for setting up of big projects with long installation time. The suggestion to evaluate exporting entities (who take multiple authorizations) at multiple time intervals is well taken and will be taken up for implementation under a RMS framework in due course. However, the issuance of multiple authorizations to a single entity takes place after due diligence and verifying the track record and past performance of export of the entity.

Issuance of subsequent authorizations without ensuring fulfilment of progress of obligations of earlier authorizations remaining unredeemed must be considered a risk factor.

**2.11 Conclusion**

Audit observed incorrect fixation of SEO, fixing same AEO for different financial years and different AEO for same financial years and its non-updation due to change of status or actual utilization of DSV indicating non-monitoring of fulfilment of EO. The periodical returns are the only tools with RAs for due monitoring of EO fixation and its fulfilment and inaction on part of RAs in insisting for regular returns on EO fulfilment or invoking penal measures against non-filers led to Department being not aware of cases where SEO/AEO are wrongly fixed

and not updated and remaining unredeemed or given EODC, after the long gestation period allowed under the scheme.

Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of authorizations, to be ineffective with delay in placing the entities under DEL and issuing of multiple abeyance orders. It was noticed that abeyance orders were issued without recording any reasons and authorizations were issued to DEL status without issuing abeyance orders. There is no limit fixed for the number of abeyance orders that can be issued to an exporter. There are no SOP/mechanism prescribed for placing the entity in abeyance. Giving abeyance and that also multiple times in number of cases defeats the purpose of placing the entity in DEL. Giving abeyance does not act as a deterrent for the entity for strictly following the conditions of FTP.

The DGFT EDI system should give a complete history of an entity i.e., when placed under DEL, when abeyance given, violations of FTP by the entity etc. This history should be available with all the RAs. Monitoring that such entities are complying with the provisions of FTP should be scrupulously done.

Audit found that facilitation measures of online system for processing of applications under the Ease of doing business for simplifying the process of issuance of EPCG authorizations needs to be reviewed as the online system do not check the veracity of the documents submitted, but only prompts to upload the documents before submission. Audit observed that even if some of the mandatory documents are not uploaded, the system is accepting the application for issue of authorizations indicating lack of validation controls/soft alerts in the online system which is fraught with the risk of misuse viz., importing unrelated/ineligible/restricted capital goods, incorrect fixation of SEO, etc.

Issuing authorizations without mandatory requirements like endorsement of supporting manufacturer, description of export product, Export Obligations in Authorizations as well as in Advance Release Order (ARO) in cases of domestic procurements is fraught with the risk of misuse by diversion of duty free imports allowed under the scheme and consequent non-accounting/monitoring. The DGFT IT systems needs to be reviewed and adequate validation controls to be factored for restricting issue of authorizations without mandatory requirements/information.

Even though DGFT had migrated (November 2020) to a new Online and Centralized DGFT System for application receipt and processing of Authorizations, which is expected to flag such issues, however, even after digitization of licencing processes, authorizations beyond the delegated financial powers are being issued requiring manual intervention for approving such cases on ex-post facto basis.

Audit observed that the timelines stipulated in the HBP/FTP for issue of EPCG authorizations are not strictly complied by the Regional Authorities.

DGFT must have a data driven monitoring mechanism for ensuring compliance to the provisions of FTP. Issuance of subsequent authorizations without ensuring fulfilment of progress of obligations of earlier authorizations remaining unredeemed must be considered a risk factor.

## CHAPTER III

### Utilisation of EPCG Authorizations

The EPCG scheme is administered by DGFT (MOCI) with regard to issuance of authorizations to its redemption and issue of EODC to AHs, while the registration of Authorisation at Customs ports for allowing exemption from levy of Customs duty on imported capital goods as well as accounting of exports against the authorizations are administered by the Customs Department (Ministry of Finance). Audit examined the process of issuance of authorizations and our main findings were mentioned in Chapter II. In this chapter, Audit focused on whether the Authorisation Holders (AHs) and Department had followed the conditions stipulated in the EPCG scheme like import and installation of capital goods within prescribed time, domestic sourcing of capital goods, clubbing of authorizations, imports from ports other than port of registration, imports beyond specified limits, extension of EO, etc.

For comprehensively reviewing the utilisation of authorizations, Audit selected varied categories of sample totalling 3,400 authorizations with DSV of ₹36,732.24 crore which inter-alia included redeemed cases (1,275 authorizations with DSV of ₹24,190.74 crore redeemed during 2018-21), unredeemed cases (1,312 authorizations with DSV of ₹11,385.03 crore which were unredeemed as on 31 March 2021 even though the period allowed for meeting EO was over) and 813 authorizations with DSV of ₹1156.47 crore issued during 2015-18 whose 1<sup>st</sup> Block with obligation to fulfil 50 *per cent* EO was over as on 31 March 2021 and the findings thereon are summarized below:

- Non-reconciliation of DGFT MIS Report with Customs data (Para 3.1);
- Imports conditions not completed within prescribed time (Para 3.2);
- Monitoring of additional imports/shifting of imported goods (Para 3.3);
- Domestic sourcing of Capital Goods (Para 3.4);
- Clubbing of Authorizations (Para 3.5);
- Imports from other than Port of Registration (Para 3.6);
- Imports beyond specified limits (Para 3.7);
- Extension of Export Obligation (Para 3.8).

### 3.1 Non-reconciliation of DGFT MIS report with Customs data

Cross-verification of Customs data on utilisation of authorizations with that of MIS report of DGFT revealed that 34,777 authorizations with DSV of ₹ 42,714 crore were issued during the period 2018-21 (DGFT MIS report) whereas only 30,668 authorizations with DSV of ₹ 8,685 crore and CIF value of ₹ 1,19,047 crore were actually utilised (Customs Licence utilisation data).

Although a large number of authorizations were issued, the utilization during the period was low suggesting that the timely utilization of the authorizations was not happening.

Audit further observed that DGFT IT system captures the data in respect of issuance, SEOs, etc however, the data on utilisation of authorizations viz., details of the CG imported/DSV are not captured in the new System introduced by DGFT and were not available with the RAs as seen from the verification of physical authorisation files. The RAs are not analysing the Customs data due to which the status of actual utilisation of authorizations is not known to the RAs till the AH submits Installation Certificate (IC)/EODC application.

Reply of DGFT is awaited (June 2024).

### 3.2 Import conditions not completed within prescribed time

Para 5.04 of HBP prescribes that AH has to complete the import of the capital goods within 24 months and shall produce, within six months from date of completion of import, to the concerned RA, a certificate from the jurisdictional Central Excise/Goods and Service Tax authority (CE/GST) or an independent Chartered Engineer (CE), at the option of the AH, confirming installation of capital goods at factory/ premises of AH or his supporting manufacturer.

#### 3.2.1 Imports not completed within prescribed time

It was seen that out of the selected 3,400 authorizations, the imports could not be completed within the prescribed period of 24 months in 29 cases<sup>17</sup> in four RAs with DSV of ₹ 1,083.33 crore. Audit further ascertained whether RA had granted any extension of time in cases where the import could not be completed and noticed that the RA did not initiate any action nor were the authorizations cancelled in any of the 29 cases (**Annexure 2.1**).

RAs were not monitoring the import of Capital Goods and timely submission of Installation Certificates (ICs). Although the details of the import as captured by the Customs authorities are accessible to the RAs through the Message Exchange System (MES), Audit noticed that many RAs were not analysing the data so received to identify the capital goods imported against the authorizations issued beyond the due date.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

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<sup>17</sup> RA Coimbatore (3 cases), RA Indore (22 cases), RA Mumbai (3 cases), RA Varanasi (1 case).

### 3.2.2 Installation of capital goods not done within prescribed time

It was seen that the imported Capital goods were not installed within the prescribed time period in 36 cases<sup>18</sup> in five RAs with DSV of ₹ 82.84 crore (**Annexure 2.2 (a)**) and in 456 cases<sup>19</sup> in 11 RAs with DSV of ₹ 1315.67 crore, the details of import, extension of time or installation was not available in the case files maintained by the RAs (**Annexure 2.2 (b)**).

One sample case of non-installation of capital goods even after 14 years after issue of EPCG licence is highlighted hereunder:

#### RA Kochi

M/s. B1 Ltd. imported capital goods for acid recovery plant under seven EPCG authorizations with concessional duty of five *per cent* issued during 2007-08. The value of the imported goods was ₹ 185.60 crore and duty forgone thereon was ₹ 17.33 crore. The capital goods were not installed till Customs Department demanded duty of ₹ 17.33 crore with interest in 2010 and RA Kochi imposed fiscal penalty of ₹ 35 crore in 2017.

The firm requested for extension of time limit for installation of capital goods upto 2018 and EO period upto March 2021, which was rejected by the EPCG Committee on 1 November 2018.

Subsequently, Hon'ble High Court of Kerala directed (December 2019) DGFT to consider the petition to review the decision of the EPCG Committee on 01 November 2018 and pass orders within an outer time limit of six months. Review petition filed was considered by EPCG Committee in its 7<sup>th</sup> meeting held in October 2022 and noted that even after 14 to 15 years of issuance of EPCG authorisation, the applicant has not been able to export anything. Extension of EO period for such long periods was not contemplated under EPCG scheme. Accordingly, the Committee decided to maintain the rejection of their request.

The DSV and penalty imposed remained unrecovered due to delay on the part of Customs Department and DGFT in taking timely action.

Reply of DGFT & CBIC is awaited (June 2024).

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<sup>18</sup> CLA Delhi (1 case), RA Jaipur (10 cases), RA Kochi (3 cases), RA Kolkata (19 cases), RA Varanasi (3 cases).

<sup>19</sup> RA Ahmedabad (48 cases), RA Bengaluru (114 cases), CLA Delhi (35 cases), RA Indore (5 cases), RA Kanpur (21 cases), RA Kochi (12 cases), RA Kolkata (33 cases), RA Mumbai (33 cases), RA Pune (52 cases), RA Surat (39 cases), RA Varanasi (64 cases).



### 3.2.3 Installation Certificate not submitted

In 169 cases<sup>20</sup> in seven RAs with DSV of ₹ 253.37 crore, though the imports were made within the prescribed time frame, the respective Installation Certificate of the Capital Goods so imported was not furnished. In these cases, the Installation Certificate was not furnished till the AH met the RA for getting EODC. At the time of issue of EODC, the RAs imposed a penalty of ₹5,000 for delay in submission of Installation Certificate (**Annexure 2.2 (c)**). .

Reply of DGFT is awaited (June 2024).

### 3.2.4 Delayed submission of Installation Certificate

In 178 cases<sup>21</sup> in nine RAs with DSV of ₹521.28 crore, there was delayed submission of Installation certificate (**Annexure 2.3**).

Reply of DGFT is awaited (June 2024).

### 3.2.5 Additional conditionality

In respect of spares, an additional conditionality (Para 5.05 of HBP) provides for submission of Installation Certificate within three years. Out of the total 3,400 selected samples, spares were imported in 86 cases and the additional conditionality was not met in three cases<sup>22</sup> in two RAs with DSV of ₹ 8.42 crore.

The RAs and jurisdictional Customs authorities are required to monitor and take timely action on above deficiencies during redemption, but no action was taken.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

## 3.3 Monitoring of additional imports/shifting of imported goods

Scheme permits AH to shift imported capital goods during the entire EO period to other units mentioned in its IEC and Registration-cum-Membership Certificate (RCMC), subject to production of fresh Installation Certificate to the RA concerned within six month of the shifting.

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<sup>20</sup> RA Chennai (9 cases), RA Coimbatore (9 cases), RA Hyderabad (68 cases), RA Kanpur (7 cases), RA Kolkata (16 cases), RA Ludhiana (26 cases), RA Panipat (34 cases).

<sup>21</sup> RA Chennai (9 cases), RA Coimbatore (41 cases), RA Kanpur (3 cases), RA Kochi (2 cases), RA Kolkata (9 cases), RA Ludhiana (23 cases), RA Mumbai (13 cases), RA Panipat (73 cases), RA Visakhapatnam (5 cases).

<sup>22</sup> CLA Delhi (2 cases), RA Panipat (1 case).

It was seen that fresh installation certificate was neither submitted by the AH nor insisted by RA Mumbai in one case with DSV of ₹ 0.97 crore even though the imported capital goods were subsequently shifted.

RA Mumbai stated (May 2023) that the AH has been issued letter to submit fresh Installation Certificate along with penalty of ₹ 5000 for late submission.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

Weakness in enforcement is fraught with risk of misuse of the scheme benefit. No action was taken by the respective RAs in such cases.

#### **Recommendation No. 9**

***DGFT may ensure effective monitoring to ensure compliance with rules like submission of imports, details of manufacturers, place of installation of the goods imported, declaring the nexus certificates and timely submission of installation certificates etc. Responsibility may be fixed for non-monitoring and non-initiation of action by RAs when imports not completed within the prescribed period and for delayed/non submission of Installation certificates.***

DGFT stated (October 2023) that Para 2.14 of FTP 2023 stipulates action in accordance with FTDR Act for violating any condition of the authorisation, for failing to achieve EO or fails to deposit the requisite amount within the period specified in the demand notice issued by DoR/DGFT. DGFT is developing a system to flag the errant firms who have not complied with the regulations and create SMS/email based system driven messaging system for the exporter for compliance.

As seen from the cases commented in audit the above provisions are not being implemented scrupulously by the RAs, no action is taken for non-filers of annual returns/intimation of installation certificates and late fee prescribed for regularisation does not act as a deterrent suggesting weak Internal Control and monitoring by DGFT and a consequent need for reviewing the whole process so that compliance is ensured and need for amnesty schemes is obviated. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

### **3.4 Domestic sourcing of Capital Goods**

Para 5.08 of HBP stipulates that AH intending to source capital goods manufactured indigenously shall make a request to the RA for invalidation of EPCG authorisation for direct import/issuance of Advance Release Order (ARO).

Further, Para 2.29 prescribes that, in the case of indigenous sourcing, AH shall furnish BG/LUT to RA as per Customs Circular No. 58/2004 dated 31 October 2004, as amended from time to time.

Para 5.1(d) of FTP 2015-2020 read with Public Notice No. 47/15-2020 states that the authorisation shall be valid for import for 24 months (nine months for zero duty EPCG and 36 months for three percent EPCG authorizations in case of FTP 2009-14) from the date of issue of authorisation. Further, revalidation of EPCG authorisation shall not be permitted.

Public Notice No.1/2009-14 dated 5th June 2012 stipulates that the RA shall endorse on the authorization that the Customs Authority shall release / redeem BG / LUT only after receipt of NOC or EODC from the RA concerned. RA shall endorse a copy of the same along with a forwarding letter to the Customs Authority at the Port of registration for their information and record.

### 3.4.1 Invalidation of authorisation not communicated to port of registration

Out of total sample of 3,400 authorizations, domestic sourcing of CG was done in 638 cases. However, in 34 cases<sup>23</sup> in three RAs with DSV of ₹ 111.75 crore, the EPCG authorizations were either invalidated or the fact was not communicated to the port of registration (**Annexure 2.4**).

Instances of procuring the capital goods domestically beyond the stipulated period of nine months were also noticed.

Reply of DGFT & CBIC is awaited (June 2024).

### 3.4.2 Deficiencies in ARO

Audit noticed that there were no ARO details in one case relating to RA Varanasi with DSV of ₹ 0.14 crore and in two cases<sup>24</sup> in two RAs with DSV of ₹ 0.15 crore, the AH had not applied in proper form for ARO before making the indigenous procurement.

Reply of DGFT is awaited (June 2024).

### 3.4.3 BG/Bond of requisite amount was not executed with RA

Further, in nine cases<sup>25</sup> in two RAs with DSV of ₹ 5.72 crore, BG/Bond of requisite amount was not executed with RA. The highest number of cases being recorded at RA Surat with a DSV of ₹ 4.15 crore.

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<sup>23</sup> RA Jaipur (26 cases), RA Mumbai (7 cases), RA Varanasi (1 case).

<sup>24</sup> CLA Delhi (1 Case), RA Varanasi (1 case).

<sup>25</sup> RA Ahmedabad (1 case), RA Surat (8 cases).

During registration of EPCG licence, Bond amount is calculated manually and copy of calculation details are placed inside the physical file of the applicant while executing the Bond. There is a Register to be maintained to monitor the licence. The Customs authorities had not taken required action.

The non-compliance with the prescribed procedures in case of domestic procurement of capital goods has a risk of availing dual benefit (of availing exemption from payment of IGST and importing items duty free). The controls to ensure compliance needs to be strengthened.

It was further observed in Audit that the Message Exchange System (MES) between the RA and the Customs Authorities was not fully functional in all the RA offices. In the RA offices where the MES is not fully functional, the RA offices are following the old practice of manual communication. Copy of Invalidation were marked to the concerned port of registration through Post. Whether it reached to the port of registration or not is not monitored either by RA or Customs.

Response of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

Few Illustrative cases are highlighted:

**CLA Delhi**

CLA Delhi issued EODC to M/s. B2 Ltd. even though the AH sourced the capital goods (Band Knife Cutting Machine and Power Driven Cloth Cutting Machine) indigenously without applying for invalidation or ARO.

DGFT stated (October 2023) that clarification and documentary proof has been sought from the firm.

***Recommendation No. 10***

***Effective mechanism be put in place to ensure all domestic procurements by AH are promptly communicated to ports to avoid misuse of the authorizations by the AH.***

DGFT stated (October 2023) that the new IT system which has already been implemented, while issuing the invalidation letter or certificate of supplies the proportionate quantity/value of direct imports will automatically get reduced from the EPCG authorization and the new import values will get communicated via API message exchange to ICEGATE. The amendment is made on the authorization invalidating the authorization for imports. The recommendation of C&AG has already been implemented.

Cases commented in audit indicates that the invalidation letters are not being issued in all cases or communicated to the port of registration/Customs so that

the possible misuse of authorizations can be checked in a timely manner. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

### 3.5 Clubbing of Authorizations

Para 5.27 of HBP permits clubbing of two or more authorizations where export products endorsed on the authorizations are same /similar and are issued by the same RA. Further, clubbing is permitted only before issue of redemption of the authorisation and EO period shall be reckoned from the first authorisation issue-date. After expiry of the first issued authorisation's EO period, no export will be allowed for fulfilment of EO. Total EO of all the clubbed authorizations would be re-fixed taking into account the total DSV of the clubbed authorisation. In case of clubbing of EPCG authorizations where EO can be fulfilled by export of alternate products, the RA would define the proportion of export of alternate products that can be used towards EO fulfilment of clubbed authorizations.

The clubbing of authorisation gives the AH the advantage of adjustment of excess exports from one licence to another licence to meet the overall EO against all the clubbed EPCG authorizations.

#### 3.5.1 Clubbing permitted even though authorizations redeemed

Out of the total selected sample of 3,400 authorizations, clubbing was done in respect of 225 authorizations and it was seen that in 29 cases<sup>26</sup> with DSV of ₹ 91.29 crore in four RAs, clubbing of authorizations was irregularly permitted even though the licence was redeemed (**Annexure 2.5**).

The clubbing provision allows the AH to take advantage of adjustment of excess exports under one license to another authorizations only when the authorizations are not redeemed. Once the license is redeemed, then the excess exports under that license cannot be adjusted for meeting the EO of another license. Here clubbing of authorizations were allowed in which one of the licence was already redeemed, which was irregular. This had the risk of misuse of the authorisation as SEO under the authorizations would remain unfulfilled and the normal exports under other authorizations are accounted for against this unfulfilled licence.

Reply of DGFT is awaited (June 2024).

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<sup>26</sup> RA Coimbatore (9 cases), RA Hyderabad (17 cases), RA Jaipur (2 cases), RA Varanasi (1 case).

### 3.5.2 Irregular fixation of EO period on clubbed authorizations

In 10 cases<sup>27</sup> with DSV of ₹ 23.03 crore in two RAs, the EO period was not fixed from the date of issue of first authorisation. Instances of non-fixing of EO period of the clubbed authorizations were also noticed.

Incorrect mention or non-mention of the date of first authorisation issue date in these cases of clubbed authorisation renders computation of the prescribed period allowed for fulfilment becomes difficult and has the risk of exports getting extended beyond the prescribed period.

Reply of DGFT is awaited (June 2024).

### 3.5.3 Clubbing allowed for non-similar export products

In five cases relating to RA Mumbai with DSV of ₹ 97.60 crore, clubbing was allowed though the export products were not the same or similar. An illustrative case is discussed below:

#### **RA Mumbai**

Four authorizations of M/s. B3 Ltd. issued during 2009-10 for the export of HSD/ATF were clubbed with 12 other authorizations issued from 2007 to 2013 for export of yarn/fibre even though the export items of the clubbed authorizations were different. Further, the oldest authorisation issued on 14 May 2007 could be clubbed within 14 May 2015 (eight years), however, the AH applied for clubbing in November 2016 beyond the date of EO period of the oldest authorisation and RA allowed clubbing and issued EODC on 6 April 2018 in contravention to the extant provisions.

RA Mumbai stated (September 2023) that the authorizations issued under FTP 2009-14 would be governed by the policy of the said period as per the transitional arrangement for clubbing given in Para 5.27 (g) of HBP 2015-20.

The reply of RA Mumbai is not tenable as the clubbed authorisation includes authorisations issued during the period 2007-08 also.

In another instance, authorisation issued to M/s. B3 Ltd. during 2012-13 for export of yarn/fibre were allowed for clubbing with 15 other authorizations even though the export products were different viz., Yarn, fibre, Pure Terephthalic Acid (PTA), Polyester Chips (PET) and Motor Spirit (MS).

DGFT stated (August 2023) that clubbing and redemption were processed and accepted as per the relevant policy applicable in the period of issue of authorization where there was no requirement of the export product to be same and similar. The condition of the clubbing of authorizations with same/similar

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<sup>27</sup> RA Kolkata (6 cases), RA Mumbai (4 cases)

products was inserted in HBP 2015-2020 and not in HBP 2009-14. However, since there was a similar query from Customs, the matter was referred to the EPCG Committee for further confirmation. The decision of the committee will be conveyed upon receipt to audit.

No response was given for allowing clubbing when the EO period allowed was lapsed. The decision of the Committee is awaited.

**Recommendation No. 11**

***DGFT must ensure that clubbing of authorizations are done as per rules. Responsibility may be fixed for inaction on part of the RAs for allowing clubbing of redeemed authorizations or non-similar export products and irregular fixation of export obligation and applicable recoveries to be made.***

DGFT stated (October 2023) that rules required for clubbing of authorizations are clearly laid down in the FTP/HBP. The IT system implementation will ensure that rule based environment prevails with no arithmetical errors.

The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

### 3.6 Imports from other than Port of Registration

Para 5.04 of HBP stipulates that authorizations shall be issued with a single port of registration and as per Para 4.37 for imports, other than port of registration, a Telegraphic Release Advice (TRA) shall be obtained from the competent authority.

The TRA would be issued indicating details of description, value and quantity of the goods as well as the notified sea-port/airport through which import would be permitted.

It was seen in 91 cases<sup>28</sup> with DSV of ₹ 999.72 crore in five RAs, imports were made through the port other than the port declared by the AH without the required TRA from the competent authority (**Annexure 2.6**). A few cases are illustrated below.

#### **RA Mumbai and Pune**

RA Mumbai and Pune issued six authorizations with port of registration at Nhava Sheva Sea (INNSA1). However, as seen from BEs, the AH imported portion of CG from other port, i.e., Air Cargo Complex (INBOM4) also and debited different bond numbers submitted at the port of registration (INNSA1). Out of six authorizations, two authorizations had already been redeemed by RA Pune without due verification of import documents.

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<sup>28</sup> RA Jaipur (8 cases), RA Kolkata (3 cases), RA Ludhiana (74 cases), RA Mumbai (3 cases), RA Pune (3 cases).

**Table 3.1: Imports made from other than registered Ports**

Name of AH	Authorisation date	Port of registration	Port of partial import	Same/Different Bond debited
M/s. B4 P Ltd.	30.09.2019	INNSA1	INBOM4	Different
M/s B5 P Ltd.	27.01.2014	INNSA1	INBOM4	Different
M/s B5 P Ltd.	17.06.2014	INNSA1	INBOM4	Different
M/s. B6 Ltd.	12.03.2015	INNSA1	INBOM4	Different
M/s. B7 Ltd.	06.10.2009	INNSA1	INBOM4	Different
M/s. B8 Ltd.	01.01.2016	INNSA1	INBOM4	Different

Import of CG from ports other than the port mentioned in the license without valid TRA would have the risk of the AH importing CG from multiple ports using same license which have revenue implications and also has the risk of misuse of the bonds.

The Customs authorities should not allow duty free import of the Capital Goods from ports other than the port mentioned on the license unless a TRA is produced by the AH. As and when the RA notices that the AH had imported from the port other than the port mentioned on the license, without obtaining required permission from the DGFT, the RA should issue show cause notices to the AH. If excess imports are noticed, the competent authority after following the due procedure of issuing SCN etc. can recover the duty, interest and penalty. It was observed that in these cases no action was taken either by Customs Department or by the RA.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

### 3.7 Imports beyond specified limits

Para 5.16 of HBP specifies that if the authorisation has been utilised for import of goods in excess of DSV indicated on the authorisation, then the AH has to pay additional fee and the SEO gets enhanced proportionately. Further, the DSV and quantity of imported goods shall be within the limit specified in the said authorisation.

If authorization issued has actually been utilized for import of goods:

- (a) in excess of DSV indicated on the authorization by not more than 10 *per cent*, the authorization shall be deemed to have been enhanced by that proportion. Customs shall automatically allow clearance of such goods without endorsement by RA concerned.
- (b) If the utilisation exceeds the 10 *per cent* of the DSV mentioned in the license, the AH has to get the license amended by paying the requisite fee.



Audit scrutiny of the authorizations revealed that in 22 cases<sup>29</sup> with DSV of ₹ 205.99 crore in six RAs, the actual duty exempted on imports of capital goods exceeded the DSV and quantity mentioned in the authorisation (**Annexure 2.7 (a)**).

Further, in 23 cases<sup>30</sup> with DSV of ₹ 18.63 crore in five RAs, the required fee was not paid even though the imports exceeded the value (**Annexure 2.7 (b)**) and in three cases<sup>31</sup> with DSV of ₹ 0.71 crore in two RAs, the proportionate enhancement in EO was also not ensured.

A few cases are illustrated below.

#### **RA Coimbatore**

M/s. B9 Ltd. was issued (January 2010) authorisation with DSV of ₹ 50.13 crore and EO to fulfilled amounted to ₹ 230.60 crore. The said authorisation was invalidated (May 2010) for imports and permitted to be procured from M/s. B9A. In 75 invoices, the procurement of capital good was made during February 2011 to March 2014. These invoices were issued after expiry of the validity period of nine months.

When this irregularity was pointed out by Audit for recovery of duty of ₹ 10.91 crore along with interest, RA Coimbatore stated (October 2022) that the EODC was issued based on the Installation Certificate issued by the Assistant Commissioner (AC) and all the exports were after the date of installation. Though the invalidation letter was issued within nine months, the supplies were effected after nine months. The firm had fulfilled the EO upon clubbing, which included both import and indigenous procurement. The procurements made after nine months would not have any effect as six times the DSV was already fulfilled by the AH. As the EO was fulfilled, recovery of duty and interest was not required.

If the installation certificate issued by the Range Superintendent of Central Excise was considered, the EO was not fulfilled as the exports made were prior to the date of installation. In order to consider the same SBs for EO fulfilment, a fresh certificate was obtained from the AC of Customs Department and the same shipments were reckoned for EO which was not in order. Moreover, the Department itself accepted that the supplies were made after nine months, thereby making the procurements ineligible.

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<sup>29</sup> RA Bengaluru (3 cases), RA Coimbatore (1 case), CLA Delhi (4 cases), RA Kochi (1 case), RA Mumbai (6 cases), RA Varanasi (7 cases).

<sup>30</sup> RA Bengaluru (3 cases), CLA Delhi (1 case), RA Jaipur (7 cases), RA Mumbai (3 cases), RA Varanasi (9 cases).

<sup>31</sup> RA Bengaluru (2 cases), CLA Delhi (1 case).

**RA Mumbai**

It was seen that in six cases, the actual duty exempted (₹162.18 crore) on imports of capital goods exceeded the DSV (₹101.12 crore) and quantity mentioned in the authorisation resulting in excess utilisation amounting to ₹ 61.05 crore. In five cases, additional fee was not paid by the AH.

**Table 3.2: Imports allowed in excess of DSV mentioned in the authorisation**

S. No	Name of AH	DSV allowed (₹in cr)	DSV utilised (₹in cr)	Excess utilisation (₹in cr)	Excess in %
1	M/s. B10	92.08	151.34	59.26	64.35
2	M/s. B11	4.34	5.06	0.73	16.82
3	M/s. B11	1.66	2.36	0.7	42.17
4	M/s. B11	2.79	3.12	0.32	11.47
5	M/s. B12	0.11	0.13	0.02	18.18
6	M/s. B13	0.14	0.17	0.02	14.29
	<b>Total</b>	<b>101.12</b>	<b>162.18</b>	<b>61.05</b>	<b>60.37</b>

It can be seen from the above that AHs exceeded the permissible limit of imports allowed in the authorizations and excess utilisation of DSV ranged from 11.47 *per cent* to 64.35 *per cent*.

The Customs Licence Utilisation Module in ICES is supposed to monitor the DSV of authorizations and should restrict clearance of excess import which needs to be regularized either with payment of duty or enhancement of EO.

RA Mumbai replied (May 2023) that in case of M/s. B10 Ltd., DSV was enhanced in BO Portal and in remaining cases firms paid fee for excess utilization of DSV.

Reply in r/o of M/s. B10 Ltd. is not tenable as AH was required to amend the licence before importing capital goods as duty saved utilised is higher by more than ten *per cent* of duty saved allowed.

Reply from CBIC is awaited (June 2024).

**RA Kochi**

M/s. B14 registered an authorisation with Cochin Preventive Commissionerate (INTRV4) with DSV of ₹ 4.84 lakh, against which the DSV utilized was ₹5.70 lakh resulting in excess utilization of ₹ 0.86 lakh (more than 10 *per cent*). Customs permitted clearance of the goods without regularisation of the excess import and enhancement of the Export Obligation from RA, Kochi.

Audit observed that the RAs were not aware of the facts of DSV utilisation unless AH approached the Department either for amending the licence or applying for redemption in ANF 5B and no analysis of the Customs data exchanged through Message Exchange System (MES) is done by RAs for due monitoring. Non-

monitoring of excess imports by both Customs and DGFT indicates weak institutional mechanism between two Departments in exchange of information and coordinated action against the non-compliant firms.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

**Recommendation No. 12**

***The DGFT may establish a mechanism to continuously monitor the actual imports/utilisation of EPCG authorizations. Responsibility may be fixed for inaction on part of the RAs for allowing imports exceeding the limits specified in the license and applicable recoveries to be made.***

DGFT stated (October 2023) that the issue pertains to Customs. The authorizations issued by DGFT are exchanged through API message exchange to Customs and all relevant data/information is available with Customs at the ICEGATE portal at the time of utilization/debit by Customs. DGFT has taken up the matter with DoR to plug the loopholes and investigate the relevant system implementation for suitable resolutions and appropriate implementation of system-level checks.

RAs were unaware of the facts of DSV utilisation unless AH approached the Department either for amending the licence or for applying for redemption in ANF 5B and no analysis of the Customs data exchanged through Message Exchange System (MES) is done by RAs for due monitoring. The Customs Licence Utilisation Module in ICES is supposed to monitor the DSV of authorizations and should restrict clearance of excess import which needs to be regularized either with payment of duty or enhancement of EO.

Non-monitoring of excess imports by both Customs and DGFT indicates weak institutional mechanism between two Departments in exchange of information and coordinated action against the non-compliant firms.

Response of CBIC is awaited (June 2024).

### **3.8 Extension of Export Obligation**

Para 5.11 read with 5.17 of HBP Vol-I, 2009-14 stipulates that RA may consider one or more request for grant of extension of EO period, on payment of composition fee of two per cent of proportionate DSV on unfulfilled EO. Further, RA may consider the request for extension received upto 180 days with additional composition fee of ₹ 5,000.

In respect of zero duty EPCG authorizations, two extensions of one year each may be considered by the RA, on payment of composition fee equal to five *per cent* and ten *per cent* respectively of proportionate DSV on unfulfilled EO for the

first/second year of extension or an enhancement in EO imposed to the extent of 10 or 20 *per cent* respectively of the total EO imposed under the authorisation for first/ second year of extension, as the case may be, at the choice of the exporter.

In case of three *per cent* concessional duty scheme, extension in EO period beyond two years period available above, may be considered, for a further extension up to two years with a condition that 50 *per cent* of duty payable in proportion to the unfulfilled EO is paid by the AH to Custom authorities before an endorsement of extension is made on EPCG authorisation by RLA concerned. In such cases, no composition fee is to be paid or additional EO is to be imposed. In case the firm is still not able to complete the EO, duty already deposited will be deducted from total duty along with interest to be paid for EO default.

Para 5.23(a) of HBP stipulates that AH shall pay Customs duty along with applicable interest if it fails to fulfil the prescribed EO.

**3.8.1** Extension of EO was checked in respect of 1,312 unredeemed authorizations and 813 authorizations for which 1<sup>st</sup> block period was over and it was seen that in 237 cases<sup>32</sup> with DSV of ₹ 652.00 crore in eight RAs, capital goods were imported against the authorizations issued but the EO was not met and the AH did not seek any extension of time as per the procedure prescribed **ibid (Annexure 2.8 (a))**.

Audit scrutiny of the authorizations revealed that for the first and second extension, neither the composition fee of five or ten *per cent* of proportionate DSV on unfulfilled EO was paid nor enhancement of EO of 10 or 20 *per cent* as applicable was made as detailed hereunder:

**Table 3.3: Non-levy of Composition Fees and non-enhancement of EOs**

Extension	Composition fee	Export obligation	Selected cases	Cases noticed by Audit	% of cases
First extension	5%	10%	224	116	51.80
Second extension	10%	20%	82	38	46.34

Reply of DGFT is awaited (June 2024).

**3.8.2** Out of 306 cases where extension was neither sought by AH nor granted by RA, 224 cases pertained to extension of time after completion of 1<sup>st</sup> block period and remaining 82 cases pertained to second extension. In 92 cases<sup>33</sup> with DSV of ₹ 196.30 crore in seven RAs, the 1<sup>st</sup> block extension was not obtained and

<sup>32</sup> RA Bengaluru (77 cases), CLA Delhi (56 cases), RA Jaipur (1 case), RA Kanpur (11 cases), RA Kochi (4 cases), RA Kolkata (24 cases), RA Mumbai (40 cases), RA Pune (24 cases).

<sup>33</sup> RA Ahmedabad (35 cases), CLA Delhi (2 cases), RA Indore (5 cases), RA Mumbai (9 cases), RA Pune (12 cases), RA Surat (18 cases), RA Varanasi (11 cases).

in 230 cases<sup>34</sup> with DSV of ₹ 6269.40 crore in six RAs, the 2<sup>nd</sup> block extension was not obtained. **(Annexure 2.8 (b & c))**.

Reply of DGFT is awaited (June 2024).

**3.8.3** Further, in 15 cases<sup>35</sup> with DSV of ₹ 12.74 crore in two RAs, minimum composition fee of ₹ 10,000 as required was not collected for first/ second extensions.

Reply of DGFT is awaited (June 2024).

**3.8.4** In respect of 7 cases<sup>36</sup> with DSV of ₹ 1.57 crore in three RAs out of 46 authorizations pertaining to three *per cent* concessional duty scheme, it was seen that extension in EO period beyond two years was granted without fulfilling the condition of 50 *per cent* of duty payable on unfulfilled EO.

Reply of DGFT is awaited (June 2024).

**3.8.5** Time analysis was done for 224 cases where 1<sup>st</sup> block extension was to be obtained by the AH revealed that in 42 cases<sup>37</sup> with DSV of ₹ 26.07 crore in four RAs out of 224 selected cases, request for extension in EO Period was made to RA beyond 90 days **(Annexure 2.8 (d))** and in 17 cases<sup>38</sup> with DSV of ₹ 3.64 crore in four RAs, request for extension in EO Period was made to RA beyond 90 days to 180 days without requisite payment of composition fee of ₹ 5,000 **(Annexure 2.8 (e))**.

Reply of DGFT is awaited (June 2024).

A few illustrative cases are discussed below.

#### **RA Kolkata**

M/s. B15 Ltd. was issued (April 2009) a three per cent DSV EPCG authorisation for DSV of ₹ 1.16 crore. The AH applied for EOP extension for the 2<sup>nd</sup> block for a period of one year with payment of composition fee amounting to ₹ 1.10 lakh. RA accepted the request of the AH for extension of EOP for two years from the date of its initial expiry by demanding composition fee of ₹ 1.16 lakh in which ₹ 1.10 lakh was already paid by the AH and the EOP extension was granted after payment of ₹ 6,041. Detailed checking of calculation revealed that the Department had wrongly calculated the composition fee amounting to ₹ 1.16

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<sup>34</sup> RA Ahmedabad (55 cases), RA Bengaluru (77 cases), RA Mumbai (31 cases), RA Pune (12 cases), RA Surat (48 cases) RA Varanasi (7 cases).

<sup>35</sup> Bengaluru (2 cases), Varanasi (13 cases).

<sup>36</sup> RA Chennai (1 case), CLA Delhi (1 case), RA Varanasi (5 cases).

<sup>37</sup> RA Bengaluru (5 cases), CLA Delhi (17 cases), RA Kanpur (3 cases), RA Varanasi (17 cases).

<sup>38</sup> RA Bengaluru (2 cases), CLA Delhi (1 case), RA Kanpur (1 case), RA Varanasi (13 cases).

lakh instead of ₹ 2.20 lakh which resulted in short demand of composition fee of ₹ 1.04 lakh.

Department accepted the facts and sent a letter to the AH for immediate payment of composition fee.

**RA Chennai**

M/s. B16 (P) Ltd, was issued (June 2011) EPCG authorization under zero duty scheme with DSV of ₹1.11 crore with an EO of ₹6.68 crore to be fulfilled within six years from the date of issue of licence. The annual average was fixed as Nil in view of no export performance during the past three years as certified in Appendix 26 issued by the CA. The CG was imported (July 2011) and the Installation certificate was issued in May 2012. The EOP ended in June 2017 but the AH failed to submit the redemption application along with the supporting documents as required under the provisions cited. The AH applied for extension of 2 years, till 23 June 2019, which was granted upon payment of composition fee of ₹5.21 lakh for non-fulfilment of block-wise EO.

Even after the expiry of the extended EOP, the AH failed to submit the redemption application for fulfilment of EO and in view of non-submission, the RA issued (January 2022) SCN under Rule 7 of FT (D&R) Rules. In reply to the SCN, the AH stated (July 2022) that they had approached the Policy Relaxation Committee (PRC) for further extension of EOP.

Audit observed that the extension was granted in a routine manner without any reasonable assurance in the form of export orders, purchase contracts etc., to ascertain the feasibility of fulfilment of EO within the extended period. This resulted in the entire EO of ₹6.68 crore remaining unfulfilled by the AH after the lapse of the extended period. Consequently, the customs duty of ₹1.11 crore was due for recovery along with interest.

RA stated (October 2022) that, as per the provisions of extension, the firm applied for two years extension upon payment of required composition fee and so EOP extension was granted.

But the fact remains that even after expiry of the extended EOP, the AH was unable to export even a single consignment and being a first time licence holder the RA ought to have obtained minimum level of assurance from the AH in the form of export orders etc., before giving approval for extension.

DGFT reply is awaited (June 2024).

**CLA Delhi**

M/s. B17 and M/s. B18 applied for redemption without fulfilling the EO specified for the 1<sup>st</sup> block. The AH neither applied for extension for 1<sup>st</sup> block nor submitted composition fee. On receipt of the application for redemption, Department

issued Deficiency Letter requisitioning other documents, but remained silent with regards to non-submission of extension application and payment of composition fee/penalty for non-fulfilment of block wise EO. An amount of ₹ 0.22 lakh has not been recovered from AH for non-fulfilment of block wise EO.

The Department did not issue Deficiency Letter for submission of composition fee (duty along with interest) for unfulfilled proportion.

DGFT stated (October 2023) that recovery is made in respect of M/s. B17 and letter regarding recovery issued to M/s. B18.

**Recommendation No. 13**

***The DGFT may monitor fulfilment of the Export Obligation within the stipulated period. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against the errant Authorization Holders and applicable recoveries to be made.***

DGFT stated (October 2023) that EO monitoring is done on a regular basis by the Regional Authorities of DGFT as well as by the jurisdictional Customs authorities. In case of default, Show-Cause Notice is issued, entity is placed under DEL etc. as per the provisions of the FT (D&R) Act, 1992. For ease of monitoring, IT based tool are now being made available to the RAs and online system for issuing Demand notices and SCNs has been implemented.

Cases commented in audit on inaction of the Department against the AHs for not meeting the block-wise EO, not seeking extensions, not paying composition fees and issuing EODC without verifying the same indicates the monitoring mechanism to be ineffective and needs to be reviewed by DGFT. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

### **3.9 Conclusions**

Audit observed that DGFT IT system captures the data in respect of issuance, SEOs, etc however, the data on utilisation of authorizations viz., details of the CG imported/Duty Saved are not captured in the new System introduced by DGFT and were not available with the RA as seen from the verification of physical authorisation files.

RAs were not monitoring the import of Capital Goods and timely submission of Installation Certificates (ICs). Although the details of the import as captured by the Customs authorities are accessible to the RAs through the Message Exchange System (MES), Audit noticed that many RAs were not analysing the data so received to identify the capital goods imported against the authorizations issued beyond the due date and the status of actual utilisation of authorizations is not known to RA till the AH submits Installation Certificate (IC)/EODC application.

The non-compliance with the prescribed procedures in case of domestic procurement of capital goods has a risk of availing dual benefit (of availing exemption from payment of IGST and also importing items duty free). The controls to ensure compliance needs to be strengthened by the DGFT. The MES between the RA and the Customs authorities was not fully functional in all the RA offices and the old practice of manual communication was still continued in such RAs and whether the communication reached to the port of registration was not monitored either by RA or Customs.

Import of Capital Goods from ports other than the registered port without adhering to the prescribed procedure in the FTP/HBP involves risk of importing Capital Goods from multiple ports using the same authorization which have revenue implications and also has the risk of misuse of the bonds. The Customs/RAs should monitor such cases scrupulously and invoke penal action for non-compliance. In the cases commented in audit, no action was taken either by Customs Department or by the RA.

The Customs Licence Utilisation Module in ICES is supposed to monitor the DSV of authorizations and should restrict clearance of excess import which needs to be regularized either with payment of duty or enhancement of EO. Non-monitoring of excess imports by both Customs and DGFT indicates weak institutional mechanism between two Departments in exchange of information and coordinated action against the non-compliant firms.

Audit observed that the extensions were granted in a routine manner without any reasonable assurance in the form of export orders, purchase contracts, block-wise obligation met, filing of annual returns etc., to ascertain the feasibility of fulfilment of EO within the extended period.





## CHAPTER IV Unredeemed EPCG Authorizations

Audit examined the process of issuance and utilisation of authorizations and our main findings were mentioned in Chapter II and III respectively. In this Chapter, Audit verified whether the monitoring of EO by the RAs is done effectively and in a timely manner. The scheme not only allows duty free imports of Capital Goods but also grants a long gestation period for meeting the EO and therefore monitoring of the EO is of utmost importance for successful implementation of the Scheme.

Audit selected 1,312 authorizations with DSV of ₹11,385.06 crore and SEO of ₹41,965.56 crore for detailed examination for which the EO period had expired as per DGFT data as on 31 March 2021 but the authorizations were shown as unredeemed and the findings thereon are summarized below:

- Mismatch between DGFT Dump data and MIS report with regard to the quantum unredeemed Authorizations (Para 4.1);
- Non-monitoring of Unredeemed Authorizations (Para 4.2);
- EO unfulfilled after completion of the first block (Para 4.3).

### 4.1 Mismatch between DGFT Dump data and MIS report with regard to the quantum of unredeemed Licence

As per DGFT dump data, there were 1,08,798 authorizations with unfulfilled SEO of ₹ 5,09,327 crore of unredeemed cases for which the EO period expired as on 31 March 2021 whereas the MIS report of DGFT for the same period reported 37,925 authorizations with unfulfilled SEO of ₹3,23,022 crore.

Thus, there is a mismatch between the MIS report of the DGFT and the dump data of the DGFT indicating weakness in updating the database of the DGFT.

It was seen that the AH have not been submitting the periodical returns envisaged in the HBP and FTP. Further, the data exchanged by the Customs is not being analysed by the RAs for identifying the defaulting AHs and initiating prescribed actions. Due to these reasons, the data of the DGFT may not contain the updated factual information.

Even as per MIS report of DGFT, more than 18 *per cent* (37,925 authorizations) out of the total authorizations remained unredeemed after the expiry of the EO period (205,179 authorizations).

Review of the selected 1,312 authorizations for detailed examination revealed that most of the authorizations which were stated to be unredeemed in the data provided were actually found to be either redeemed or extensions given as per

the physical files maintained by the RAs offices and the actual unredeemed cases were only 470<sup>39</sup> with DSV of ₹5,938.33 crore in nine RAs (**Annexure 3.1**).

Reply of DGFT is awaited (June 2024).

## 4.2 Non-monitoring of unredeemed authorizations

Para 5.23(a) of HBP prescribes payment of applicable Customs duty along with interest in case AH fails to fulfil the prescribed EO within the stipulated period. AH may seek extension of time failing which the RA has to issue Show Cause Notice (SCN) and initiate necessary action.

Analysis of DGFT data revealed that 1,08,798 authorizations with an SEO of ₹ 5,09,327 crore remained unredeemed after the completion of the specified period as on 31 March 2021, as tabulated below:

**Table 4.1 Age-analysis of unredeemed Authorizations beyond the specified period**

Sl. No.	Period	No. of Authorizations not redeemed	Unfulfilled EO (in ₹ crore)	DSV (in ₹ crore)
1.	Beyond 10 years	7,912	46,461	9,299
2.	5 to 10 years	38,203	1,46,346	49,335
3	1 to 5 years	44,327	2,29,474	33,405
4.	Below 1 year	18,356	87,046	14,249
	<b>Total</b>	<b>1,08,798</b>	<b>5,09,327</b>	<b>1,06,288</b>

Substantial number of unredeemed authorizations pending for more than a decade after the specified time period indicates serious deficiency in monitoring the EO fulfilment. Although extant provisions stipulates that the AH who fails to fulfil the EO shall be asked to refund the DSV along with interest, this provision is seldom enforced.

It was seen that although 1,312 selected authorizations remained unredeemed for a long period after the expiry of EO period, RAs issued SCN belatedly in 468 cases<sup>40</sup> in 14 RAs (November 2022) with DSV of ₹ 5,877.34 crore. Since non-initiation of timely action has revenue implications involving recovery of the duty saved amount with interest from the defaulter, the monitoring mechanism needs to be strengthened (**Annexure 3.2**).

<sup>39</sup> RA Bengaluru (100 cases), RA Chennai (55 cases), RA Coimbatore (54 cases), CLA Delhi (51 cases), RA Hyderabad (18 cases), RA Kochi (11 cases), RA Kolkata (48 cases), RA Mumbai (74 cases), RA Pune (59 cases),

<sup>40</sup> RA Ahmedabad (32 cases), RA Bengaluru (44 cases), RA Chennai (14 cases), RA Coimbatore (28 cases), CLA Delhi (44 cases), RA Kanpur (40 cases), RA Kochi (7 cases), RA Kolkata (38 cases), RA Ludhiana (48 cases), RA Mumbai (39 cases), RA Panipat (40 cases), RA Pune (37 cases), RA Surat (46 cases), RA Varanasi (11 cases)

Few illustrative cases are mentioned below.

#### **RA Mumbai**

M/s. C1 had not submitted redemption application after the lapse of EO period in six out of 11 unredeemed cases with DSV of ₹132.09 crore and EO of ₹920.8 crore despite the fact that the capital goods were imported and RA did not initiated any action.

RA Mumbai stated (May 2023) that monitoring is now streamlined with new IT back office and where EO documents are not submitted by the AH, e-SCNs are being issued under FTDR Act. In r/o M/s. C1, it was stated that AH has applied for clubbing of authorizations.

#### **RA Chennai**

RA Chennai issued (January 2008) authorisation to M/s. C2 Pvt. Ltd. (Subsequently name amended to M/s. C3 Pvt. Ltd.), with EO of ₹ 25.84 crore to be fulfilled within eight years. DGFT, New Delhi approved the extension of first block EO period for two years and for submission of Installation Certificate upto July 2013. Again, the AH applied (August 2013) for extension and for submission of Installation Certificate which was rejected (July 2013) by DGFT and AH was advised to opt out of EPCG Scheme and pay Customs duty with applicable interest.

After four years, the AH sought extension of EOP for further two years upto 01 January 2018 on payment of composition fee of two *per cent* on DSV for the shortfall at the end of first block and requested for condonation of delayed installation (capital goods imported from 11 January 2008 to 09 February 2009 and installed on 26 March 2014) which was allowed (January 2017) by the EPCG committee on the condition that the third-party export shall be subject to conditions prescribed in para 5.10 (d) of HBP 2015-20 read with Policy circular No. 03/2015-20 dated 02 September 2015.

It was seen that the EPCG committee initially rejected the case in January 2013 and advised the AH to pay Customs duty and interest and also to opt out of the EPCG scheme for which no follow-up action was initiated by the RA. However, after about four years, based on the request of the AH, the EPCG Committee revised its own decision and accepted (January 2017) the proposal for further extension and condoned the delay in installation.

The redemption application was submitted (January 2018) for fulfilment of EO through direct and third-party exports. Based on the DSV utilised amount of ₹ 2.97 crore, the EO was revised to ₹ 23.72 crore, however, the AH could fulfil EO only to the extent ₹ 4.35 crore (18.35 *per cent*) resulting in shortfall in EO of ₹19.36 crore (81.65 *per cent*). Despite the relaxation given by the EPCG

committee, the AH could only fulfil EO partially, that too, without meeting the conditions prescribed for third party exports.

The redemption application submitted in January 2018 is still pending with RA, Chennai despite lapse of 55 months (as on August 2022). RA neither initiated any concrete action by issue of cautionary letter/SCN nor was any pre-emptive action initiated as prescribed in para 5.17 of HBP vol.1, to regularise the case by payment of Customs duty with interest for failure to fulfil the conditions of the licence. Consequently, the actual duty utilized amounting to ₹ 2.97 crore along with applicable interest is yet to be paid by the AH to regularise the case.

The scheme not only allows duty free imports of Capital Goods but also grants a long gestation period for meeting the Export Obligation (EO) and therefore needs to be duly monitored by the Regional Authorities for successful implementation of the Scheme. Timely submission of the periodical returns and data exchanged with Customs was required to be analysed for identifying the defaulting AHs and penal provisions prescribed in the FTDR could have been invoked. The central server data is to be regularly updated and reconciled with the MIS reports.

Reply of DGFT is awaited (June 2024).

***Recommendation No. 14***

***DGFT must take necessary action for the disposal of the unredeemed cases. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.***

The DGFT stated (October 2023) that EO monitoring is done on a regular basis by the Regional Authorities of DGFT as well as the jurisdictional Customs authorities where the EPCG authorization is registered. In case of default, Show-cause notice (SCN) is issued, entity is placed under DEL etc. as per the provisions of the FT(D&R) Act, 1992. This is perpetual activity and sometimes there may be pendency's due to acute shortage of staff. DGFT has also notified a special one-time Amnesty Scheme to address non-compliance in Export Obligations by Advance Authorization and EPCG authorization holders. The Scheme which was initially available for a limited period i.e. up to 30.09.2023 has been extended till 31.03.2024

The recommendation was made due to inaction of DGFT and its field formations in duly monitoring the EO and not taking timely action which led to such unprecedented growth of unredeemed cases involving significant revenue implications.

### 4.3 EO unfulfilled after completion of first block

As per Para 5.14 of HBP 2015-20, the AH would intimate the RA on the fulfilment of EO, as well as average exports, within three months of completion of the block, by secured electronic filing using digital signatures.

The block wise breakup of authorizations not redeemed is given below:

**Table 4.2 block-wise breakup of unredeemed authorizations**

Period	No. of Authorizations	Unfulfilled EO (in ₹ crore)	Duty Saved (in ₹ crore)
Unredeemed after completion of second block	1,08,798	5,09,327	1,06,288
EO unfulfilled after completion of first block	20,348	91,323	16,500
<b>Total</b>	<b>1,29,146</b>	<b>6,00,650</b>	<b>1,22,788</b>

The Authorisation Holders after importing the capital goods did not fulfil the EO and therefore export earnings did not accrued. Audit selected a sample of 813 cases for examination where the first block period expired and the AH did not meet the required 50 per cent EO.

During scrutiny, it was noticed that in 302 cases<sup>41</sup> in 15 RAs with DSV and unfulfilled EO amounting to ₹ 642.20 crore and ₹1,583.87 crore respectively and duty effect thereon amounting to ₹ 321.10 crore, the authorisation holders did not submit any documents even after completion of one year after the first block regarding fulfilment of 50 per cent of EO (**Annexure 3.3**). No action/letter calling for details of EO was available in the records suggesting no action was taken by RAs. A few illustrations are mentioned below.

#### RA Kolkata

M/s C4 Limited applied for extension of second block EO period for two years for an authorisation with payment of composition fee and accordingly, EO period of 2<sup>nd</sup> block was extended. It was however seen that AH had not fulfilled the EO (Minimum 50 per cent) for the first block. The RA office had neither insisted on payment of duties of Customs along with applicable interest for the 1<sup>st</sup> block nor issued notice for non-fulfilment of 1<sup>st</sup> block EO at the time of application for extension in 2<sup>nd</sup> block period. The AH had utilised actual DSV of ₹ 40.45 crore. Thus, an amount of ₹ 20.22 crore as Customs duty was liable to be paid by AH for non-fulfilment of EO in 1<sup>st</sup> block period.

The Department accepting the observation sent a letter to the AH to pay Customs duty along with applicable interest immediately.

<sup>41</sup> RA Ahmedabad (35 cases), RA Bengaluru (47 cases), RA Chennai (16 cases), RA Coimbatore (12 cases), CLA Delhi (58 cases), RA Hyderabad (31 cases), RA Indore (10 cases), RA Kanpur (11 cases), RA Kolkata (6 cases), RA Ludhiana (5 cases), RA Mumbai (16 cases), RA Panipat (14 cases), RA Pune (20 cases), RA Surat (18 cases), RA Visakhapatnam (3 cases),

In another case, Audit observed that three per cent EPCG authorisation was issued (June 2010) to M/s C5 Ltd., for DSV of ₹ 19.94 crore. The firm had actually utilized ₹ 15.88 crore against this authorisation. Hence, the firm was required to fulfil an EO for an FOB value of ₹ 127.09 crore in eight years. However, the firm could fulfil EO at 31.78 *per cent* during the 1<sup>st</sup> block period. Though, there was a short fall in fulfilling EO of the 1<sup>st</sup> block period, the firm got EODC without payment of Customs duty (along with interest) for non-fulfilment of 1<sup>st</sup> block EO period, which was irregular. The case was redeemed on 12 June 2019. Non-fulfilment of 1<sup>st</sup> block EO resulted in short levy of Customs duty of ₹ 2.89 crore with applicable interest.

The Department accepting the observation sent a letter to the AH to pay Customs duty along with applicable interest immediately.

DGFT is required to have an effective mechanism to continuously and regularly monitor EO both block-wise as well as initiate action for inordinate delays in filing of redemption application by the AHs. Reply of DGFT is awaited (April 2024).

#### **Recommendation No. 15**

***DGFT must have a mechanism in which red flags are issued to Regional Authorities (RAs) for monitoring cases where export obligation for first block is not fulfilled. RAs to ensure that the EO commitments are discharged or recoveries made for non-compliance.***

The DGFT stated (October 2023) that for ensuring effective monitoring, para 5.14 of FTP, 2023 stipulates that AH shall submit to RA concerned by 30th June of every year, a report on fulfilment of export obligation through online. Any delay in filing such annual report shall be regularised on payment of a late fee of ₹ 5000/- per year for each authorisation.

FTP provisions for filing of annual reports are already existing but the same is not insisted/monitored by RAs thereby leading to more than a lakh unredeemed cases wherein EO period has expired. Action may be initiated against AHs for non-submission of mandatory periodical returns.

#### **4.4 Conclusion**

The scheme not only allows duty free imports of Capital Goods but also grants a long gestation period for meeting the Export Obligation (EO) and therefore needs to be duly monitored by the Regional Authorities for successful implementation of the Scheme.

Timely submission of the periodical returns and data exchanged with Customs was required to be analysed for identifying the defaulting AHs and penal provisions prescribed in the FTDR could have been invoked. The central server data is to be regularly updated and reconciled with the MIS reports.

DGFT is required to have an effective mechanism to continuously and regularly monitor EO both block-wise as well as initiate action for inordinate delays in filing of redemption application by the AHs.





## CHAPTER V Redemption of EPCG Authorizations

Audit examined the process of issuance, utilisation and unredeemed authorizations, the findings thereon are mentioned in Chapter II, III & IV respectively. In this chapter, audit reviewed the redemption process and whether monitoring by RAs are done effectively and in a timely manner.

Audit selected 1,275 sample authorizations with DSV of ₹ 24,190.74 crore which were redeemed during the review period (2018-21) for detailed examination and the main findings thereon are summarized below:

- Filing affidavits in lieu of Shipping Bills (Para 5.1);
- Utilisation of same Shipping Bills for both AEO and SEO (Para 5.2);
- Non-mentioning of name of supporting manufacturer in Shipping Bills (Para 5.3);
- Redemption application without required documents (Para 5.5);
- Delay in processing and issuing of EODC (Para 5.6);
- Lapses by Customs Department during redemption of licence (Para 5.7);
- Third Party Exports (Para 5.8);
- Non-fulfilment of SEO/AEO & ineligible SBs used for SEO (Para 5.9 &10);
- Delayed realisation of BRC (Para 5.11).

### 5.1 Filing affidavits in lieu of Shipping Bills (SBs)

Para 5.7.2 of FTP 2009-14 r.w. Customs Notification No 103/2009 as amended vide notification no 16/2015-Customs dated 01 April 2015, specifies that Shipping Bills (SBs) endorsed with the authorisation number and date shall be counted for discharge of export obligation. The DGFT Policy Circular no 7/2002 allows the condonation of procedural lapse of not mentioning the EPCG licence number on the SB relating to the exports effected for fulfilment of EO under EPCG Scheme.

As per Appendix-5 C, the Chartered Accountant (CA) is required to certify that in cases where SBs do not contain EPCG authorisation number and date, the exports accounted for fulfilment of SEO against a particular authorisation have not been/shall not be taken into account for fulfilment of either Specific or Average EO of any other EPCG authorizations. Further CA has to certify that SBs mentioned in the affidavit are not Free SBs/Third party SBs.

Out of the test checked 1,275 authorizations, it was seen that affidavits were submitted in respect of 207 cases<sup>42</sup> with FOB of ₹ 2114.71 crore (**Annexure 4.1 (a)**) in 13 RAs towards relaxation of procedural lapse of not mentioning the licence number/date on SBs. Thus, relaxation (July 2002) intended to be given in rare instances was being given in a routine manner in 16.23 *per cent* of the reviewed cases. Further in respect of RA Surat, it was noticed that the affidavit given in respect of six cases were endorsed with another EPCG licence number and same had been considered for fulfilment of EO of both the authorizations.

Further, in 14 cases<sup>43</sup> with FOB of ₹ 208.70 crore in five RAs, SBs were free SBs/third party SBs and not entitled for relaxation as per the DGFT Circular cited. The RAs allowed redemption in these cases relying on the certificate of the Chartered Accountants without verifying the veracity of such certificate despite the fact that the SBs were enclosed. This resulted in considering ineligible SBs for fulfilment of EO amounting to ₹ 208.70 crore.

Audit also noticed instances where the AH had not enclosed the SBs with the Affidavit.

Reply of DGFT is awaited (June 2024).

One such illustration is discussed below:

#### **RA Chennai**

In 17 authorizations, the AH had submitted affidavit for absence of licence number in the SBs. The RA permitted redemption based on the Affidavit and CA certificate. Out of these authorizations, three authorizations irregularly involved third party SBs. While allowing the redemption, the RA failed to verify the correctness of the CA certificate. As the RA had relied on the CA certificate which proved to be incorrect, the Department may initiate action against the CA concerned including through ICAI/NFRA for incorrect certification. Further, in respect of five authorizations, the copies of SBs were not enclosed to the Affidavit.

Mandatory requirement of endorsing authorization details in the SBs is an inbuilt check envisaged by DGFT to obviate multiple use of same exports for multiple authorizations/other schemes, however, the same was not insisted by RAs and relying on affidavit/CA certificate the SBs are reckoned for discharging of EO

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<sup>42</sup> RA Ahmedabad (3 cases), RA Bengaluru (32 cases), RA Chennai (19 cases), RA Coimbatore (17 cases), CLA Delhi (42 cases) RA Hyderabad (19 cases), RA Kanpur (23 cases), RA Ludhiana (5 cases) RA Mumbai (14 cases), RA Pune (18 cases), RA Surat (6 cases), RA Panipat (8 cases), RA Visakhapatnam (1 case)

<sup>43</sup> RA Chennai (8 cases), RA Coimbatore (3 cases), RA Hyderabad (1 case), Kanpur (1 case), RA Visakhapatnam (1 case)

without resorting to any verification even on test check basis to act as a deterrent for applicants/CAs making wrong declarations/certifications.

**Recommendation No. 16**

**Ministry may consider dispensing with the procedure issued in July 2002 of accepting Affidavits as the same is prone to risk of misuse, particularly in the era of end-to-end computerization and automated processes. Responsibility of Chartered Accountants should be clearly defined and failure on their part be reported to appropriate authority. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.**

DGFT stated (October 2023) that the extent to which the Regulations and other Circulars issued in the earlier period are applicable in the current IT based environment will be examined. However, it may be appreciated that there will be certain peculiar situations which may not be amenable to IT based rule based environment and will need decision making based on certain exporter based declarations etc. which are supported by Affidavits to protect the Government revenue at a later date.

Cases commented in audit adduce that the extant provisions requires review by DGFT and we recommended that DGFT should rely more on the computerization and data driven approach rather than relying on the affidavits/undertakings issued by the Chartered Accountants which are not even verified at least for few test cases so that the same act as a deterrent for applicants making wrong declaration.

## 5.2 Utilisation of same Shipping Bills for both AEO and SEO

As per Para 5.04(b) of FTP 2015-2020, EO shall be over and above the average level of exports achieved by the applicant in the preceding three licensing years for the same and similar products within the overall EO period including extended period, if any, except for categories mentioned in Para 5.13(a) of HBP. The SB used for fulfilment of the AEO should not be utilized for the fulfilment of the SEO or any other scheme or for more than one EPCG license.

It was seen that in 17 cases<sup>44</sup> with DSV of ₹ 34.49 crore in six RAs, the same SB (amount) had been utilised for fulfilment of both AEO and SEO (**Annexure 4.2**). When the same SB is used for fulfilment of both AEO and SEO, there is a risk of short fulfilment of SEO.

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<sup>44</sup> RA Chennai (1 cases), Hyderabad (1 case), RA Kanpur (5 case), RA Ludhiana (4 cases), RA Mumbai (5 case), RA Varanasi (1 case).

Reply of DGFT is awaited (June 2024).

Few illustrations are highlighted hereunder:

#### **RA Mumbai**

M/s. D1 Ltd. fulfilled SEO in FY 2014-15 for an authorisation and AEO of ₹ 3,135.08 crore was also required to be fulfilled in the same FY 2014-15 as fixed by the Department. Audit scrutiny of SBs utilized for fulfilment of SEO and AEO revealed that AH had utilized FOB value of the same 46 SBs for fulfilment of both SEO and AEO. Therefore, after exclusion of common 46 SBs from the SBs statement of SEO, only one SB was left for the value of ₹ 3.03 crore for considering fulfilment of SEO as against targeted SEO of ₹ 28.06 crore resulting in shortfall in fulfilment of SEO was for the value of ₹ 25.03 crore and proportionate duty thereon amounting to ₹ 4.17 crore was required to be recovered.

DGFT stated (October 2023) that the matter was taken up with the firm, which has submitted revised AEO fulfilment statement by removing the common shipping bills utilized for SEO.

#### **RA Hyderabad**

M/s. D2 Pvt. Ltd. was issued EPCG authorization (October 2012) with Specific Export Obligation of ₹ 0.83 crore and AEO was fixed at ₹ 56.49 crore. The authorization was redeemed on 29th October 2020. AH had fulfilled AEO to the extent of ₹ 56.92 crore for the period 2018-19. It was however seen that the AH submitted the same SB of ₹ 0.46 crore for fulfilment of both SEO and AEO. This is in contravention to the provisions ibid and resulted in non-fulfilment of the average export obligation. Customs Duty thereon was required to be recovered along with interest.

DGFT stated (October 2023) that the firm fulfilled even after deducting the same SB. However, the fact remains that same SB was used for calculation of both AEO/SEO and the same was not monitored while redeeming the authorization.

### **5.3 Non-mentioning of name of supporting manufacturer in Shipping Bills**

Para 5. 10 of HBP prescribes that the name of the supporting manufacturer and exporter shall be indicated on the export document.

It was observed that in 4 authorizations<sup>45</sup> issued by RA Mumbai to M/s. D3 Ltd. during 2014-15 with DSV of ₹ 24.93 crore, the name of the supporting manufacturer was not indicated on the Shipping Bills submitted and utilized for the fulfilment of SEO. In the absence of details of supporting manufacturer on the

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<sup>45</sup> RA Mumbai (4 cases)

SBs, RA redeemed these cases without verifying the utilisation of the Supporting manufacturer's Capital Goods against which EO was fulfilled.

RA Mumbai stated (May 2023) that SCN has been issued in r/o of three authorizations.

In the absence of the name of the Supporting Manufacturer, there is a risk of AH claiming the exports of exporters who are not his supporting manufacturer against the fulfilment of SEO

Reply of DGFT is awaited (June 2024).

#### **5.4 Same Shipping Bills utilized for two different authorizations**

As per the provisions of HBP the export proceeds realized and claimed by the AH shall not be used for fulfilment of EO of another EPCG license.

Analysis of DGFT data revealed that the same SB was utilized for multiple authorizations in one SBs<sup>46</sup> by two authorizations in RA Pune with FOB of ₹ 1.09 crore and DSV of ₹ 0.94 crore. It was observed that though the same SB was claimed for fulfilment of EO, the FOB value claimed was different. However, the amount realized as per BRC was ₹0.56 crore whereas AHs had claimed ₹0.58 crore resulting in excess claim of EO of ₹ 0.02 crore.

When the same SB is used for different authorizations monitoring the proportionate FOB value across the authorizations becomes difficult and there is a consequent risk of short fulfilment of EO. RA is not maintaining any such list of SBs which have been utilised by multiple licence holders and is not verifying whether the same SB has been used in multiple cases. The Department did not cross verify the SB amount with the BRC amount being used for fulfilment of EO of different licence numbers before granting EODC.

Reply of DGFT is awaited (June 2024).

#### **5.5 Redemption application without required documents**

Para 5.22 of HBP specifies the prescribed documents to be submitted along with redemption application by the AH and RA issues EODC after being satisfied with the compliance by the AH and forward a copy to the Customs authorities with whom BG/LUT has been executed. A statement giving details of the documents submitted by the AH towards evidence of EO fulfilment shall also be enclosed with the certificate. Further, RA shall process such applications ordinarily within 30 days. Shortcomings, if any, shall be pointed out in one go. All correspondence, thereafter, shall relate to these deficiencies only. Fresh correspondence, if

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<sup>46</sup> RA Pune (2 cases).

necessary, shall be within 15 days. Once documents are complete, EO will be discharged within 30 days of receipt of complete documents /information.

Audit observed that in 50 cases<sup>47</sup> with DSV of ₹ 348.53 crore in seven RAs, ANF 5B application for redemption was not supported by the prescribed documents. However, the RA had allowed the redemption of the licence without due verification of the prescribed documents (**Annexure 4.3**).

Reply of DGFT is awaited (June 2024).

One case is illustrated below:

#### **RA Jaipur**

In 30 redeemed cases, the AH<sup>48</sup> had imported trucks, tippers, dumpers etc. but the registration documents to establish that these vehicles were registered in the name of the AH were not submitted with the Form ANF5B; yet, the EODC was granted. Nothing was on record regarding issue of Deficiency letter before allowing redemption.

#### **Recommendation No. 17**

***DGFT must put in mechanism where ineligible SBs are not used for fulfilment of Export Obligation like same SBs being used for fulfilment of AEO and SEO, ineligible SBs being used, free/third party SB being used, mentioning name of supporting manufacturer, same SB being used for different authorizations etc. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.***

DGFT stated (October 2023) that it is not possible to examine individually each Shipping Bill for its eligibility and a trust based system is being put in place to handle EODCs which will work on RMS basis. The RMS criteria will build in various parameters like KYC assessment, past export performance, sectoral dynamics and sensitivity etc. Moreover, the SBs are now also being transmitted by Customs in API mode to DGFT server which will also be used to the extent possible to implement the EODC module. It maybe added that same shipping Bills can be utilized in a proportionate manner for fulfillment of Average EO and Specific EO. Further, the online module of DGFT will be developed to ensure that no double counting of shipping bills is permitted.

Cases commented in audit prove that the extant provisions are either ineffective or not implemented scrupulously by the RAs and in either case needs to be

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<sup>47</sup> RA Coimbatore (2 cases), RA Jaipur (30 cases), RA Kanpur (1 case), Kochi (1 case), RA Ludhiana (2 cases) RA Pune (2 cases) RA Varanasi (12 cases).

<sup>48</sup> M/s. D4 Ltd, M/s. D5 (p) ltd., M/s. D6 Pvt. Ltd.

reviewed by DGFT. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## 5.6 Delay in processing and issuing of EODC

Para 5.22 of HBP stipulates that RA shall process applications for EODC ordinarily within 30 days and shortcomings, if any, shall be pointed out in one go. All correspondence thereafter shall relate to these deficiencies only. Fresh correspondence, if necessary, shall be within 15 days. Once documents are complete, EO will be discharged within 30 days of receipt of complete documents /information.

It was seen that EODC was not issued within the prescribed period of 30 days after receipt of application in 770 cases<sup>49</sup> with DSV of ₹ 2526.56 crore in 18 RAs (**Annexure 4.4 (a)**) with delays beyond 360 days in 83 cases as detailed below:

**Table 5.1: Range of delay in issue of EODC**

S. No.	Time taken	No. of cases
1.	31- 90 days	436
2.	91- 360 days	259
3.	Beyond 360 days	83

Out of these 770 cases, in 131 cases<sup>50</sup> with DSV of ₹ 638.71 crore in nine RAs, the deficiency memos were also not issued within thirty days (**Annexure 4.4 (b)**). Further, in respect of 32 cases<sup>51</sup> with DSV of ₹ 366.92 crore in six RAs, multiple deficiency memos were issued covering various short comings instead of covering them in one consolidated memo (**Annexure 4.4 (c)**).

High non-compliance rate of 37.3 *per cent* with regard to timeliness in issue of EODC may cause hardship to exporters and is against the principle of ease of doing business.

An illustration is discussed below:

### RA Kolkata

M/s. D7 Pvt. Ltd., was granted (August 2006) an authorisation for exporting tubular bags (Gauntlet) under CTH 59119000. The AH had applied (September

<sup>49</sup> RA Ahmedabad (64 cases), RA Bengaluru (26 cases), RA Chennai (13 cases), RA Coimbatore (23 cases), CLA Delhi (17 cases), RA Hyderabad (27 cases), RA Indore (60 cases), RA Jaipur (50 cases), RA Kanpur (44 cases), RA Kochi (15 cases), RA Kolkata (60 cases), RA Ludhiana (2 cases), RA Mumbai (37 cases), RA Panipat (64 cases), RA Pune (58 cases), RA Surat (74 cases), RA Varanasi (54 cases), RA Visakhapatnam (82 cases).

<sup>50</sup> RA Bengaluru (3 cases), RA Chennai (8 cases), CLA Delhi (13 cases), RA Hyderabad (3 cases), RA Kanpur (15 cases), RA Ludhiana (1 case), RA Mumbai (23 cases), RA Pune (27 cases) RA Visakhapatnam (38 cases).

<sup>51</sup> RA Chennai (1 cases), CLA Delhi (7 cases), RA Hyderabad (5 cases), RA Kanpur (3 cases), RA Mumbai (10 cases) RA Pune (6 cases).



2007) for EODC by submitting all relevant documents. Despite submission of all relevant documents, RA office had not issued EODC even after 13 years of receiving the application for redemption of the licence.

Reply of DGFT is awaited (June 2024).

**Recommendation No. 18**

***Effective mechanism through Act/Rule be put in place to grant EODC within the stipulated timeframe. Responsibility may be fixed for inaction on part of the RAs for not granting EODCs within the prescribed period.***

DGFT stated (October 2023) that an IT based system for EODC is being put in place which will help in avoiding multiple deficiency letters. As per Trade Notice No. 20/2019-20 dated 26.09.2019, it has been stressed that RAs should issue one consolidated Deficiency letter in case of redemption requests.

The cases commented in audit adduced that the extant provisions are either ineffective or not implemented scrupulously by the RAs and in either case needs for ensuring timely issuance of EODCs. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## 5.7 Lapses by Customs Department during redemption of licence

Para 5.22(b) of HBP prescribes that RA shall issue EODC to AH and forward a copy to Customs Authorities with whom the BG/LUT has been executed. Notification No 16/2015 – Customs prescribes that where the EO of any particular block is not fulfilled, the importer shall, within three months from the expiry of the said block, pay duties of Customs along with interest.

Review of 129 bonds<sup>52</sup> with DSV of ₹ 347.14 crore in five RAs revealed that although there was delay in fulfilling the EO, the Customs Authorities neither invoked the bonds executed (11 *per cent*) nor recovered the duty and interest **(Annexure 4.5 (a))**.

Further, in 160 bonds<sup>53</sup> with DSV of ₹ 926.47 crore in ten RAs, Customs authorities had not closed the BG/bond after issue of EODC **(Annexure 4.5 (b))**. Non-cancellation of the bonds<sup>54</sup> in a timely manner, as prescribed in CBIC

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<sup>52</sup> RA Ahmedabad (1 bond), RA Kochi (12 bonds) RA Mumbai (37 bonds) RA Pune (48 bonds), RA Varanasi (31 bonds).

<sup>53</sup> RA Ahmedabad (11 bonds), RA Bengaluru (2 bonds), CLA Delhi (4 bonds), RA Kanpur (21 bonds), RA Kochi (1 bond), RA Kolkata (35 bonds), RA Mumbai (20 bonds), RA Pune (37 bonds), RA Surat (1 bond), RA Varanasi (28 bonds)

<sup>54</sup> A bond is a deal or agreement between the borrower and lender that acts as a surety of the payment for AH.

instructions, not only results in locking up of funds of the genuine AHs but also puts traders to inconvenience.

CBIC stated (October 2023) that delay in fulfilling of EO is possible vis-à-vis original block period of the authorizations owing to reasons viz., extensions granted by the RAs, by Customs on merits of the cases or sick units, etc. Details have been sought from respective field formations of Customs for the cases indicated in Annexure and 13 bonds closed in (Ahmedabad, Mundra & Chennai Commissionerate) and instructions have been reiterated (August 2023) to field formations for strict compliance.

**Recommendation No. 19**

***CBIC must have a mechanism whereby if the EO of any of the blocks is not fulfilled within stipulated time, the bonds may be invoked and necessary action taken against the Authorization Holders. Responsibility may be fixed for inaction on part of the Customs Department for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.***

DGFT stated (October 2023) that as per para 5.13(c) of HBP, 2015-20, request for extension of Export Obligation period of first block shall be submitted within 6 months from the date of expiry of first block EO period along with composition fee of 2% on DSV proportionate to unfulfilled portion of EO pertaining to the block. DGFT and Customs are now implementing a mechanism where EODC will be issued through IT database.

CBIC stated (October 2023) that mechanism for monitoring block-wise EO is already in place and field formation are re-sensitized from time-to-time.

Non-monitoring of block-wise EO fulfilment and inaction of RAs/Customs to act thereon has been highlighted in the paras ibid requiring DGFT/CBIC to review and strengthen the implementation of the extant mechanism with proper follow up. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## **5.8 Third Party Exports**

Para 5.10 of HBP stipulates that in case of exports through a third party, export document viz., BRC, export order and invoice should be in the name of third party exporter. The goods exported through third party should be manufactured by the AH or the supporting manufacturer. Only, proceeds realised through normal banking channel from third party exporter's account to the AH's account on account of such exports shall be counted towards fulfilment of EO. All shipments made on or after 5 December 2017 through 3<sup>rd</sup> party exporter shall be counted towards EO only for actual payment realized through normal banking

channels from the third party exporter's account to Authorization Holder's account.

It was seen that in 384 out of the 1,275 selected cases, the AH proposed to fulfil EO through third parties and in 11 cases<sup>55</sup> with DSV of ₹ 9.04 crore in RA Varanasi, export documents viz., SBs/Bill of Exports etc. did not indicate the name of both AH and supporting manufacturer, along with EPCG authorization number. Non-mentioning the name of supporting manufacturer and authorization number has the risk of utilizing the same SB for fulfilment of EO of other EPCG authorizations.

It was noticed that in respect of 5 cases<sup>56</sup> with DSV of ₹ 2.39 crore in two RAs, though payment was not realized, the same was considered for fulfilment of EO despite the fact that shipments made were subsequent to 05 December 2017 (requiring such payments through banking channel from third party to AH's account). Consideration of unrealized export proceeds for EO fulfilment had the inherent risk of non-fulfilment of EO.

It was noticed that in respect of 6 cases<sup>57</sup> with DSV of ₹ 2.10 crore in three RAs, it was not ensured whether the stipulated conditions were complied with, and had not initiated action for non-submission of the additional documents by AH.

Reply of DGFT is awaited (June 2024).

A few illustrative instances are discussed here under:

#### **RA Coimbatore**

In four cases, the entire export proceeds realised by third party was taken for EO fulfilment by the AH even though the amount transferred under normal banking channel to the AHs account was less. Further, all the shipments made were on or after 5 December 2017.

This resulted in shortfall in EO to the extent of ₹10.04 crore and the proportionate duty involved works out to ₹2.20 crore, which was pointed out for regularisation along with interest.

RA Coimbatore stated that, in one case, letter was issued for payment of duty with interest to regularise the case and other cases are being examined.

### **5.9 Non-fulfilment of SEO/AEO**

Para 5.04(b) of FTP 2015-2020 specifies that EO shall be over and above the average level of exports achieved by the applicant in the preceding three licensing years for the same and similar products within the overall EO period including

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<sup>55</sup> RA Varanasi (11 cases).

<sup>56</sup> RA Coimbatore (4 cases), RA Pune (1 case)

<sup>57</sup> RA Coimbatore (2 case), RA Pune (2 cases) RA Varanasi (2 cases)

extended period, if any; except for categories mentioned in Para 5.13(a) of HBP. Such average would be the arithmetic mean of export performance in the preceding three licensing years for same and similar products.

Short fulfilment of AEO/SEO was seen in 117 instances<sup>58</sup> with DSV of ₹ 3967.39 crore in 14 RAs which were redeemed despite the short/non fulfilment of AEO/SEO (**Annexure 4.6**). Because of short fulfilment, the AH would have an undue benefit in respect of proportionate duty foregone related to unfulfilled EO. Reply of DGFT is awaited (June 2024).

A few illustrative instances are discussed below:

### **RA Ahmedabad**

#### **(i) Fulfilment of SEO based on incorrect undertaking**

RA Ahmedabad issued (March 2007) authorisation (three *per cent* EPCG) to M/s. D8 Ltd. with DSV of ₹ 17.71 crore and accordingly RA fixed SEO of eight times amounting to ₹ 141.65 crore. It was however observed that export made under other EPCG authorizations were also considered for fulfilment of SEO of authorizations which resulted in short fulfilment of EO to the tune of ₹ 112.55 crore. Proportionate Customs duty to the tune of ₹ 14.66 crore along with applicable interest/penalty is also required to be recovered.

DGFT stated (October 2023) that the firm has submitted an undertaking to the effect that S/Bills used in the present authorisation has not been used in any other authorization for the purpose of export obligation.

The reply of DGFT is not tenable as EODC was issued on the basis of incorrect undertaking by the firm without verifying the fact that exports made under other authorizations were also reckoned for fulfilment of SEO.

### **RA Mumbai & Pune**

#### **(ii) Short fulfilment of AEO**

**(a)** Short fulfilment of AEOs was observed in five authorizations issued to M/s. D9 Ltd. RA fixed three different AEOs while issuing four authorizations pertaining to the year 2010-11. In one authorisation RA revised the AEO after the firm became a Premium Trading House in 2009-10. The firm maintained the AEO to the extent of ₹ 8,188.28 crore for the year 2010-11 and ₹ 6,997.66 crore for the year 2011-12 and not the required AEO of ₹ 8,411.04 crore during both the financial years.

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<sup>58</sup> RA Ahmedabad (3 cases), RA Bengaluru (1 case) RA Chennai (1 case), RA Coimbatore (2 case), RA Hyderabad (1 case), RA Jaipur (1 case), RA Kanpur (1 case), RA Kolkata (23 cases) RA Ludhiana (9 cases), RA Mumbai (14 cases), RA Panipat (28 cases), RA Pune (8 cases), RA Surat (17 cases), RA Varanasi (8 cases).

The 5<sup>th</sup> authorisation was issued (2013-14) to M/s. D9 considering the same Average Export Period (AEP) of ₹8,677.80 crore for the year 2011-12 and 2012-13 while fixing the AEO of ₹8,514.62 crore. After cross verification of AEO with another authorisation of the same AH, it was seen that AEO was fixed at ₹12,956.16 crore. Thus, there was short fixation noticed to the extent of ₹4,441.54 crore. AH fulfilled AEO to the extent of ₹10,402.32 crore and the Department accepted the same, but the DL was issued on 13 February 2020 for submission of installation certificate which was not-complied till date (April 2024).

Thus, the utilised DSV of ₹236.36 crore was required to be recovered along with interest due to short fulfilment of AEO. However, no action was taken by the Department in four authorizations. RA Mumbai however redeemed the third authorisation in May 2022 without verifying the fulfilment of AEO as fixed in the earlier authorizations issued in the same year.

RA Mumbai stated (May 2023) that the firm being a Premier Trading House, AEO was to be calculated by reckoning previous five years exports.

The fact remains that different AEOs were fixed for authorizations issued to the same firm instead of the required 5 years exports figures even though the premier trading status was known to the RA before issuing the authorizations.

**(b)** In case of M/s. D10 Ltd, AEP for the year 2013-14 and 2014-15 was revised for ₹283.77 crore and ₹253 crore respectively and the same was accepted by the Department. However, while issuing two authorizations in the year 2014-15, the RA had not considered the revised AEP of the year 2013-14 while fixing the AEO by adopting exports of three preceding years (2011-12 to 2013-14). Therefore, AH fulfilled the AEO for ₹ 255.64 crore only as against the correct AEO of ₹ 259.21 crore leading to short fulfilment of AEO of ₹ 3.57 crore.

Reply from RA Pune is awaited (June 2024).

**(c)** In case of M/s. D11 Ltd, AEP was maintained for the year 2009-10 worth ₹ 578 crore only as against the required AEP of ₹ 609.97 crore; thus the AH failed to maintain the AEP during the year 2009-10. However, RA Pune redeemed the case without verifying the AEP fulfilment for the year 2009-10. Contradictory to the above, in a similar case of the same AH, the Department issued DL and refused to redeem the case as AH failed to maintain the AEP for the period 2009-10.

Reply from RA Pune is awaited (June 2024).

**(iii) Authorizations redeemed without verifying actual user condition**

The AH had installed imported capital goods in one of their factory's locations and exported from the factory unit of another location for fulfilment of SEO as

shown in table 5.2. Thus, justification for fulfilment of EO from the utilisation of imported capital goods could not be established. However, the Department redeemed these cases without verification of actual user condition of imported CG.

**Table 5.2: SEO fulfilled from exports made through other units**

RA	Name of AH	Place of Installation	Place from where SEO fulfilled as per SB
Pune	M/s. D10	Haryana	Nashik
Pune	M/s. D10	Nashik	Haryana
Mumbai	M/s. D12	Vadodra	Silvasa
Mumbai	M/s. D13	Maharashtra	Karnataka
Mumbai	M/s. D13	Maharashtra	Karnataka

RA Mumbai stated (May 2023) that there is no requirement of manufacturing the export goods from the Capital Goods imported under the subject EPCG authorisation as AH is allowed to fulfil export obligation (EO) from the date of issuance of Authorisation.

Reply of the RA is not tenable as policy provisions requires SEO to be fulfilled by goods manufactured from capital goods for which EPCG authorisation has been granted.

**(iv) Redemption by export of ineligible items (Not available in EPCG authorisation)** M/s. D14 Ltd. for authorisation issued (January 2016) had exported items other than those mentioned in authorisation for fulfilment of SEO. It was observed that the licence was issued to AH with the condition to fulfil SEO by export of wool worsted fabrics, polyester blended/viscose, linen etc. However, AH fulfilled SEO with three invoices for deemed export and out of three, two invoices were for the export of tussar silk wool blended fabrics which was deleted and not mentioned in the condition sheet of the licence. This resulted in short fulfilment of SEO amounting to ₹0.40 crore leading to loss of proportionate DSV of ₹0.09 crore.

RA Mumbai replied (October 2022) that AH has fulfilled the EO based on export products having nexus with the capital goods which is duly certified by the CE and therefore export made was in order.

Reply is not acceptable as the exported product i.e., tussar silk wool blended fabrics is not in the condition sheet of licence and HS code was also different from the allowed exports.

**RA Kolkata**

**(v) Incorrect waiver of AEO allowed to SSI unit resulting in non-fulfilment of EO**

M /s. D15, SSI Certificate holder, was issued a three *per cent* EPCG authorisation with DSV of ₹ 0.47 crore with an obligation to export for FOB value of \$7,43,328 manufactured out of the capital goods, besides maintaining AEO of ₹ 3.73 crore.

The AH had imported capital goods for DSV of ₹ 0.37 crore and installed them at the specified location. The RA issued (May 2018) EODC to the firm for fulfilment of SEO, despite the fact that the firm did not discharge its AEO. The firm after expiry of EO period of the 1st block, on 16 December 2014 stated that they were unaware of maintenance of AEO and requested waiver of AEO in terms of Para 5.7.6 of HBP v1 2009-14, claiming to be Cottage & Tiny Sector. The RA granted waiver as requested by the firm.

As per policy of the Development Commissioner (MSME), Government of India, the investment limit for tiny sector is ₹0.25 crore. Scrutiny of BEs revealed that the total Assessable value of imported machineries of the firm amounted to ₹ 1.58 crore, which was more than the investment limit for tiny units, and does not attract the relaxed provisions of Para 5.7.6 of HBP v1 (2004-2009). RA, however, without verifying the criteria of SSI and tiny sector, had waived the AEO of the authorisation of ₹3.73 crore on 24 December 2014, resulted in conferring undue benefit to the firm. This non-compliance attracts recovery of proportional DSV of ₹0.37 crore along with applicable interest from the date of import.

**(vi)** In another case, Audit noticed that four authorizations were issued to M/s. D16 Pvt. Ltd. in the year 2012. Subsequently, on request of the AH, the type of products to be exported was changed and authorizations were amended. Accordingly, AH fulfilled its SEO as well as AEO by export of amended products. However, the Department had not re-fixed the AEO by including the amended products. EODC was granted without rectifying this lapse. This resulted in shortfall in AEO as well as SEO with short levy of duty of ₹1.41 crore with applicable interest.

**(vii)** M/s. D16 Pvt. Ltd., for authorisation issued on 25 March 2013 had declared that it has maintained AEO of ₹65.55 crore against fixed AEO of ₹ 64.71 crore. The firm, at the time of redemption, declared year wise AEO in ANF 5B form in terms of USD and in Indian Currency (₹). It was noticed that during conversion of FOB value of SBs from USD to Indian Currency in AEO calculation, the firm had applied higher exchange rate than the notified rate due to which there was significant difference in amount expressed in Indian currency. This resulted in generation of excess FOB value and exaggerated average performance

statement with consequent shortfall in AEO as well as SEO, requiring regularization by payment of Customs duty of ₹ 0.22 crore along with applicable interest. Similar observation in respect of the same firm of duty recovery amount of ₹ 0.24 crore was also observed.

(viii) In another case, incorrect fixation of AEO was observed in seven EPCG authorizations of M/s. D17 Pvt. Ltd.' A Zero duty EPCG authorisation dated 04 February 2015 was issued to 'the firm' for import of capital goods against DSV of ₹0.29 crore, with AEO of ₹5.14 crore based on CA certificate.

However, on request of the firm, the AEO was re-fixed and reduced to ₹2.86 crore at the time of redemption of authorisation based on revised CA certificate, wherein export performance of the licensing year 2013-2014 had been shown as negative i.e. ₹ 7.58 crore. This negative amount was deducted from the previous two licensing years' export performance. This indicates shortfall in AEO resulting in non-fulfilment of SEO and requires recovery of proportionate duty foregone amount of ₹0.29 crore along with applicable interest. Similar observations in six cases involved duty foregone amount of ₹ 0.68 crore.

Department in respect of M/s. D17 Pvt. Ltd., issued a letter for immediate payment of Customs duty with applicable interest for regularization of the case.

Reply of DGFT is awaited (June 2024).

#### **RA Bengaluru**

(ix) RA Bengaluru allowed redemption to authorisation issued to M/s. D18 Ltd. despite short fulfilment of SEO. As per Form ANF 5B, AH imported capital goods with DSV of ₹ 34.89 crore and fulfilled SEO only to the extent of 95.01 *per cent* in foreign currency.

However, it was observed that AH actually imported capital goods from four different ports for DSV of ₹ 36.27 crore and therefore the SEO fulfilled amounted only to 92.24 *per cent* in foreign currency. RA failed to verify the import details even though available in the file and issued EODC relying on the information declared in Form ANF 5B. AH is liable to pay the proportionate DSV of ₹2.54 crore plus applicable interest.

DGFT stated (October 2023) that recovery letter has been issued to the firm.

#### **5.10 Ineligible Shipping Bills used for fulfilment of SEO**

It was seen in 34 cases<sup>59</sup> with DSV of ₹ 244.77 crore and SEO to be fulfilled of ₹ 1788.97 crore in five RAs, ineligible Shipping Bills viz., SBs prior to installation of

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<sup>59</sup> RA Coimbatore (2 cases), RA Ludhiana (5 cases), RA Mumbai (9 cases), RA Pune (5 cases), RA Varanasi (13 cases).



Capital goods, installation before licence, items not mentioned in the licence, etc were considered for fulfilment of SEO (**Annexure 4.7**).

Reply of DGFT is awaited (June 2024).

### 5.11 Delayed realisation of BRC

Section 9 of Foreign Exchange Management Regulations (Exports of Goods and Services), 2000 stipulates that the full export value of goods or services shall be realised within nine months from the date of export. RBI circular 27 dated 1 April 2020 further enhanced the time period for realization of export proceeds to 15 months. However, this relaxation is applicable only to exports made upto or on 31st July 2020.

Analysis of data revealed that export proceeds in respect of 24,766 SBs (**Annexure 4.8**) have been realized beyond nine months. Since the SBs mentioned do not pertain to the relevant period, relaxation of 15 months was not applicable to these cases. FOB value amounting to ₹ 28297.93 crore was realized beyond the stipulated period of nine months. The Port wise details of BRC realization in those cases is given was shared with the Ministry, however, no action taken for delayed remittances and no monitoring was done.

The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short remittances of export proceeds and its non-monitoring by DGFT needs to be reviewed.

Reply of DGFT is awaited (June 2024).

#### **Recommendation No. 20**

**DGFT must also watch the actual forex realisation within the stipulated time period. Responsibility may be fixed for inaction on part of the RAs for not taking timely action against defaulting Authorization Holders and applicable recoveries to be made.**

Response of DGFT is awaited (June 2024).

### 5.12 Conclusions

Mandatory requirement of endorsing authorization details in the SBs is an inbuilt check envisaged by DGFT to obviate multiple use of same exports for multiple authorizations/other schemes, however, the same was not insisted by RAs and relying on affidavit/CA certificate the SBs are reckoned for discharging of EO without resorting to any verification even on test check basis to act as a deterrent for applicants/CAs making wrong declarations/certifications.

Audit observed that the control environment for monitoring of EO and process of issuing EODC to be deficient and requires review by DGFT as cases of authorizations redeemed without verifying actual user condition, redemption by export of ineligible items (not available in authorisation), ineligible SBs, non-fulfilling of AEO/SEO requirements, incorrect waiver of AEO allowed to SSI unit were found, besides, delay in issuance of EODC, same SB being used for both AEO/SEO, non-compliance in respect of third party exports and supporting manufacturers and endorsing of SBs with authorisation details.

The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short remittances of export proceeds and its non-monitoring by DGFT needs to be reviewed.



**CHAPTER VI**  
**Inter-Departmental Coordination and Systemic Issues**

The EPCG scheme is administered by DGFT (MOCI) with regard to issuance of authorizations to its redemption and issue of EODC to AHs, while the registration of Authorisation at Customs ports for allowing exemption from levy of Customs duty on imported capital goods as well as accounting of exports against the authorizations are administered by the Customs Department (Ministry of Finance). Thus, pertinent details of authorizations viz., description of Capital Goods and Export product(s), RCMC, AEO, SEO, installation of Capital goods, BRC, ARO, Invalidation, etc are available with the RAs whereas details of BEs of Capital Goods and SBs of exported goods, item description and classification, notification availed, invoices, BRC, etc are available with Customs and therefore interdepartmental coordination among both the department is of utmost importance for successful implementation and effective monitoring of the scheme.

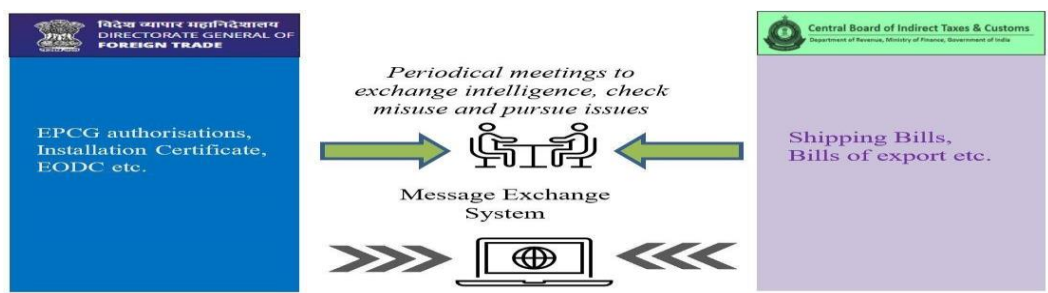
In this chapter, audit examined the efficacy of the inter-departmental coordination mechanism between Customs and DGFT and its monitoring; the major findings thereon are summarized below:

- Issues in Inter-Departmental Coordination & Monitoring (Para 6.1);
- IGST not included in fixing of SEO (Para 6.2);
- Deficiency in monitoring of EO by Customs & DGFT ( Para 6.3, 6.8 & 6.9)
- Inadequacies and discrepancies in MIS (Para 6.5 & 6.6); and
- Miscellaneous Audit Observations (Para 6.10).

**6.1 Issues in Inter-Departmental Coordination and Monitoring**

As per Section 8.2 of the Customs Manual, Commissioners are to put in place an institutional mechanism for periodical meetings with RAs to exchange intelligence and in case of defaulters, the field formation may issue simple notice to the AH for submission of proof of discharge of EO (Table 7.1). Further, timely action taken in all cases of default is required to be initiated to safeguard revenue.

**Table 6.1: Periodical meetings between DGFT and Customs**



### 6.1.1 Data Exchange

DGFT has set up a secured EDI MES for various documentation related activities, including import and export authorizations established with other administrative Departments, namely, Customs, Banks and EPCs. This has reduced the physical interface of exporters and importers with the Government Departments and is a significant measure in the direction of reduction of transaction cost. The RAs of DGFT collect the data from offices under their jurisdiction and transmit it centrally to Customs through ICEGATE. The messages are then integrated with ICES 1.5. The data exchange between the ICES and DGFT applications is crucial in the implementation and monitoring of all DGFT export promotion schemes.

It was envisaged that a total number of 13 message types were to be exchanged between ICES 1.5 and DGFT through EDI. Out of 13 types of messages listed to be exchanged between ICES and DGFT, only five types of messages, were operational/ functional in five RA offices.

The list of 13 message types to be exchanged are

1. IE Code Directory DGFT Customs DGCH001
2. IE Code Acknowledgement Customs DGFT CHDG002
3. License Information DGFT Customs DGCH003
4. License Acknowledgement Customs DGFT CHDG004
5. DEPB Directory DGFT Customs DGCH011
6. Notification Directory Customs DGFT CHDG012
7. EODC Certificate DGFT Customs DGCH013
8. Shipping Bill Data Customs DGFT CHDG005
9. SB Acknowledgement DGFT Customs DGCH006
10. Non-receipt of message from Customs DGFT Customs DGCH009
11. Non-receipt of acknowledgement from DGFT Customs DGFT DHDG010
12. Bill of Entry Data Customs DGFT CHDG007
13. BE Acknowledgement DGFT Customs DGCH008

It was seen that Message Exchange Module (MEM) was not implemented in three RA offices (Mumbai, Pune and Kochi) and the information in respect of the functioning of the MEM was not furnished in other RA offices.

CBIC stated (October 2023) that institutional mechanism exists (Instructions issued in January 2011 and Circular 16/2017) which has been reiterated (August 2023) to field formations for strict compliance. Response from DGFT is awaited (June 2024).

**Recommendation No. 21**

***The IT systems of DGFT and CBIC must be linked in such a manner that the full process from the issue of EPCG licence to redemption is tracked by the respective authorities. Issue of licence communicated to Customs, import and export communicated to DGFT, BEs/SBs submitted to DGFT cross verified from Customs and EODC communicated to Customs.***

DGFT stated (October 2023) that the suggestion of C&AG have already been implemented and the entire life cycle of EPCG authorization holder is available to the exporter as well as the DGFT Regional Authority. API based data is also being exchanged between DGFT server and ICEGATE for issue of EPCG authorization, details of SBs and BEs, EODC etc.

The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

**6.1.2 Non-conduct of periodical meetings**

As per Section 8.2 of the Customs Manual, Commissioners are to put in place an institutional mechanism for periodical meetings with RA to exchange intelligence, check misuse and pursue issues such as EO fulfilment status in cases where the EO period has expired in that quarter/previous quarter so that concerted action can be taken against the defaulters. In case of defaulters, the field formation may issue simple notice to the AH for submission of proof of discharge of EO.

In case, where the AH submits proof of their application having been submitted to DGFT, the matter may be kept in abeyance till the same is decided by DGFT. Further, timely action taken in all cases of default is required to be initiated to safeguard revenue.

Details of periodical meetings held between Customs and DGFT during the audit period (2018-19 to 2020-21) for exchanging the data was ascertained and it was seen that no meetings were conducted in seven offices (CLA Delhi, RA Mumbai, RA Pune, ICD JRY Kanpur, ICD Panki Kanpur, RA Kanpur & RA Varanasi), two meetings in ACC Mumbai and one each in RA Hyderabad and ACC Hyderabad. No information furnished in respect of 12 offices (RA Ahmedabad, ICD Khodiyar, ACC Ahmedabad, CH Mundra, RA Surat, ICD Sachin, RA Bengaluru, RA Ludhiana, RA Panipat, RA Chennai, RA Coimbatore, RA Kolkata & RA Visakhapatnam). Thus, it was evident, that no institutional mechanism for periodical meetings with concerned RA was formalised for monitoring of the EO fulfilment status.

CBIC stated (October 2023) that monitoring mechanism is in place and zones are conducting meetings with RAs. To ensure regularity of the meetings, field formations have been again sensitized (August 2023).

Reply of DGFT is awaited (June 2024).

### 6.1.3 Monitoring of meetings at DGFT Level

Information on monitoring/oversight mechanism in place to monitor the implementation of EPCG scheme at DGFT level was sought and it was stated (June 2022) that Port Officer's meetings and Senior Officer's meetings are held from time to time which are chaired by DGFT to monitor the implementation of the EPCG scheme/other related issues.

Detailed records relating to the same were not made available to Audit. EPCG scheme related trade issues needs to be finalized expeditiously to achieve the intended objectives and a robust monitoring mechanism may be institutionalized for effective and efficient implementation of the scheme.

DGFT stated (August 2023) that review meeting are held periodically by DGFT HQ over VC with Regional Authorities to review the pending EODC of EPCG authorizations. Further, DGFT has notified an Amnesty Scheme vide PN No.02/01.04.2023 for one-time settlement of default in the EPCG authorizations.

Timely and regular conduct of meetings with proper documentation (minutes) thereon along with follow-up of actionable items, fixing of accountability for inaction on part of the RAs would have strengthened the internal control environment.

#### **Recommendation No. 22**

***It may be ensured that meetings between DGFT and CBIC are conducted periodically so that there is timely exchange of information regarding the intelligence, pursuance of issues relating to EO fulfilment and check any defaults made by the Authorization Holders.***

DGFT stated (October 2023) that there is already a mechanism in place for conduct of meetings between DGFT and CBIC to discuss the common issues. Instructions would be issued to Regional Authorities for regular interaction with CBIC wherever required for smooth implementation of the EPCG Scheme. Regional Economic Intelligence Council (REIC) meetings are also held on a regular basis.

DGFT in respect of similar recommendation made in earlier AR 10 of 2021 have issued instructions to all RAs for holding regular meetings with Customs and however, despite that non-conduct of regular meetings was observed. DGFT may review and reiterate its instructions with due follow-up for its effective implementation by the field formations.

CBIC (October 2023) has issued instructions to field formations for conducting regular meetings to monitor EO fulfilment and to exchange information /intelligence in case of any default.

Non-monitoring of block-wise EO fulfilment and inaction of Customs field formations to act thereon has been highlighted in the paras ibid requiring CBIC to review and strengthen its monitoring mechanism.

#### 6.1.4 EODC not communicated to Customs

Para 5.22 of HBP states that RA shall forward a copy of the EODC including a statement giving details of the documents submitted by the AH towards evidence of EO fulfilment to the Customs authorities with whom BG/LUT has been executed.

It was seen in 221<sup>60</sup> cases with DSV of ₹ 731.92 crore in six RAs, EODC/ Relevant Statements has not been forwarded to the Customs authorities either online or through post (**Annexure 5.1**).

In absence of timely update to website or digital communication from RA Office to Customs via the Message Exchange System, Customs was unable to monitor the cases and thus defeated the purpose of the implementing EODC online. Some of the illustrative cases observed are as mentioned below:

##### **RA Coimbatore**

M/s. E1 Ltd. was issued (January 2013) licence for DSV of ₹ 2.05 crore under Zero duty scheme for import of capital goods with an obligation to export cotton grey cloth for value of ₹ 9.28 crore equivalent to six times of DSV to be fulfilled within six years. The EO period got over in January 2019 and the EODC was issued by RA, Coimbatore in July 2019.

However, in Custom House, Tuticorin where the licence was registered, the Department is unaware of the EODC already issued and was still calling for (January 2021) information from AH regarding fulfilment of EO and also fixed the Public Hearing (PH) on 11 May 2022 in letter dated 26 April 2022 issued in this regard.

This indicates lack of proper coordination between RA Coimbatore and Customs Department to ensure the status of licence. Such unnecessary correspondence after three years of issuance of EODC could have been otherwise avoided.

DGFT stated (October 2023) that all EODCs issued in erstwhile legacy system were invariably sent to the customs authorities concerned. There might be some exceptions where these EODCs might not have been linked to respective files. Now that, all EODCs are issued online, such lapses are plugged.

CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

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<sup>60</sup> RA Bengaluru (126 cases), RA Coimbatore (1 case), RA Kochi (42 cases), RA Mumbai (17 cases), RA Pune (34 cases), RA Varanasi (1 case).



## RA Kochi

On test check of 42 EPCG files redeemed during 2018-19 to 2020-21 at RA Kochi, it was observed that the statement of documents in support of EO fulfilment were not forwarded to Customs Department in any of the cases, along with the EODC for verification of its correctness and admissibility for discharge of export obligation. On test check of the Customs Bond files, Customs Department were not requesting RA for such details before closing the Bond files and release of Bank Guarantee in any of the cases. This indicates that Customs Department was not exercising adequate checks regarding the validity and admissibility of the EODC documents submitted at RA for discharge of EO and Customs Bond files were closed based on EODC alone.

DGFT stated (October 2023) that all EODCs issued in erstwhile legacy system were invariably sent to the customs authorities concerned. There might be some exceptions where these EODCs might not have been linked to respective files. Now that, all EODCs are issued online, such lapses are plugged.

CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

### 6.1.5 Random verification of address by Customs

CBIC directed the Customs authorities in May 2010 to randomly verify the addresses depicted on the authorisation. With the implementation of EDI, the license information is exchanged through the system.

Although the information is available with the Customs authorities in 1088 cases<sup>61</sup> with DSV of ₹ 4135.34 crore in 13 RAs, random verification of addresses was not being done (**Annexure 5.2**).

CBIC stated (October 2023) that the random verification does not mandate for verification of all authorized holders and is guided by Circular No.5/2010-Cus dated 16.3.2010 read with Board Instructions dated 18.01.2011 which prescribes random verification to be restricted to 5 *per cent* cases.

The reply of CBIC is not tenable as no random verification was done for the selected authorizations issued during the period covered in the review (2018-19 to 2020-21).

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<sup>61</sup> RA Ahmedabad (29 cases), RA Bengaluru (157 cases), RA Chennai (62 cases), RA Coimbatore (40 cases), CLA Delhi (82 cases), RA Indore (37 cases), RA Jaipur (2 cases), RA Kanpur (137 cases), RA Kolkata (278 case), RA Mumbai (71 cases), RA Pune (105 cases), RA Surat (60 cases), RA Varanasi (28 cases).

### 6.1.6 Shipping Bill details not uploaded in MES

To rule out fabricated export documents used to show fulfilment of EO, the genuineness of SBs or BEs not on Customs Electronic Data Interchange (EDI) (i.e., manual) are to be expeditiously verified while registering a duty credit scrip or post export EPCG duty credit scrip or processing EODC/redemption letters based on document purported to be of Customs non-EDI ports.

During the course of verification of authorizations, it was noticed that, details of such SBs were not uploaded in the MES, for verification of the genuineness of the same.

CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

### 6.1.7 Non-endorsement in Shipping Bills

Customs Notification No 103/2009 as amended vide notification no 16/2015 specifies that only such SBs which mention the EPCG authorisation number and date shall be counted for discharge of EO.

It was seen in RA Kochi that in five cases with duty effect of irregularity of ₹ 3.55 crore, redemption certificates were issued by RA considering the export turnover of SBs which were not endorsed with EPCG authorisation number for fulfilment of EO.

DGFT stated (October 2023) that AHs complied with PC-7/2002 by submitting required affidavit duly certified by the CA.

The reply is not tenable and DGFT should review the procedure of accepting Affidavits issued in July 2002 as the same is prone to risk of misuse, particularly in the era of end-to-end computerization and automated processes.

### 6.1.8 Non-intimation of invalidations to port of registration

AH holder is required to register the authorisation at the port specified in the authorisation and thereafter all imports against said authorisation shall be made only through that port, unless the AH obtains permission from Customs authority concerned to import through any other specified port. However, exports may be made through any of the specified ports.

It was observed in 8 cases<sup>62</sup> with DSV of ₹ 215.92 crore in two RAs which issued invalidations relating to port registrations. However, the same were not communicated to the concerned Customs registrations ports for necessary blocking of the duty free imports against invalidations issued by DGFT which is

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<sup>62</sup> RA Mumbai (7cases), RA Varanasi (1 case).

fraught with the risk of dual benefit of duty exemption by AH both at the time of import at Customs and also at the time of domestic procurement.

Reply of DGFT is awaited (June 2024).

## 6.2 IGST not included in fixing of SEO

Para 5.01 of FTP 2015-20 states that IGST paid on imports would not be considered for fixing EO if the AH does not claim Input Tax Credit (ITC). As per 5.01(e) of FTP, in case IGST and Compensation Cess are paid in cash on imports under EPCG Scheme, incidence of such IGST and Compensation Cess would not be taken for computation of net duty saved, provided ITC is not availed and SEO would be fixed accordingly.

For ensuring compliance with the above provision the RA should have access to the GST returns submitted by the Tax Payer or should have mechanism to get updated information with regard to the availment of ITC credit in respect of the SBs where the Capital Goods (CG) are imported by paying the IGST and Compensation Cess by the AH availing the benefit under EPCG scheme.

Audit noticed that there was no mechanism available with the Department for verifying non-availment of CENVAT/Input Credit in case of exclusion of IGST/CVD for fixing EO.

Audit cross verified a sample cases of import of CG after paying IGST in cash with the GST returns filed by the respective tax payers which revealed that in 84 cases in 10 RAs, out of the sample of redeemed cases of 1,275, the Authorization Holder availed ITC of the IGST amounting to ₹ 38.68 crore, however, the proportionate enhancement of SEO was not done, resulting in short fulfilment of SEO of ₹ 231.91 crore.

Out of these 84 cases<sup>63</sup>, three cases illustrated below were selected for detailed scrutiny and cross verification with GST data and in all the cases, the ITC availed as per the GST data was not considered for enhancement of SEO (**Annexure 5.3**).

Reply of DGFT is awaited (June 2024).

Few illustrations are highlighted below:

### RA Visakhapatnam

Audit noticed that M/s. E2 Ltd. had paid IGST of ₹ 0.32 crore at the time of import of capital goods against an EPCG licence. While redeeming the licence, AH had not taken the IGST paid in cash for computation of net duty saved thereby reducing the fulfilment of SEO to that extent. RA had allowed the redemption of

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<sup>63</sup> RA Ahmedabad (3 cases), RA Coimbatore (1 case), CLA Delhi (11 cases), RA Hyderabad (1 case), RA Indore (5 cases), RA Kanpur (10 cases), RA Jaipur (1 case), RA Ludhiana (15 cases), RA Panipat (34 cases), RA Visakhapatnam (3 cases).

the licence with lower SEO worked out after excluding the IGST payment from the DSV without ensuring the non-availment of ITC by AH. Cross verification of the IGST paid amount with the GSTR 3B return revealed that the AH had availed the Input Tax Credit also. This resulted in short fulfilment of EO by ₹1.92 crore.

#### **RA Jaipur**

M/s. E3 Ltd., was issued authorisation (March 2017) with DSV of ₹2.73 crore and EO was fixed at ₹ 16.36 crore. DSV utilized against the authorisation was ₹3.01 crore including IGST paid, and EO to be fulfilled based on actual DSV utilized was ₹18.06 crore. However, the AH claimed DSV utilized as ₹1.01 crore by excluding the IGST paid as the total amount of ₹ 3.01 crore. Cross verification of the IGST of ₹2.01 crore paid by the AH against BE with the GST returns of the AH revealed that the AH had availed ITC of ₹2.01 crore in GSTR 3B (4A) (1) for the month of July 2017. The RA allowed redemption of the license with lower EO computed based on DSV submitted by the AH in Form ANF 5B. The case was redeemed on 01 August 2019. Thus, failure of the RA to verify the status of availment of ITC resulted in short fulfilment of EO by ₹12.06 crore as the IGST was not added to the DSV.

#### **RA Coimbatore**

RA Coimbatore issued (November 2016) an authorisation with DSV of ₹5.24 Crore and EO was fixed at ₹31.45 crore. DSV utilized against the licence was ₹3.90 crore including IGST paid and EO to be fulfilled based on actual DSV utilized was ₹23.43 crore. However, it was noticed that DSV utilized was shown as ₹ 2.39 crore by excluding the IGST paid as against ₹3.90 crore. IGST of ₹1.51 crore paid by the AH was availed in GSTR 3B (4A) (1) return by the AH but the same was not considered in computation of utilised DSV in ANF 5B. The case was redeemed on 02/2019. Thus, non-consideration of the amount of ITC availed, resulted in short fulfilment of EO by ₹ 9.08 crore.

DGFT accepted the observation and stated (October 2023) that the authorization holder has submitted revised EO documents duly showing additional EO fulfilment of ₹9.44 crore duly including the IGST paid value for calculation of main EO.

#### **Recommendation No. 23**

***DGFT may put in place an effective mechanism for factoring IGST in fixation of Specific Export Obligation (SEO). Responsibility may be fixed for inaction on part of the RAs for not ensuring correct fixation of SEO.***

DGFT stated (October 2023) that the fixation of SEO has been codified based on exporter submitted online data which is cross-verified to the extent possible through supporting documentation which requires minimum manual intervention.

The cases commented in audit indicated that the extant provisions are either ineffective or not implemented scrupulously.

### 6.3 Deficiency in monitoring of EO by Customs

Para 7 of Customs notification<sup>64</sup> read with circular<sup>65</sup> stipulates that the importer is required to produce the evidence of extent of EO fulfilled to Customs within a period of 30 days from expiry of each block from the date of issue of authorisation.

It was seen that in 748 cases<sup>66</sup> with DSV of ₹2,449.91 crore in 14 RAs (**Annexure 5.4**), AHs had not produced the evidence of EO fulfilment to the Customs within thirty days from the expiry of each block. Despite the fact that Customs Department had data pertaining to the imports made against each of the authorisation under the scheme vis-à-vis the export data against those authorisation, the Department had not undertaken any action suo-moto on the AHs.

CBIC stated (October 2023) that extant provisions (Customs Notification 16/2015 and Circular 16/2017) exists for monitoring block-wise EO and field formations have been re-sensitized for compliance. In addition, ADVAIT (Advanced Analytics in Indirect Taxation) has mechanism to monitor EO and local initiatives taken in JNCH for monitoring and alert facility. However, DGFT reserves the right to extend/modify EO which is being exercised regularly. Nonetheless, field formations under CBIC have been re-sensitized regarding the policy directions and details have been sought from respective field formations of Customs for the cases indicated in the Audit Para.

### 6.4 Delay in disposal of cases at DGFT

Para 2.58 of FTP 2015-20 stipulates that DGFT in public interest may order or grant exemption, relaxation or relief, as it 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 procedure. While granting such exemption, DGFT may impose such conditions as it may deem fit after consulting the EPCG Committee which accepts the application from the AHs, who intend to seek relaxation in the policy/procedure.

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<sup>64</sup> No. 16/2015 dated 1 April 2015.

<sup>65</sup> No.16/2017 dated 2 May 2017.

<sup>66</sup> RA Ahmedabad (34 cases) RA Bengaluru (97 cases) RA Chennai (10 cases), RA Coimbatore (1 case), CLA Delhi (134 cases) RA Indore (28 cases), RA Jaipur (2 cases) RA Kanpur (14 cases) RA Kochi (54 cases), Kolkata (231 cases), RA Mumbai (51 cases), RA Pune (67 cases), RA Surat (6 cases), Varanasi (19 cases).

Further, vide Trade notice 05/2021-22, dt.19/5/21, an online e-EPCG committee module for accepting application seeking relaxation in Policy/Procedures in terms of para 2.58 of FTP 2015-2020 was introduced.

Scrutiny of information furnished by Department regarding EPCG Committee meetings revealed that there was huge pendency of 312 cases out of 1,178 cases (26 per cent) pertaining to the period 2018-19 to 2020-21 with the EPCG Committee for finalization as detailed below:

**Table 6.2 : Delay in disposal of cases and pendency**

Year	Number of cases received by the EPCG Committee	Number of cases finalized by the committee		Others (cancelled/deferred)	Closing balance (cases pending)
		Approved	Rejected		
2018-19	526	161	108	87	142
2019-20	407	107	113	89	90
2020-21	245	88	94	20	80
<b>Total</b>	<b>1178</b>	<b>356</b>	<b>315</b>	<b>196</b>	<b>312</b>

DGFT stated (August 2023) while accepting the delay in approval due to non-receipt of report from RA within prescribed time limit have issued necessary instruction to all RAs vide email dated 07 July 2022. EPCG Committee is making efforts to dispose of the pendency.

**Recommendation No. 24**

***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 (October 2023) that an online system to issue Demand Notices/ SCNs is already operational which will ensure timely handling of default cases. However, adjudication process being a quasi-judicial process under the FTDR Act, it is not feasible to prescribe timelines. However, the Regional offices of DGFT will be advised not to postpone hearings as a matter of routine and give limited adjournments to the legal counsels

The cases commented in audit adduced that the extant provisions are either ineffective or not implemented scrupulously by the RAs and in either case needs for streamlining the adjudication process. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

**6.5 Inadequacies in Management Information System (MIS)**

MIS reports furnished by RAs to DGFT headquarters contain the details of authorizations issued, surrendered, redeemed and regularised and details of authorizations due for redemption but unredeemed. The MIS reports did not

contain information pertaining to the Authorizations Utilised, like Capital Goods imported, CIF value for the actual imports, Actual Duty Foregone, FOB value of exports, Foreign Exchange actually earned etc.,

Robust functioning of Management Information System (MIS) is a pre-requisite for an effective internal control system. MIS ensures that adequate and appropriate data is collected from various sources for use by management for taking timely decisions. During the scrutiny of information and records furnished by the Department, it was observed that there were certain inadequacies in the Management Information System and a few instances of such inadequacies are given below-

- RA does not submit any reports to DGFT on the progress of action taken in cases where the I/II Blocks of EPCG Authorizations have expired or Export Obligation period of a license has expired.
- The information about the number of SCNs issued, pending adjudication etc is not being reported.

As per the provisions of HBP, if the AH fails to complete EO or fails to submit relevant information/documents, RA shall enforce the condition of authorisation /undertaking and also initiate penal action as per law including refusal of further authorizations to the defaulting exporter. However, FT&DR Act, 1992 or Rules there under or administrative instructions issued by DGFT do not prescribe any timelines to take action against the licence holders who violates the provisions.

Reply of DGFT is awaited (June 2024).

### 6.6 Discrepancies in statistical details

Regional Authorities (RAs) submit statistical figures through MIS reports to DGFT Headquarters on regular basis, which are collated by DGFT for its dashboard. Comparison of MIS reports and figures of the dashboard regarding Authorizations issued, duty foregone and FOB value of exports were matched with figures of MIS annual report for the period from 2015-16 to 2020-21 and the following were observed:

**Table 6.3 : Discrepancies in statistical details**

Year	No. of EPCG Authorizations issued		Duty Foregone (₹ in crore)		FOB value of Exports (₹ in crore)	
	Dashboard	MIS report	Dashboard	MIS report	Dashboard	MIS report
2015-16	22,544	22,600	12,618	13,192	78,858	80,186
2016-17	23,101	23,095	13,471	13,895	84,118	82,628
2017-18	15,406	15,228	11,839	12,020	73,051	69,871
2018-19	13,175	12,795	15,902	16,954	96,257	1,02,568
2019-20	11,535	11,332	14,329	13,747	84,357	81,085
2020-21	10,066	10,060	11,800	12,482	58,900	68,512
<b>Total</b>	<b>95,827</b>	<b>95,110</b>	<b>79,959</b>	<b>82,290</b>	<b>4,75,541</b>	<b>4,84,850</b>

Even within the MIS Annual report 2020-21, the number of Authorizations issued, duty foregone and FOB value of exports in respect of EPCG Scheme under Chapter II – Statistical Analysis of Performance of Export Promotion Scheme and Chapter III – Authorisation and Scrips under Export Promotion Scheme: All India, Zone Wise and RA Wise were different as detailed below:

**Table 6.4 : Management Information System Report for the year 2020-21**

Year	No. of EPCG Authorizations issued		Duty Foregone (₹ in crore)		FOB value of Exports (₹ in crore)	
	MIS Report (Chap II)	MIS Report (Chap III)	MIS Report (Chap II)	MIS Report (Chap III)	MIS Report (Chap II)	MIS Report (Chap III)
2015-16	22,600	22,544	13,192	12,618	80,186	78,858
2016-17	23,095	23,101	13,895	13,471	82,628	84,118
2017-18	15,228	15,406	12,020	11,839	69,871	73,051
2018-19	12,795	13,175	16,954	15,902	1,02,568	96,257
2019-20	11,332	11,535	13,747	14,329	81,085	84,357
2020-21	10,060	10,067	12,482	12,484	68,512	68,523
<b>Total</b>	<b>95,110</b>	<b>95,828</b>	<b>82,290</b>	<b>80,643</b>	<b>4,84,850</b>	<b>4,85,164</b>

The above mismatch of statistical figures between the dashboard and MIS annual report and within various chapters of MIS annual report shows no cross-verification or reconciliation of figures are being carried out while compiling the MIS annual Report and therefore the verity of figures could not be established in audit showing improper data maintenance and lack of coordination between DGFT and RAs and inadequate monitoring by DGFT.

DGFT stated (August 2023) that the difference in data of MIS Report is due to the fact that data are being compiled from two different sources. While, historical data of EPCG scheme is being compiled based on the imports received from RAs on monthly basis whereas the Pan-India table is compiled based on input received from vendor of DGFT which also includes the figures of SEZs, which also forms basis for the MOCI Dashboard. The figure published in the latest Annual MIS report may be treated as final figure for any references.

Mismatch between data received from field formations in MIS report and pan-India data provided by vendor is avoidable and needs to be reconciled as the very purpose of having the MIS is to report complete and correct information. Besides, no response was given on reviewing of the reports for including details of utilisation, non-furnishing of periodical returns, action taken for non-meeting block-wise EOs, etc.

## 6.7 Disparity in the Redemption status of EPCG Authorizations

It was observed that there is no flow of information in online mode for receipt of EODC from DGFT. At present the EODC is received only in physical form through post or in person through the AH or its Custom House Agent (CHA). However, the



verification of EODC issued is done through the website - EODC online and further action initiated.

Analysis of the redemption data provided by DGFT and the redemption data obtained from EODC online website revealed that 271 authorizations<sup>67</sup> with DSV of ₹ 1,037.03 crore in seven RAs were shown as redeemed in the EODC website were not shown in the redemption data of DGFT **Annexures 5.5 (a)**.

Further, 226 authorizations<sup>68</sup> redeemed authorizations with DSV of ₹ 3,096.74 crore in 11 RAs were not updated as redeemed on the EODC website **Annexure 5.5 (b)**.

The EODC online was developed by DGFT in April 2018 for facilitating the Exporters to view their status of EODC, and this was not properly integrated with the regular package used by the RA offices. The EODC online was withdrawn in January 2023 as the DGFT has developed a revamped IT package which had an inbuilt mechanism. The status of a few cases of manual processing of EODC was incorrectly reflected in the EODC online. Exporters were provided with an alternative to upload the copy of EODC where the status is incorrectly reflected in the EODC online, so that the RA can take note of the same.

Reply of DGFT is awaited (June 2024).

A few such instances are as follows:

In RA Mumbai and Pune, comparison of the DGFT data with that of LEMIS data of the DGFT revealed that there was disparity in the status of the redemption cases viz., out of 136 un-redeemed cases of DGFT data, 10 cases were found as redeemed in LEMIS data. Similarly, out of 124 cases shown in the DGFT data as redeemed, 50 cases were found unredeemed and 11 cases surrendered after verification of LEMIS data.

Similarly, In RA Kolkata it was seen that 119 authorizations were shown as redeemed in the database but not updated on the EODC website.

The mismatch of redeemed/unredeemed authorizations between various IT systems indicates that IT systems and its integration and data management had shortcomings and has concerns regarding transparency and also monitoring which needs to be reconciled and adequately addressed.

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<sup>67</sup> RA Indore (3 cases), RA Ludhiana (99 cases), RA Mumbai (3 cases), RA Panipat (125 cases) RA Pune (7 cases), RA Surat (12 cases), RA Varanasi (22 cases).

<sup>68</sup> RA Ahmedabad (26 cases), RA Bengaluru (2 cases), CLA Delhi (27 cases), RA Jaipur (53 cases), RA Kanpur (1 case), RA Kolkata (14 cases), RA Ludhiana (16 cases), RA Mumbai (3 cases), RA Pune (8 cases), RA Surat (43 cases), RA Varanasi (33 cases).

RA Mumbai stated (May 2023) that LEMIS Software was used before introduction of BO Portal and presently the EODC/redemption are transferred to Customs in real time.

### **6.8 Weak monitoring of conditions of authorizations and EO fulfilment by RAs**

As per section 11 and 13 of the FTDR Act, 1992, the adjudicating authority is empowered to impose penalty for violation of any of the conditions of the licence or failure to fulfil EO after issuing SCN under Section 14 of Act *ibid*.

Audit reviewed the control mechanism instituted by RAs to seek an assurance as to whether the conditions of authorizations and fulfilment of EO by AHs were being complied. The criteria involved checking whether the list of SCN/Adjudication orders were 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 or under 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 timely penal action in case of any violation of the conditions of licence or failure to fulfil EO, thereby resulting in inordinate delay in issuance/adjudication of SCNs.

As per the provisions of HBP, if the AH fails to complete EO or fails to submit relevant information/documents, RA shall enforce the condition of authorisation / undertaking and also initiate penal action as per law including refusal of further authorizations to the defaulting exporter. However, FT&DR Act, 1992 or Rules thereunder or administrative instructions issued by DGFT do not prescribe any timelines to take action against the licence holders who violates the provisions.

The first step for initiating action is to issue SCN, obtain reply with supporting documents, examine the reply and documents, if no reply is received within the reasonable time, the Competent Authority shall pass appropriate order.

Non-initiation of timely action has revenue implications involving recovery of DSV along with interest also indicating the weakness in the monitoring mechanism.

Reply of DGFT is awaited (June 2024).

### **6.9 Monitoring of EO by DGFT**

AH is required to submit to RA concerned by 30th April of every year, report on fulfilment of EO by secured electronic filing using digital signatures. Physical progress report submission is also allowed. RA concerned may issue partial EO fulfilment certificate, provided export performance is proportionately adequate for fulfilment of export obligation.

The provision enables the RAs to monitor the fulfilment of EO on a regular basis through the progress reports. We found that the RAs had not instituted any system to monitor the receipt of progress reports. Verification of sampled cases in different RA offices indicated that in all the cases checked, the progress reports were not available in the authorisation files.

Inaction on part of Regional Authorities for insisting for regular returns or invoking penal measures against non-filers indicates weak monitoring mechanism and consequently Department is not aware of cases remaining unredeemed after the long gestation period allowed for fulfilling Export Obligation.

These periodic returns were intended for updating the Regional Authorities on a continual basis for effective monitoring and therefore should have been insisted upon by the Regional Authorities. The fact of non-filers should have been factored in the MIS reports to DGFT by Regional Authorities so that the same could be monitored.

Reply of DGFT is awaited (June 2024).

***Recommendation No. 25***

***The process of annual reporting of fulfilment of Export Obligation (EO) may be made online for easy monitoring and existing practice of physical reporting be dispensed with.***

DGFT stated (October 2023) that provisions exists for online submission report of fulfilment of EO by 30th June of every year. The IT module for annual reporting is already operational. The suggestion of C&AG have already been implemented.

The cases commented in audit adduced that the extant provisions are not implemented scrupulously by the RAs and no action was taken for non-filing the mandatory annual returns on fulfilment of EO and consequent non-monitoring by RAs and DGFT is unaware as this is not being reported in the MIS reports sent to DGFT. The status of implementation of the new system and progress made in this regard, would be reviewed in subsequent Audits.

## **6.10 Miscellaneous Audit Observations**

### **6.10.1 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 EPCG Scheme.

It was seen that there was a 76 *per cent* vacancy in functional positions in the RA offices. The extent of staffing in respect of the top five RA<sup>69</sup> offices handling about 50 *per cent* of the EPCG workload was 27.79 *per cent*.

**Table 6.5 : PIP vis-à-vis Sanctioned Strength in RA offices**

S/No	Cadre	Sanctioned Strength (SS)	Personnel in position (PIP)
1.	Additional Director General	10	7
2.	Joint Director General	29	21
3.	Deputy Director General	38	22
4.	Deputy Director	2	1
5.	Assistant Director General	41	30
6.	Foreign Trade Development Officer	76	63
7.	Section Officer	135	40
8.	Assistants / Supervisors	310	59
9.	UDCs / Clerks / Operators	877	179
	<b>Total</b>	<b>1,518</b>	<b>422</b>

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 EPCG Scheme. It was, however, seen that DGFT has hired Young Professionals and Consultants on contractual basis upto the level of FTDO (Foreign Trade Development Officer).

Reply of DGFT is awaited (June 2024).

**Recommendation No. 26**

***DGFT should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that DGFT is well equipped to ensure implementation and monitoring of EPCG Scheme.***

Reply of DGFT is awaited (June 2024).

**6.10.2 Delay in realisation of export proceeds**

In RA Ahmedabad, it was seen that exports proceeds in respect of two AHs could not be realised within nine months as mandated by RBI with delay ranging from six days to 607 days. No reasons for delay in realisation were found in the file produced. Action taken by the department under FT (D&R) Act was also not available in the file.

DGFT stated (August 2023) that realisation of export proceeds is monitored by RBI as per their rules and guidelines. The RBI is allowing extension in period of realization on various grounds and exporters are used to approach this office for discharge of export obligation after realization of export proceeds.

<sup>69</sup> RA Chennai, CLA Delhi, RA Kolkata, RA Mumbai & RA Surat.

The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short/non realisation of export proceeds needs to be monitored more effectively by DGFT rather than waiting for AH to apply for EODC for verifying this aspect. DGFT may request for EDPMS access akin to Customs for real-time access to data of bank realisation for effective and timely monitoring.

### 6.10.3 Irregular duty free clearance of Capital Goods converting SEZ unit to DTA unit under EPCG Scheme

M/s. E4 Ltd. was issued (November 2009) an authorisation with DSV of ₹ 3.23 crore (subsequently enhanced to ₹74.88 crore) by RA Ahmedabad. The Firm opted for conversion of SEZ unit to DTA unit. Development Commissioner issued (February 2010) the 'Final Exit Order' on the basis of valuation of capital goods amounting ₹600 crore, supplied by M/s. E5 Ltd. (a government of India enterprise). However, the Capital Goods included civil structures valuing ₹267.48 crore which are not defined as valid Capital Goods under FTP.

Department considered the same and issued EPCG authorization on depreciated value of net plant and machinery (inclusive of Civil Structure) amounting to ₹360 crore. Capital goods under the FTP does not include civil structure, cement, steel, etc., for issuance of EPCG authorisation.

It was mentioned in the 'In-principal Exit Order' issued by Office of the Specified Officer, E4 SEZ (October 2020) that ₹ 74.88 crore DSV has been calculated on the depreciated value of capital goods of ₹360 crore (20.74 per cent). Excluding the Civil Structure, the DSV works out to ₹31.38 crore (₹151.30 crore x 20.74 per cent) instead of ₹74.88 crore. Had the Department disallowed the ineligible capital, the firm would have to clear that capital goods on payment of applicable duty. This resulted in irregular duty-free clearance of capital goods to the tune of ₹ 43 crore (₹ 74.88 crore – ₹ 31.38 crore) on converting the SEZ unit to DTA unit under EPCG scheme. EPCG authorization though issued in November 2009 is still pending for EODC. The Department should recover the DSV along with applicable interest under intimation to audit.

DGFT stated (October 2023) that the authorization was issued by office considering the final exit order issued by the Development Commissioner of SEZ. However, the firm has been requested for clarification and compliance.

### 6.10.4 License issued during ban on export of Iron pellets

Government of Karnataka and Honourable Supreme court has imposed ban on Iron ore and Iron ore pellets from 2011 and as per Chapter 26 (Sl. No. 104) of Schedule 2 of ITC (HS) Classifications of Export and Import Items, the export of

item under CTH 2601 12 10 “Iron ore pellets manufactured by KIOCL Ltd. are to be exported by KIOCL Ltd., Bangalore or any other entity authorized by KIOCL Limited, Bangalore.

It was however seen that M/s. E6 Pvt. Ltd. was issued an authorisation (May 2012) with DSV of ₹ 3.17 crore (amended to ₹ 4.26 crore) with an obligation to export Iron Oxide Pellet for ₹ 25.40 crore (amended to ₹ 34.14 crore). The AH had imported capital goods for DSV of ₹ 4.26 crore through Chennai Sea (INMAA1).

The Department issued license for a restricted item without following the procedure for issuing authorisation of restricted items.

Reply of DGFT is awaited (June 2024).

#### **6.10.5 Ineligible exports**

Para 5.4 of FTP 2004-09 states that the EO shall be fulfilled by the export of goods capable of being manufactured or produced by the use of the capital goods (CG) imported under the scheme.

M/s. E7 Ltd. was issued (February 2009) authorisation under three *per cent* scheme and fulfilled SEO through third party exports by export of “White crystal sugar” CTH 1701 as against the export item “Glass containers”-CTH 7010 mentioned in the licence.

As per Nexus Certificate issued by the Chartered Engineer, the imported refractories are used for melting glass, blowing of molten glass and manufacture of glass containers. The exporter is also registered with Chemicals and Allied Products Export Promotion Council (CAPEXIL) as Manufacturer exporter for export of glass bottles and glass containers.

Consequently, AH is liable to pay customs duty of ₹7.81 crore with interest. RA had also failed to issue cautionary letters/SCN for irregular fulfilment of EO and also failed to initiate any action to intimate the AH to pay customs duty along with interest. Eight years had lapsed after the submission of redemption ineligible exports documents by the AH, but the licence remains unredeemed.

DGFT stated (October 2023) that the firm is claiming fulfilment of Export Obligation through alternate products. Action is being initiated as per FTDR act.

#### **6.10.6 Incorrect redemption**

As per Para 2 of Condition Sheet issued with authorization, the EO shall be fulfilled by the use of imported capital goods. Further, as per para 5.4 of FTP 2009-14, import of capital goods shall be subject to Actual User condition till EO is completed.

RA Coimbatore issued authorisation to M/s. E8 Pvt. Ltd. for import of Capital goods with DSV of ₹ 2.39 crore with an obligation to export “various parts of machinery” and based on actual DSV utilized, the EO was revised to ₹ 14.35 crore and the annual average to be maintained was fixed as ₹ 149.18 crore.

The Capital Goods (nine machines) were installed during the period January 2017 to March 2018 and to be utilized for manufacture and export of various machinery parts. The licence was redeemed and the EODC was issued on 04 February 2022.

The exports were made during the period 30 June 2017 to 03 August 2017 (LEO date). Out of nine machines, only three were installed prior to exports and remaining six machines were installed after 3 August 2017. Thus, these were not put to use for the manufacture and export of goods against these shipments. Since these SBs were filed prior to installation of six machineries, the EO against these Shipping bills can be counted towards fulfilment of SEO in respect of those three machineries installed prior to these shipments. Since the AH has not proved to the satisfaction that exports were made out of these six machineries at the time of redemption, the DSV utilized for ₹ 1.20 crore against these machineries are to be recovered with interest.

DGFT stated (October 2023) that the firm has taken exports made after the date of import of three machineries out of nine machineries allowed in the authorization for EO fulfilment. These machineries have been put into use for producing the export products. Moreover, the firm is an established unit having good export turnover. The intention of EPCG scheme is to allow exporters to acquire technological expertise to boost their production and bring in additional free foreign exchange to the country. In this context, the average export obligation is fixed in the authorization to maintain the level of exports they have achieved in the past years and the main EO is taken over and above the average export obligation.

Reply is not acceptable for the reason that the export has to be necessarily fulfilled out of the CGs imported; even in the checklist for verification of redemption documents, it is being ensured whether the exports done are after the date of installation of machinery which would vindicate the audit contention.

Similarly in CLA Delhi, it has been observed that in four cases the EO was fulfilled by AH, even before installation of capital goods.

The department redeemed the above authorizations in contravention of the conditions imposed in the condition sheet of the license. The rule of actual end user condition was also violated by the AH in the above authorizations.

RA stated (August 2022) that in case of M/s. E9, the EOP (Export Obligation Period) started from date of issuance of authorization and not after installation

of Capital Goods. The date of export obligation reckoned from date of issuance of license under para 5.01 (c) of policy.

The department's reply is not tenable as the reply is not in line with condition imposed in the condition sheet by the department. Also the reply furnished is in term of FTP 2015-20, while the license was issued under FTP 2004-09.

Reply of DGFT is awaited (June 2024).

#### 6.10.7 Import of Capital Goods before the issue of Authorisation

M/s. E10 was issued (13 January 2010) authorisation with DSV of ₹ 0.29 crore and EO of ₹ 2.30 crore. It was however seen that AH has imported capital goods on 7 December 2009, before the issue of authorisation, which is irregular.

Reply of DGFT is awaited (June 2024). CBIC requested (September 2023) for port-wise data which was shared in October 2023. Further response is awaited (June 2024).

#### 6.11 Documents not produced

During the audit, requisitions and reminders were issued for furnishing records in respect of the cases selected for detailed scrutiny. The list of 214<sup>70</sup> authorizations with DSV value of ₹2,225.22 crore in 12 RAs which were not produced to audit are detailed in **Annexure 5.6**.

Reply of DGFT is awaited (June 2024).

#### 6.12 Conclusion

Timely and regular conduct of meetings with proper documentation (minutes) thereon along with follow-up of actionable items, fixing of accountability for inaction on part of the Regional Authorities/Customs would have strengthened the internal control environment.

EPCG scheme related trade issues needs to be finalized expeditiously to achieve the intended objectives and a robust monitoring mechanism may be institutionalized for effective and efficient implementation of the scheme.

The mismatch of redeemed/unredeemed authorizations between various IT systems of DGFT indicates that IT systems and its integration and data management had shortcomings and has concerns regarding transparency and also monitoring which needs to be reconciled and adequately addressed.

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<sup>70</sup> RA Bengaluru (67 cases), RA Chennai (26 cases), RA Coimbatore (18 cases), CLA Delhi (15 cases), RA Hyderabad (2 cases), RA Jaipur (5 cases), RA Kolkata (31 cases), RA Ludhiana (27 cases), RA Mumbai (2 cases), RA Panipat (4 cases), RA Pune (7 cases), RA Surat (10 cases).



Inaction on part of RAs was observed in insisting for regular returns or invoking penal measures against non-filers indicating weak monitoring mechanism and consequently Department being not aware of cases remaining unredeemed after the long gestation period allowed for fulfilling EO.

These periodic returns were intended for updating the Regional Authorities on a continual basis for effective monitoring and therefore should have been insisted upon by the Regional Authorities. The fact of non-filers should have been factored in the MIS reports to DGFT by Regional Authorities so that the same could be monitored.

Audit observed that timely realisation of export proceeds were not monitored by DGFT. The scheme allows duty free imports of capital goods with the intended objective of producing quality goods and services to enhance our manufacturing competitiveness and therefore any delayed/short/non realisation of export proceeds needs to be monitored more effectively by DGFT rather than waiting for AH to apply for EODC for verifying this aspect. DGFT may request for EDPMS access akin to Customs for real-time access to data of bank realisation for effective and timely monitoring.

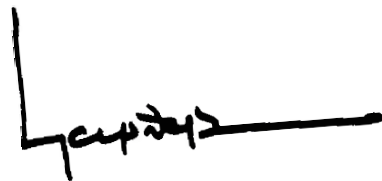
There were acute staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies, which could be adversely impacting the ability of DGFT in ensuring effective implementation and monitoring of EPCG Authorisation.

**New Delhi**  
**Dated: 19 November 2024**



**(SUBU R)**  
**Principal Director (Customs)**

**Countersigned**



**New Delhi**  
**Dated: 19 November 2024**

**(GIRISH CHANDRA MURMU)**  
**Comptroller and Auditor General of India**





# Annexures

Chapter II: Issuance of EPCG Authorizations

Annexure 1.1								
Para 2.1: Incorrect computation of Specific Export Obligation (SEO)								
S/NO	RA Name	RA Code	No. of cases	SEO Fixed (cr)	SEO to be fixed (cr)	Difference	Excess fixation (cr)	Short fixation (cr)
1	Bengaluru	7	2	310.82	62.59	-248.23	248.23	
2	Bengaluru	7	1	34.40	210.10	175.70		175.70
3	Delhi	5	9	9.37	15.26	5.89		5.89
4	Indore	56	3	9.11	17.31	8.20		8.2
5	Kolkata	2	12	534.61	695.82	161.21		161.2
6	Ludhiana	30	2	39.03	52.63	13.60		13.60
7	Panipat	33	5	1.29	2.10	0.81		0.81
8	Kanpur	6	10	7.38	40.99	33.61		33.60
9	Visakhapatnam	26	2	0.22	0.50	0.28		0.28
10	Pune	31	15	10.46	14.08	3.62		3.62
	<b>Total</b>		<b>61</b>	<b>956.69</b>	<b>1111.38</b>		<b>248.23</b>	<b>402.90</b>

Annexure 1.2								
Para 2.2: Incorrect computation of AEO								
S/NO	RA Name	RA Code	No. of cases	AEO Fixed (cr)	AEO to be fixed (cr)	Difference	Short fixation (cr)	Excess fixation (cr)
1	Bengaluru	7	19	5017.33	3043.73	-1973.60		1973.60
2	Bengaluru	7	30	6692.57	14019.54	7326.97	7326.97	
3	Hyderabad	9	8	34082.54	34965.77	883.23	883.23	
4	Delhi	5	7	1038.28	4395.14	3356.86	3356.86	
5	Chennai	4	4	0.00	16508.89	16508.89	16508.89	
6	Coimbatore	32	2	46.04	69.05	23.01	23.01	
7	Ahmedabad	8	10	0	1950.39	1950.39	1950.39	
8	Surat	52	8	0	4791.62	4791.62	4791.62	
9	Pune	31	11	2410.76	0	-2410.76	0	
10	Kanpur	6	4	116.65	131.37	14.72	14.72	
11	Kolkata	2	7	11385.96	12132.67	746.71	746.71	
12	Ludhiana	30	1	0.09	0.26	0.17	0.17	
13	Panipat	33	5	564.3	664.98	100.68	100.68	
14	Mumbai	3	13	85393.04	0	-85393	0	
	<b>Total</b>		<b>129</b>				<b>35703.25</b>	<b>1973.6</b>

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<b>Annexure 1.3</b>									
<b>Para 2.3: Adoption of incorrect tariff rate</b>									
<b>S/ No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of cases</b>	<b>DSV (Cr)</b>	<b>Fixed</b>	<b>To be fixed</b>	<b>Difference</b>	<b>Short fixation (cr)</b>	<b>Excess Fixation (cr)</b>
1	Delhi	5	2	5.05	5.05	5.34	0.29	0.29	
2	Kolkata	2	3	16.03	11.54	34.19	22.65	22.65	
			8	12.51	75.57	69.61	-5.96		5.96
3	Kochi	10	2	0.41	0.41	0.52	0.11	0.11	
	<b>Total</b>		<b>15</b>	<b>34</b>	<b>29.51</b>	<b>109.66</b>		<b>23.05</b>	<b>5.96</b>

<b>Annexure 1.4(a)</b>				
<b>Para 2.4.1: EPCG authorisations issued to applicants placed under DEL</b>				
<b>S.No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of authorisations</b>	<b>DSV (Cr)</b>
1	Bengaluru	7	42	125.12
2	Pune	31	9	4.06
3	Vishakhapatnam	26	1	0.10
4	Ludhiana	30	20	11.67
5	Panipat	33	1	0.06
	<b>Total</b>		<b>73</b>	<b>141.01</b>

<b>Annexure 1.4(b)</b>				
<b>Para 2.4.1: Multiple abeyance orders</b>				
<b>Sr. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorizations</b>	<b>DSV (cr)</b>
1	Bengaluru	7	14	9.82
2	Mumbai	3	12	63.82
3	Pune	31	9	12.13
	<b>Total</b>		<b>35</b>	<b>85.77</b>

<b>Annexure 1.5</b>				
<b>Para 2.5.2 Import of ineligible items</b>				
<b>S.No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>DSV (cr)</b>
1	Chennai	4	3	97.82
2	Bengaluru	7	19	71.07
3	Mumbai	3	4	0.28
4	Varansi	15	4	0.8
5	Kanpur	6	1	0.48
6	Ludhiana	30	3	0.24
7	Ahmedabad	8	1	0.34
	<b>Total</b>		<b>35</b>	<b>171.03</b>

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<b>Annexure 1.6 (a)</b>				
<b>Para 2.6: Verification of documents</b>				
<b>S.No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>DSV (Cr)</b>
1	Kolkata	2	3	4.41
2	Kochi	10	1	1.27
3	Bengaluru	7	12	153.56
4	Kanpur	6	3	0.65
	<b>Total</b>		<b>19</b>	<b>159.89</b>

<b>Annexure 1.6(b)</b>				
<b>Para 2.6: Veracity of documents</b>				
<b>S.No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>Duty Saved (Cr.)</b>
1	Indore	56	1	1.70
2	Mumbai	3	3	230.96
3	Pune	31	6	6.48
4	Kolkata	2	1	1.42
	<b>Total</b>		<b>11</b>	<b>240.56</b>

<b>Annexure 1.7(a)</b>				
<b>Para 2.9: Delay in issue of authorizations</b>				
<b>S.No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>Range of Delay</b>
1	Delhi	5	3	1 - 30 days
2	Kolkata	2	2	1 - 30 days
3	Chennai	4	5	1 - 30 days
4	Coimbatore	32	8	1 - 30 days
5	Mumbai	3	23	1 - 30 days
			2	31 to 90 days
6	Pune	31	8	1 - 30 days
7	Varanasi	15	1	1 - 30 days
			1	31 to 90 days
8	Ahmedabad	8	70	1 - 30 days
			2	31 to 90 days
9	Surat	52	110	1 - 30 days
			2	31 to 90 days
			3	above 90 days
10	Kanpur	6	1	1 - 30 days
11	Indore	56	10	1 - 30 days
12	Ludhiana	30	5	1 - 30 days
13	Panipat	33	4	1 - 30 days
			1	above 90 days
14	Hyderabad	9	15	1 - 30 days
			1	31 to 90 days
15	Visakhapatnam	26	9	1 - 30 days

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<b>Annexure 1.7(a)</b>				
<b>Para 2.9: Delay in issue of authorizations</b>				
<b>S.No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>Range of Delay</b>
16	Bengaluru	7	42	1 - 30 days
17	Jaipur	13	48	1 - 30 days
			1	31 to 90 days
			2	above 90 days
	<b>Total</b>		<b>379</b>	

<b>Annexure 1.7(b)</b>				
<b>Para 2.9: Delay in issue of Deficiency Letters (DLs)</b>				
<b>SI No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>Delay Range</b>
1	Indore	56	12	1 - 30 days
			5	31-90 days
2	Mumbai	3	11	1 - 30 days
			2	31-90 days
3	Pune	31	2	1 - 30 days
4	Visakhapatnam	26	2	1 - 30 days
5	Bengaluru	7	16	1 - 30 days
			1	31-90 days
	<b>Total</b>		<b>51</b>	



Chapter III: Utilization of EPCG Authorizations

Annexure 2.1				
Para 3.2.1 Imports not completed within prescribed period				
SI No	RA Name	RA Code	No .of Authorisation	DSV (cr)
1	Coimbatore	32	3	0.08
2	Varanasi	15	1	0.37
3	Indore	56	22	21.48
4	Mumbai	3	3	1061.40
		<b>Total</b>	<b>29</b>	<b>1083.33</b>

Annexure 2.2(a)				
Para 3.2.2 Capital goods imported not installed within the prescribed period				
SI No	RA Name	RA Code	No. of Authorisation	DSV (cr)
1	Delhi	5	1	0.04
2	Kolkata	2	19	32.87
3	Kochi	10	3	14.65
4	Varanasi	15	3	1.66
5	Jaipur	13	10	33.61
	<b>Total</b>		<b>36</b>	<b>82.84</b>

Annexure 2.2 (b)				
Para 3.2.2: Details of import, extension of time or installation was not available in the case file maintained by the RA				
Sl. No.	RA name	RA code	No. of Authorisation	DSV (cr)
1	Delhi	5	35	81.42
2	Mumbai	3	33	320.64
3	Pune	31	52	39.93
4	Kolkata	2	33	182.36
5	Varanasi	15	64	50.36
6	Kanpur	6	21	14.83
7	Surat	52	39	19.88
8	Ahmedabad	8	48	106.53
9	Indore	56	5	7.05
10	Kochi	53	1	0.23
		10	11	2.36
11	Bengaluru	7	114	490.07
	<b>Total</b>		<b>456</b>	<b>1315.67</b>

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<b>Annexure 2.2 (c)</b>				
<b>Para 3.2.3: Installation Certificate Not Submitted</b>				
<b>Sl. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Hyderabad	9	68	152.25
2	Kolkata	2	16	34.83
3	Kanpur	6	7	5.17
4	Ludhiana	30	26	10.03
5	Chennai	4	9	4.64
6	Coimbatore	32	7	18.34
	Coimbatore	35	2	0.18
7	Panipat	33	34	27.93
	<b>Total</b>		<b>169</b>	<b>253.37</b>

<b>Annexure 2.3</b>				
<b>Para 3.2.4: Delayed Submission</b>				
<b>SNO</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Kochi	53	1	0.15
		10	1	3.03
2	Chennai	4	9	16.13
3	Coimbatore	35	10	7.93
		32	31	34.48
4	Mumbai	3	13	53.51
5	Kolkata	2	9	3.54
6	Kanpur	6	3	0.71
7	Visakhapatnam	26	5	0.73
8	Ludhiana	30	23	6.13
9	Panipat	33	73	394.95
	<b>Total</b>		<b>178</b>	<b>521.28</b>

<b>Annexure 2.4</b>				
<b>Para 3.4.1: Authorisation for duty free import not invalidated nor communicated to the port of registration</b>				
<b>S. NO</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Varanasi	15	1	0.08
2	Jaipur	13	26	90.16
3	Mumbai	3	7	21.51
	<b>Total</b>		<b>34</b>	<b>111.75</b>

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<b>Annexure 2.5</b>				
<b>Para 3.5.1: Redeemed Authorisation permitted for clubbing</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Coimbatore	32	9	0.87
2	Varanasi	15	1	0.11
3	Jaipur	13	2	18.76
4	Hyderabad	9	17	71.56
	<b>Total</b>		<b>29</b>	<b>91.29</b>

<b>Annexure 2.6</b>				
<b>Para 3.6: Imports made through other ports without required permission from Customs</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No .of Authorisation</b>	<b>DSV (cr)</b>
1	Kolkata	2	3	0.90
2	Ludhiana	30	74	65.03
3	Jaipur	13	8	70.52
4	Mumbai	3	3	862.89
5	Pune	31	3	0.38
	<b>Total</b>		<b>91</b>	<b>999.72</b>

<b>Annexure 2.7(a)</b>				
<b>Para 3.7: Imports beyond specified limit</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Varanasi	15	7	3.54
2	Kochi	53	1	0.05
3	Bengaluru	7	3	0.74
4	Delhi	5	4	50.39
5	Mumbai	3	6	101.13
6	Coimbatore	32	1	50.13
	<b>Total</b>		<b>22</b>	<b>205.99</b>

<b>Annexure 2.7 (b)</b>				
<b>Para 3.7: Additional fee not paid for enhancement of import</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV(cr)</b>
1	Bengaluru	7	3	0.74
2	Mumbai	3	3	4.57
3	Varanasi	15	9	3.86
4	Jaipur	13	7	9.38
5	Delhi	5	1	0.07
	<b>Total</b>		<b>23</b>	<b>18.63</b>

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<b>Annexure 2.8 (a)</b>				
<b>Para 3.8.1: EO was not met and the AH did not seek extension of time</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of authorization</b>	<b>DSV (cr)</b>
1	Delhi	5	56	13.27
2	Kochi	10	4	5.08
3	Bengaluru	7	77	407.94
4	Mumbai	3	40	107.83
5	Kanpur	6	11	10.02
6	Jaipur	13	1	3.99
7	Pune	31	24	40.51
8	Kolkata	2	24	63.36
	<b>Total</b>		<b>237</b>	<b>652.00</b>

<b>Annexure 2.8 (b)</b>				
<b>Para 3.8.2: First block extension not taken</b>				
<b>SI No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	2	14.34
2	Indore	56	5	3.11
3	Varanasi	15	11	12.51
4	Ahmedabad	8	35	111.71
5	Surat	52	18	9.34
6	Mumbai	3	9	22.11
7	Pune	31	12	23.17
	<b>Total</b>		<b>92</b>	<b>196.30</b>

<b>Annexure 2.8 (c)</b>				
<b>Para 3.8.2: Second block extension not taken</b>				
<b>SI No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Bengaluru	7	77	407.94
2	Varanasi	15	7	10.52
3	Ahmedabad	8	55	1025.21
4	Surat	52	48	4466.97
5	Mumbai	3	31	357.92
6	Pune	31	12	0.84
	<b>Total</b>		<b>230</b>	<b>6269.40</b>

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<b>Annexure 2.8 (d)</b>				
<b>Para 3.8.5: Request for extension in EO period was not made within 90 days</b>				
<b>SI No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	17	10.84
2	Bengaluru	7	5	4.12
3	Varanasi	15	17	10.16
4	Kanpur	6	3	0.94
	<b>Total</b>		<b>42</b>	<b>26.07</b>

<b>Annexure 2.8 (e)</b>				
<b>Para 3.8.5: Request for extension in EO Period was made to RA beyond 90 days to 180 days</b>				
<b>SI No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	1	0.09
2	Bengaluru	7	2	1.20
3	Varanasi	15	13	2.31
4	Kanpur	6	1	0.04
	<b>Total</b>		<b>17</b>	<b>3.64</b>

Chapter IV: Unredeemed EPCG Authorizations

Annexure 3.1					
Para 4.1 Mismatch between Dump data and MIS report of DGFT on unredeemed Licences					
Sr. No.	RA Name	RA Code	No. of cases	DSV (cr)	EO Imposed (cr)
1	Delhi	5	51	352.86	3923.61
2	Kolkata	2	48	253.81	1422.32
3	Kochi	10	11	2.08	16.00
4	Chennai	4	55	473.90	3139.38
5	Coimbatore	32	54	94.17	634.93
6	Bengaluru	7	100	609.27	3562.58
7	Hyderabad	9	18	30.22	140.11
8	Mumbai	3	74	4009.05	29980.90
9	Pune	31	59	112.97	849.43
	<b>Total</b>		<b>470</b>	<b>5938.33</b>	<b>43669.26</b>

Annexure 3.2				
Para 4.2 : Non-monitoring of unredeemed authorisations				
S. No	RA Name	RA Code	No. of Authorisation	DSV (cr)
1	Delhi	5	44	299.93
2	Kochi	10	7	0.69
3	Chennai	4	14	335.42
4	Coimbatore	32	28	38.98
5	Bengaluru	7	44	282.53
6	Varanasi	15	11	12.95
7	Kanpur	6	40	43.38
8	Ahmedabad	8	32	233.80
9	Surat	52	46	3837.09
10	Ludhiana	30	48	13.66
11	Panipat	33	40	188.57
12	Kolkata	2	38	165.61
13	Mumbai	3	39	413.71
14	Pune	31	37	11.02
	<b>Total</b>		<b>468</b>	<b>5877.34</b>

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<b>Annexure 3.3</b>							
<b>Para 4.3: EO unfulfilled after completion of first block</b>							
<b>Sl No</b>	<b>RA Name</b>	<b>RA code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>	<b>EO imposed (cr)</b>	<b>1st block (cr)</b>	<b>Duty effect (cr)</b>
1	Delhi	5	58	149.07	894.4	447.2	74.53
2	Indore	56	10	5.67	34.02	17.01	2.83
3	Kolkata	2	6	115.7	92.3	46.15	57.85
4	Chennai	4	16	15.9	95.14	47.6	7.9
5	Coimbatore	32	12	7.57	45.41	22.8	3.78
6	Bengaluru	7	47	64.35	351.94	175.97	32.2
7	Mumbai	3	16	51.26	307.56	153.8	25.63
8	Pune	31	20	6.48	37.87	18.93	3.24
9	Kanpur	6	11	33.53	201.2	100.6	16.8
10	Visakhapatnam	26	3	0.65	3.85	1.92	0.32
11	Ahmedabad	8	35	111.71	660.15	330.07	55.85
12	Surat	52	18	15.77	56.11	28.05	7.9
13	Ludhiana	30	5	3.08	18.5	9.25	1.54
14	Panipat	33	14	31.3	187.84	93.84	15.65
15	Hyderabad	9	31	30.16	181.37	90.68	15.08
	<b>Total</b>		<b>302</b>	<b>642.20</b>	<b>3167.66</b>	<b>1583.87</b>	<b>321.10</b>

**Chapter V: Redemption of EPCG Authorizations**

Annexure 4.1 (a)				
Para 5.1: Filing affidavits in lieu of Shipping Bills				
S.No	RA Name	RA Code	No. of Authorisation	FOB (cr)
1	Chennai	4	19	397.87
2	Coimbatore	32	17	75.15
3	Mumbai	3	14	646.75
4	Kanpur	6	23	19.52
5	Hyderabad	9	19	149.12
6	Ahmedabad	8	3	3.22
7	Surat	52	6	621.67
8	Vishakhapatnam	26	1	1.7
9	Delhi	5	42	17.02
10	Bengaluru	7	32	42.22
11	Pune	31	18	71.31
12	Ludhiana	30	5	3.28
13	Panipat	33	8	65.88
	<b>Total</b>		<b>207</b>	<b>2114.71</b>

Annexure 4.2					
Para 5.2: Utilisation of same shipping Bills for both AEO and SEO					
S No	RA Name	RA Code	No. of Authorisation	DSV (cr)	FOB (cr)
1	Chennai	4	1	0.12	0.66
2	Varanasi	15	1	1.32	7.89
3	Kanpur	6	5	0.92	5.41
4	Hyderabad	9	1	0.11	0.83
5	Ludhiana	30	4	8.02	51.49
6	Mumbai	3	5	24.00	144.02
	<b>Total</b>		<b>17</b>	<b>34.49</b>	<b>210.3</b>

Annexure 4.3				
Para 5.5: Redemption application without required documents				
S No	RA Name	RA Code	No. of Authorisation	DSV (cr)
1	Kochi	10	1	0.024
2	Coimbatore	32	2	5.63
3	PUNE	31	2	0.24
4	Varanasi	15	12	2.47
5	Kanpur	6	1	0.28
6	Jaipur	13	30	339.79
7	Ludhiana	30	2	0.1
	<b>Total</b>		<b>50</b>	<b>348.53</b>



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<b>Annexure 4.4 (a)</b>				
<b>Para 5.6: Delay in processing and issuing of EODC</b>				
<b>S No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	17	22.21
2	Indore	56	60	41.5
3	Kolkata	2	60	297.52
4	Kochi	10	15	6.80
5	Chennai	4	13	19.4
6	Coimbatore	32	23	14.25
7	Mumbai	3	37	1147.63
8	Pune	31	58	216.20
9	Varanasi	15	54	7.80
10	Kanpur	6	44	12.40
11	Jaipur	13	50	226.2
12	Bengaluru	7	26	0
13	Ahmedabad	8	64	70.38
14	Surat	52	74	222.92
15	Visakhapatnam	26	82	39.84
16	Ludhiana	30	2	1.21
17	Panipat	33	64	67.26
18	Hyderabad	9	27	113.04
	<b>Total</b>		<b>770</b>	<b>2526.56</b>

<b>Annexure 4.4(b)</b>				
<b>Para 5.6: Delay in issue of DL</b>				
<b>Sl. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	13	70.07
2	Chennai	4	8	15.53
3	Bengaluru	7	3	0.60
4	Mumbai	3	23	414.83
5	Pune	31	27	112.36
6	Kanpur	6	15	6.99
7	Visakhapatnam	26	38	16.95
8	Hyderabad	9	3	1.34
9	Ludhiana	30	1	0.043
	<b>Total</b>		<b>131</b>	<b>638.71</b>

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<b>Annexure 4.4 (c)</b>				
<b>Para 5.6: Multiple Deficiency Memos</b>				
<b>SI No</b>	<b>RA</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Chennai	4	1	0.69
2	Pune	31	6	52.33
3	Mumbai	3	10	207.46
4	Hyderabad	9	5	92.75
5	Delhi	5	7	12.03
6	Kanpur	6	3	1.66
	<b>Total</b>		<b>32</b>	<b>366.92</b>

<b>Annexure 4.5 (a)</b>				
<b>Para 5.7: Lapses by Customs Department during redemption of licence</b>				
<b>S No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Kochi	10	12	9.01
2	Varansi	15	31	15.17
3	Ahmedabad	8	1	45.32
4	Mumbai	3	37	215.72
5	Pune	31	48	61.92
	<b>Total</b>		<b>129</b>	<b>347.14</b>

<b>Annexure 4.5 (b)</b>				
<b>Para 5.7: Customs authorities had not closed the BG/ bond after issue of EODC</b>				
<b>S No.</b>	<b>RA name</b>	<b>RA code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>
1	Delhi	5	4	0.96
2	Kolkata	2	35	93.13
3	Kochi	10	1	2.13
4	Bengaluru	7	2	34.95
5	Varanasi	15	28	17.93
6	Kanpur	6	21	7.94
7	Ahmedabad	8	11	19.02
8	Surat	52	1	0.2
9	Mumbai	3	20	574.17
10	Pune	31	37	176.04
	<b>Total</b>		<b>160</b>	<b>926.47</b>

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<b>Annexure 4.6</b>					
<b>Para 5.9: Non-fulfilment of SEO/AEO</b>					
<b>S No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>	<b>EO Imposed (cr)</b>
1	Kolkata	2	23	32.03	319.71
2	Coimbatore	32	2	10.79	85.7
3	Chennai	4	1	5.21	31.49
4	Bengaluru	7	1	85.00	510
5	Varanasi	15	8	5.11	35.05
6	Kanpur	6	1	0.20	0.45
7	Hyderabad	9	1	1.30	7.74
8	Jaipur	13	1	0.07	0.57
9	Ahmedabad	8	3	18.70	147.34
10	Surat	52	17	958.50	7666.57
11	Ludhiana	30	9	13.35	92.89
12	Panipat	33	28	285.80	2289.40
13	Mumbai	3	14	2539.12	20187.33
14	Pune	31	8	12.21	96.39
	<b>Total</b>		<b>117</b>	<b>3967.39</b>	<b>31470.63</b>

<b>Annexure 4.7</b>					
<b>Para 5.10: Ineligible Shipping Bills used for fulfilment of SEO</b>					
<b>S. No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>DSV (cr)</b>	<b>EO Imposed (cr)</b>
1	Pune	31	5	0.72	4.79
2	Mumbai	3	9	237.66	1741.96
3	Varanasi	15	13	5.14	35.15
4	Ludhiana	30	5	1.02	6.02
5	Coimbatore	32	2	0.23	1.05
	<b>Total</b>		<b>34</b>	<b>244.77</b>	<b>1788.97</b>

<b>Annexure 4.8</b>				
<b>Para 5.11: Delayed realisation of Export Proceeds</b>				
<b>S No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>BRC amount (cr)</b>
1	SURAT	52	3310	6434.48
2	PUNE	31	3062	1626.48
3	JAIPUR	13	9446	6825.32
4	COIMBATORE	35	2320	462.44
5	VISAKHAPATNAM	26	1042	738.35
6	VARANASI	15	698	133.32
7	KOCHI	10	932	225.21
8	LUDHIANA	30	2773	829.16

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<b>Annexure 4.8</b>				
<b>Para 5.11: Delayed realisation of Export Proceeds</b>				
<b>S No</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorisation</b>	<b>BRC amount (cr)</b>
9	KOLKATA	2	243	9723.22
10	PANIPAT	33	890	1267.55
11	DELHI	5	25	1.47
12	CHENNAI	4	4	3.05
13	MUMBAI	3	21	27.89
	<b>TOTAL</b>		<b>24766</b>	<b>28297.93</b>

Chapter VI: Inter Departmental Coordination and Systemic Issues

Annexure 5.1				
Para 6.1.4: EODC not communicated/uploaded in MES				
Sr. No.	RA Name	RA Code	Number of cases	DSV (cr)
1	Bengaluru	7	126	90.72
2	Coimbatore	32	1	2.05
3	Kochi	10	42	21.66
4	Mumbai	3	17	442.55
5	Pune	31	34	174.78
6	Varanasi	15	1	0.16
	<b>Total</b>		<b>221</b>	<b>731.92</b>

Annexure 5.2				
Para 6.1.5: Random verification by Customs				
Sr. No.	RA Name	RA Code	Number of cases	DSV (in cr)
1	Ahmedabad	8	29	67.83
2	Bengaluru	7	157	782.16
3	Chennai	4	62	163.65
4	Coimbatore	32	40	77.14
5	Delhi	5	82	95.75
6	Indore	56	37	33.82
7	Jaipur	13	2	0.17
8	Kanpur	6	137	66.81
9	Kolkata	2	278	597.22
10	Mumbai	3	71	1711.2
11	Pune	31	105	517.62
12	Surat	52	60	10.9
13	Varanasi	15	28	11.07
	<b>Total</b>		<b>1088</b>	<b>4135.34</b>

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<b>Annexure 5.3</b>					
<b>Para 6.2: Non-inclusion of IGST in fixing of SEO</b>					
<b>Sr. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>Number of cases</b>	<b>IGST Amount (in cr)</b>	<b>Non/Short fulfillment EO (in cr)</b>
1	Coimbatore	32	1	1.51	9.08
2	Delhi	5	11	1.62	9.71
3	Kanpur	6	10	2.5	14.99
4	Visakhapatnam	26	3	0.35	1.92
5	Jaipur	13	1	2.01	12.06
6	Ahmedabad	8	3	1.26	7.56
7	Ludhiana	30	15	11.12	66.67
8	Panipat	33	34	8.42	50.5
9	Indore	56	5	1.23	7.46
10	Hyderabad	9	1	8.66	51.96
	<b>Total</b>		<b>84</b>	<b>38.68</b>	<b>231.91</b>

<b>Annexure 5.4</b>				
<b>Para 6.4: Non-monitoring of EO by Customs</b>				
<b>Sr. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>Number of cases</b>	<b>DSV (cr)</b>
1	Indore	56	28	24.74
2	Delhi	5	134	109.56
3	Kolkata	2	231	459.04
4	Kochi	10	54	27.65
5	Coimbatore	32	1	0.72
6	Chennai	4	10	44.17
7	Bengaluru	7	97	377.85
8	Kanpur	6	14	13.35
9	Jaipur	13	2	0.17
10	Ahmedabad	8	34	152.55
11	Surat	52	6	0.81
12	Varanasi	15	19	2.66
13	Mumbai	3	51	1084.71
14	Pune	31	67	151.93
	<b>Total</b>		<b>748</b>	<b>2449.91</b>

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<b>Annexure 5.5(a)</b>				
<b>Para 6.7: Redeemed cases shown in EODC website not reflecting in DDGFT Redemption Data</b>				
<b>Sr. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>Number of Authorizations</b>	<b>DSV (in cr)</b>
1	Indore	56	3	9.95
2	Surat	52	12	10.70
3	Ludhiana	30	99	105.95
4	Panipat	33	125	846.3
5	Varanasi	15	22	9.45
6	Mumbai	3	3	1.96
7	Pune	31	7	52.72
	<b>Total</b>		<b>271</b>	<b>1037.03</b>

<b>Annexure 5.5(b)</b>				
<b>Para 6.7: Redeemed cases not updated in EODC Website</b>				
<b>Sr. No.</b>	<b>RA Name</b>	<b>RA Code</b>	<b>No. of Authorizations</b>	<b>DSV (in cr)</b>
1	Delhi	5	27	54.17
2	Kolkata	2	14	99.07
3	Bengaluru	7	2	0.16
4	Kanpur	6	1	0.08
5	Ahmedabad	8	26	94.58
6	Surat	52	43	2551.56
7	Varanasi	15	33	2.89
8	Ludhiana	30	16	3.65
9	Pune	31	8	56.08
10	Mumbai	3	3	2.63
11	Jaipur	13	53	231.87
	<b>Total</b>		<b>226</b>	<b>3096.74</b>

Annexure 5.6				
Para 6.11: Documents not Produced				
Sr. No.	RA Name	RA Code	Number of Authorizations	DSV Value (in cr)
1	Bengaluru	7	67	137.24
2	Chennai	4	26	121.02
3	Coimbatore	32	18	15.72
4	Delhi	5	15	369.68
5	Hyderabad	9	2	6.28
6	Jaipur	13	5	4.57
7	Kolkata	2	31	383.44
8	Ludhiana	30	27	188.35
9	Mumbai	3	2	1.69
10	Panipat	33	4	786.62
11	Pune	31	7	200.88
12	Surat	52	10	9.73
	<b>Total</b>		<b>214</b>	<b>2225.22</b>



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