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PAC amendment to help exporters

TNC Rajagopalan / May 31, 2010, 0:52 IST

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<http://www.business-standard.com/india/news/pac-amendment-to-help-exporters/396549/>

The Director General of Foreign Trade (DGFT) has once again amended the Project Authority Certificate (PAC), i.e., Appendix 27 of the Handbook of Procedures, Vol. 1 (HB-1) and the Payment Certificate (PC) i.e., Appendix 22-C of HB-1. It is a useful amendment that resolves the difficulties of deemed exporters to some extent but even after this amendment to the prescribed formats, certain other problems of the deemed exporters continue.

According to the Foreign Trade Policy (FTP), till January, benefits of deemed exports were available to certain categories of deemed exports, only if the supplies of goods were made under the procedure of International Competitive Bidding (ICB). On January 14, Para 8.2 of FTP was amended, allowing deemed export benefits for supplies to mega power projects even without ICB but if the requisite quantum of power had been tied up through tariff-based competitive bidding or if the project had been awarded through tariff-based competitive bidding. Para 8.4.4 of the FTP was also suitably amended.

However, while giving effect to the policy change by amending the PAC and PC (through Public Notice dated February 8, 2010), DGFT replaced the clause that related to deemed export supplies to non-mega power projects and refineries. As a result, there was no clause in PAC or PC covering deemed export supplies to non-mega power projects and refineries covered under Para 8.2 (g) of the FTP. The latest amendment (through Public Notice dated May 25, 2010) rectifies this defect.

By default, the PAC requires the Project Authority to mention the import content of the order in the certificate. This is a legacy of the licensing raj days, when release of foreign exchange was being rationed. It has very little relevance now but it does have a certain nuisance value. For example, at the time of making the contract, the main contractor may envisage no import content but the sub-contractor may have certain requirements later either due to unavailability or unsuitability of the indigenous supplies. In such cases, getting the PAC issued in favour of the sub-contractor showing any import content could pose problems. The best course for the DGFT is to delete all references to the import content in the PAC.

PAC is a document required by main contractors or sub-contractors to obtain advance authorisation to enable duty-free import of inputs required for manufacture of the final products to be supplied as deemed exports for some projects. This is also widely used while claiming excise exemption to satisfy the excise authorities that the supplies are being made to projects or purposes for which zero-duty import is allowed, because the excise law prescribes no documentation to establish that point. If the DGFT can take note of requirements under various laws and so word the PAC format that the requirements under other laws are also satisfied, much unnecessary hardship can be alleviated for deemed exporters at the ground level.

The latest DGFT Public notice dated May 25 also amends the Appendix-13 of HB-1. Earlier, in the list of agencies/funds notified by the finance ministry for the purpose of deemed export benefits, "Yen credit channelised through Japan Bank for International Co-operation (development component only)" was mentioned. Now, the channelising agency is the "Japan International Cooperation Agency".

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